

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* KAZUHIKO HAYASHI  
And  
SETSUO KANEKO

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Appeal 2008-0493  
Application 10/277,840  
Technology Center 1700

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Decided: January 4, 2008

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Before EDWARD C. KIMLIN, BRADLEY R. GARRIS, and  
PETER F. KRATZ, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1, 6, 8-11, 13, and 14. We have jurisdiction under 35 U.S.C. § 6.

We REVERSE.

Appellants claim a method for manufacturing a flexible-type luminescent device comprising supplying a flexible body 5 by driving first and second rolls 11, 31 at a first speed until a first position detecting mark 5b is detected on the flexible body and driving the first and second rolls at a second speed smaller than the first speed after the first position detecting mark is detected and before a second position detecting mark 5a is detected on the flexible body (claim 1; Figs. 5, 9A, 9B).

Representative claim 1 reads as follows:

1. A method for manufacturing a flexible-type luminescent device, comprising the steps of:

supplying a flexible body from a flexible body supplying section to a luminescent material pattern forming section on a luminescent device-to-luminescent device basis;

forming a luminescent material pattern on said flexible body in said luminescent material pattern forming section; and

feeding said flexible body from said luminescent material pattern forming section to the flexible body receiving section on a luminescent device-to-luminescent device basis

wherein said flexible body is wound on a first roll in said flexible body supplying section and said flexible body receiving section comprises a second roll, and

wherein said flexible body supplying step comprises the steps of;

driving said first and second rolls at a first speed until a first position detecting mark is detected on said flexible body; and

driving said first and second rolls at a second speed smaller than said first speed after said first position detecting mark is detected and before a second position detecting mark is detected on said flexible body.

The references relied upon by the Examiner as evidence of obviousness are:

Tang	5,904,961	May 18, 1999
Okada	6,194,090 B1	Feb. 27, 2001
Forrest	6,337,102 B1	Jan. 8, 2002

Claims 1, 6, 8, 10, 11, and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Forrest in view of Tang, and claims 9 and 14 are correspondingly rejected over these references and further in view of Okada.

According to the Examiner, "it would have been obvious to one of ordinary skill in the art at the time the invention was made to have moved the substrate of Forrest until a desired alignment mark was detected as taught by Tang with a reasonable expectation of success in order to have provided the proper alignment of a striped pattern" (Ans. 3).

Appellants argue that "[n]either Forrest nor Tang, alone or in combination, disclose or suggest driving at a first speed before detecting the first position detecting mark and then driving at a second speed, which is less than the first speed, before detecting the second position detecting mark [as required by the appealed claims]" (App. Br. 8). In response to this argument, the Examiner states that "the rolls of Forrest are driven at a first speed until the alignment marks of Tang are detected, and the rolls are then stopped (i.e., a second speed smaller than the first speed) after the alignment marks are detected" (Ans. 5-6). That is, the Examiner considers the stopped condition of the modified Forrest method to satisfy the claim requirement of "a second speed smaller than said first speed" (Claim 1). In rebuttal,

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Appellants point out that "claim 1 requires 'driving said first and second rolls at a second speed smaller than said first speed after said first position detecting mark' (emphasis added)" and that, "[i]f the rolls are stopped, they are not being driven" (Reply Br. 7).

Appellants' last mentioned point (to which the Examiner has not responded) is well taken. The express language of claim 1 (and the other independent claims on appeal) requires that the rolls be driven at a second speed smaller than the first speed. This requirement is not satisfied when the rolls are not driven, that is, when the rolls are stopped. There is no discernable merit in the Examiner's contrary view that a stopped condition satisfies the claim requirement of "driving said first and second rolls at a second speed smaller than said first speed" (claim 1).

For this reason, we cannot sustain either of the rejections advanced by the Examiner on this appeal.

The decision of the Examiner is reversed.

REVERSED

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