Paper Sheet Discriminating Device Case
Intellectual Property High Court
Case No. H17(gyo-ke)10490（Date: June 29, 2006）

FACTS

On December 26, 1994, the plaintiff, filed a patent application (patent application number H06-322201, hereinafter the "present application") entitled "Optical detection unit for paper sheet discriminating device," but received a decision of rejection on August 14, 2003, and therefore filed an appeal against the decision of rejection on September 19, 2003. The Japan Patent Office examined the appeal as case number 2003-18348. The result was rendered on April 12, 2005 in an appeal decision stating "This Appeal is without merit," of which an original copy was delivered to the plaintiff on April 27, 2005.

The subject-matter of an invention as set forth in claim 1 (referred to as the "present invention") in the specification (Exhibit A 2, 3, and referred to hereinafter as the "present specification") amended by the Amendment dated November 15, 2002 is as follows:

> An optical detection unit for a paper sheet discriminating device, comprising: a light emitting element for emitting irradiated light onto a part of a paper sheet transported in a predetermined direction; a light guiding component for optical coupling such that transmitted light having transmitted said irradiated light through part of said paper sheet is irradiated onto another part different from said part of the paper sheet in a direction intersecting with said predetermined direction; a light receiving element for receiving transmitted light having transmitted through said other part of the paper sheet, wherein said light emitting element, said light guiding component and said light receiving element are disposed at different positions near a transport lane for transporting said paper sheet.

ISSUE

Whether differences from the cited invention in a common or closely related technical field are mere design changes.

HOLDING

As such, the features of the present invention relating to the differences 1

and 3 are novel technical matters nonexistent in the cited inventions as well as well-known apparatuses. As stated in the aforementioned (2) E, the different plural detecting positions for each detecting line are irradiated by means of the pair of light emitting and receiving elements, and the paper sheet is discriminated by obtaining the transmitted light having transmitted through the detecting positions of different printed patterns and colors from one another, analyzing the transmitted light including information of the printed patterns and colors inherent to these detecting positions, and comparing it with a reference value. That is, with the technical idea of multiple detecting lines, the detection is to be carried out all together by the pair of the light emitting and receiving elements in the paper sheet discriminating device.

In this regard, the appeal decision states "(omitted), accordingly, in the invention disclosed in the cited reference, when transmitted light having transmitted through the part of the paper sheet is irradiated onto another part different from said part of the paper sheet, irradiating onto other part different from said part of the paper in a direction intersecting with the predetermined direction is a mere design change." (Third paragraph of page four in the original copy of the appeal decision.)

(Omitted) However, (omitted) for the cited invention having no technical idea of multiple detecting lines, it is difficult to determine whether it is obvious or a mere design change to add the features of the present invention relating to differences 1 and 3 in which the detection is carried out all together by the pair of the light emitting and receiving elements assuming a technical idea of multiple detecting lines. (Omitted)

Perhaps, the above determination in the Appeal Decision appears to be based on an idea that the paper sheet stacking condition detecting apparatus and the paper sheet discriminating apparatus are those in a common or closely related technical field.

However, the former utilizes an increase in the difference of the amount of measured light received by a light receiving means due to multiple transmissions of a paper sheet and detects the number of paper sheets, whereas the latter utilizes transmitted light including information of printed patterns and colors obtained by transmissions of detection positions of a paper sheet to discriminate the type of paper sheet, and (omitted) it should be said that there is no little difference in its function, effect and other specific techniques. Therefore, even if the paper sheet stacking condition detecting apparatus and the paper sheet

discriminating apparatus are in close technical fields, such difference cannot be ignored, and, to say that it is obvious to replace the paper sheet stacking condition detecting apparatus by the paper sheet discriminating apparatus in configuration, a certain level of motivation is required and it cannot be settled by saying it is a mere design change.

In addition, in the present case, while the technical idea of multiple detecting lines is unnecessary for the paper sheet stacking condition detecting apparatus, it has a significant technical significance in the paper sheet discriminating apparatus, and therefore, it should be said that the paper sheet stacking condition detecting apparatus and the paper sheet discriminating apparatus cannot be equated.

As described above, the determination in the Appeal Decision is incorrect in that it is a mere design change to add the features of the present invention relating to differences 1 and 3 assuming the technical idea for the cited invention having no technical idea of the multiple detecting lines.