

The opinion was ~~submitted~~ ~~entered~~ ~~published~~ ~~being~~ ~~entered~~  
not binding precedent of the Board.

Paper No. 11

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MATTHEW FLACH, HEATHER N. BEAN  
and MILES K. THORLAND

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Appeal No. 2004-0012  
Application No. 10/057,614

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ON BRIEF

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Before KIMLIN, RUGGIERO and DELMENDO, Administrative Patent  
Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-26,  
all the claims in the present application. Claim 1 is  
illustrative:

1. A digital imaging device, comprising:

a lens having an extended position and a retracted  
position; and

control logic configured to toggle the power-on  
status of the digital imaging device without retracting  
the lens, when the lens is in the extended position.

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The examiner relies upon the following references as  
evidence of obviousness:

Ozawa	5,721,987	Feb. 24, 1998
Park	6,224,271 B1	May 1, 2001 (filed Jul. 20, 2000)
Shima et al. (Shima)	6,381,507 B1	Apr. 30, 2002 (filed May 31, 2000)
Tatsuzo (European patent application)	394,901 A2	Oct. 31, 1990

Appellants' claimed invention is directed to a digital imaging device, such as a digital still camera or a video camera, comprising a lens having extended and retracted positions. The control logic of the camera is configured to toggle the power-on status of the device without retracting the lens when it is in the extended position. In this way, the life of the battery for the camera is extended by reducing the frequency with which the retractable lens is extended and retracted. Also, according to appellants, it eliminates the delay caused by the extension of the lens when the camera is turned on, "thereby reducing the probability that the photographer will miss an important candid shot" (page 2 of principal brief, fourth paragraph).

Appealed claims 1-6, 8, 9, 12-14, 17, 18 and 21-26 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable

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over Tatsuzo.<sup>1</sup> Claims 7 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tatsuzo in view of Ozawa. Also, claims 15, 16, 19 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tatsuzo in view of Park. Finally, claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tatsuzo in view of Shima.

Appellants submit that "[f]or purposes of this appeal, each of claims 2-26 stands or falls together with claim 1" (page 2 of principal brief, last paragraph). Accordingly, all the appealed claims stand or fall together with claim 1, and we will limit our consideration to the examiner's rejection of claim 1 over Tatsuzo. We note that appellants have not contested the separate § 103 rejections over Tatsuzo in view of Ozawa, Park, and Shima, respectively.

We have thoroughly reviewed each of appellants' arguments for patentability. However, we are in complete agreement with the examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejections for essentially those reasons

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<sup>1</sup> The statement of the rejection at page 4 of the Answer incorrectly refers only to the rejection of claim 1.

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expressed in the Answer, and we add the following primarily for emphasis.

There is no dispute that the retractable lens of the digital imaging device disclosed by Tatsuzo is not configured to stay in the extended position when the power-on status of the device is changed to either on or off. However, there is also agreement that the digital imaging device of Tatsuzo allows for turning the device off without moving magnification and focusing lenses. To wit, appellants acknowledge that "Tatsuzo also teaches powering down a digital imaging device without moving *internal* magnification and focusing lenses 402 and 403, respectively (Fig. 10, steps 503-506; column 15, lines 39-50; column 16, lines 28-51)" (sentence bridging pages 3 and 4 of principal brief). It is appellants' contention that Tatsuzo teaches away from the claimed imaging device because where the reference describes a retractable lens, it describes movement of the lens at the time of a power varying action and, secondly, where the reference describes not moving or adjusting a lens during powering down, the foremost lens is not retractable.

We do not subscribe to appellants' reasoning. In our view, inasmuch as one of ordinary skill in the art appreciates from Tatsuzo that movable lenses may be rendered stationary when the power is turned off, one of ordinary skill in the art would have

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understood that such control could also be extended to the retractable lens of the device. In our view, appellants' arrangement of leaving the retractable lens in the extended position when the camera is turned off to save the life of the battery would have been an obvious trade-off with the loss of better storability and portability when the lens is in the extended position. We are satisfied that one of ordinary skill in the art would have found it obvious to balance the advantages and disadvantages of extending the life of the battery at the expense of storability and portability. Manifestly, maximizing the life of a device's battery is a well-known goal for designers of electrical devices, and we find that appellants' solution to the problem of battery life would have been readily apparent and obvious to one of ordinary skill in the art, particularly in light of Tatsuzo. In re Ludwig, 353 F.2d 241, 243-44, 147 USPQ 420, 421 (CCPA 1965).

As a final point, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the inference of obviousness established by the examiner.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

EDWARD C. KIMLIN	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	
JOSEPH F. RUGGIERO	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
	)	
	)	
ROMULO H. DELMENDO	)	
Administrative Patent Judge	)	

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