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**D E C I S I O N**  
**of 7 February 1996**

**Case Number:** T 0790/94 - 3.4.2

**Application Number:** 86114355.0

**Publication Number:** 0219821

**IPC:** G03B 42/04

**Language of the proceedings:** EN

**Title of invention:**

Cassette for image information recording carrier, mechanism for removing image information recording carrier from the cassette, and apparatus for reading image information

**Patentee:**

FUJI PHOTO FILM CO., LTD.

**Opponent:**

Agfa-Gevaert AG

**Headword:**

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**Relevant legal provisions:**

EPC Art. 54, 56

**Keyword:**

"novelty: (after amendment): yes"  
"Inventive step (after amendment): yes"

**Decisions cited:**

T 0061/88 of 5 June 1989

**Catchword:**

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Case Number: T 0790/94 - 3.4.2

**D E C I S I O N**  
of the Technical Board of Appeal 3.4.2y  
of 7 February 1996

**Appellant:** Agfa-Gevaert AG  
(Opponent) -Patentabteilung-  
Postfach  
D-51368 Leverkusen (DE)

**Representative:** -

**Respondent:** FUJI PHOTO FILM CO., LTD.  
(Proprietor of the patent) 210 Nakanuma  
Minamiashigara-shi  
Kanagawa-ken  
250-01 (JP)

**Representative:** Klunker . Schmitt-Nilson . Hirsch  
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**Decision under appeal:** Interlocutory decision of the Opposition Division  
of the European Patent Office posted 14 July 1994  
concerning maintenance of European patent  
No. 0 219 821 in amended form.

**Composition of the Board:**

**Chairman:** E. Turrini  
**Members:** M. Chomentowski  
B. J. Schachenmann

**Summary of Facts and Submissions**

I. The appellant (opponent) filed an opposition against the European patent No. 0 219 821 which has been granted on the basis of the European patent application No. 86 114 355.0, on the ground that in particular the independent claim concerning a cassette for storing a stimulable phosphor sheet lacked an inventive step having regard to inter alia D1 = EP-A-0 122 919 and that the independent claim concerning an apparatus for receiving and processing a stimulable phosphor sheet and such a cassette lacked novelty having regard to another prior art document.

II. The patent was maintained in amended form.

The Opposition Division took the following view:

The cassette of D1, which is for X-ray films, necessarily includes intensifier screen means which must be located closely to the film, and accordingly shows mechanical components for this purpose; thus, the opposed cassette, which does not comprise said components, is distinguished therefrom. Moreover, said mechanical components, which are for pressing the film against the intensifier screen, result in a complicated arrangement; even if the skilled person were incited to start from D1 to make a cassette for a stimulable phosphor sheet and thus would dispose of an intensifier screen and also of the mechanical means for pressing the film thereto, he would not find in D1 any indication that the shutting member, whose only mentioned function is that of light shielding, could also be adequate with respect to, in particular, its material for the retaining function for the film sheet needed once the other mechanical components were no

more present. Therefore, the claimed cassette and accordingly the apparatus therefor involve an inventive step.

III. The appellant (opponent) lodged an appeal against this decision.

IV. During the oral proceedings of 7 February 1996 which had been requested auxiliarily by both parties, the respondent (proprietor of the patent) filed new set of claims and requested in particular that the patent be maintained on the basis of a main request with 14 claims, the only main claims for cassette and apparatus reading respectively as follows:

"1. A cassette (200, 300, 400, 500) for storing a stimuable phosphor sheet (A) comprising:  
a casing (202, 304, 404, 504) for holding the sheet (A) therein under light-shielding conditions during exposure thereof to image-bearing information; and  
a lid member (208a, b; 310; 412; 512) mounted on said casing (202, 304, 404, 504),  
wherein said casing has a space or chamber (204, 312; 406; 506) for accommodating the sheet loosely therein, said lid member (208a, b; 310; 412; 512) being mounted on one end of the casing (202, 304, 404, 504) and being openable and closable under a pressure applied thereto; and the arrangement being such that when said casing (202, 304, 404, 504) with said one end is directed vertically downwardly and said lid member (208a, b; 310; 412; 512) retaining the stimuable phosphor sheet is forcibly opened, the stimuable phosphor sheet is allowed to be delivered out of said casing (202, 304, 404, 504) by gravity."

"7. An apparatus for receiving and processing a stimuable phosphor sheet (A) and a cassette according to claim 1 including said sheet (A) comprising: means (40, 44) defining an opening (42) for vertically downwardly receiving a casing (202, 304, 404, 504) with the stimuable phosphor sheet (A) stored therein under light-shielding conditions, said casing (202, 304, 404, 504) having a lid member (208a, b; 310; 412; 512) and lid opening means (48a, b; 312a, b; 314a, b; 520, 522; 600, 602) disposed in a lower portion of said opening (42) for forcibly opening said lid member (208a, b; 310; 412; 512) to allow the stimuable phosphor sheet (A) to be delivered out of the casing (202, 304, 404, 504)."

V. The appellant submitted the following arguments in support of his request for revoking the patent:

The skilled person would recognize that the sheet film of the newly cited D8 = JP-U-70230/82 is an X-ray photographic film, because this is derivable from the described operations to which the film and the cassette are submitted; moreover, it is generally known, for instance from EP-A-0 115 802 that a cassette used to house a single stimuable phosphor sheet is formed in the same manner as a conventional X-ray film cassette; therefore, the feature of the cassette in dispute that it is for a stimuable phosphor sheet which is stored during exposure thereof to image-bearing information, i.e. a use feature of said cassette, is not a distinguishing feature. Claim 1 therefore lacks novelty with regard to D8. For the same reason, the cassette in dispute, which is distinguished from the cassette known from the newly cited D7 = US-A-3 233 101 only by the use of a different film, i.e. a X-ray film, lacks novelty also with respect to D7.

The cassette of D1 has at one end thereof a slot through which a X-ray film sheet is to be delivered out of the cassette; indeed there are means for retaining it in the cassette; the skilled person would get aware that these means, which are complicated and necessary for pressing the sheet film against screen means for an X-ray film, are no more needed in a cassette such as the one known from EP-A-0 115 802 used to house a single stimuable phosphor sheet and, in accordance with the conclusions of the decision T 61/88 of 5 June 1989 that measures for reducing the complexity of prior art techniques by disposing of or simplifying known means do not contribute to an inventive step, he could, for using said cassette with a stimuable phosphor sheet, obviously dispose of the superfluous screen means and thus of the associated pressing means of the cassette of D1, which in any case already includes a member which is intended to shut the slot. It would also be obvious to use the teaching of either D8 or D7, which belong to the same technical field of cassettes for films, to arrive at the cassette in dispute, which thus does not involve an inventive step.

VI. The respondent argued substantially as follows in support of his main request:

The film sheet to be stored in the cassette known from D8 is not mentioned, but is derivable as corresponding to a common photographic film, and not to a stimuable phosphor sheet; thus, with the newly introduced feature of the exposure of the phosphor sheet in the cassette in dispute, said cassette, in particular its material, is defined, which differs from the material of a cassette, such as the one of D8, used for a conventional photographic film. During the use of the cassette known from D7, the front and rear walls thereof are pressed together so that an intimate film

and intensifier screen contact is obtained; thus, contrary to the cassette in dispute, the cassette of D7 is not such that a film is accommodated loosely therein. Therefore, the cassette in dispute is novel.

Starting from the cassette known from D1, the only function of the lid member shutting the slot thereof is that of light shielding, the retaining function for the film sheet being mentioned only in relation with the means pressing the X-ray film against the screening means; since the shielding means is not derivable as having the needed mechanical properties, a simplification of the cassette of D1 for disposing of the pressing means which are no more necessary for a stimuable phosphor sheet would not lead in an obvious way to a cassette with retaining means. Moreover, although it cannot be excluded that by opening the closing means of the cassette of D7 the sheet is allowed to be delivered out of said cassette by gravity as with the newly introduced feature of the cassette in dispute, there is no derivable indication in that sense, but rather a teaching that the intended action is that of withdrawing the film from the cassette, which is shown as an envelope, in the same common way as a letter is withdrawn from an envelope, i.e. by handling it. It is further to be noted that D8 is concerned with cassettes for photographic films and thus is not comprised in the specific technical field of D1 or, in any case, of the patent in suit, whereby a film sheet is held in the cassette under light-shielding conditions during exposure thereof to image-bearing information, but rather to a more general technical field of storing an exposed film before delivering it to a development station. Therefore, the cassette in dispute and thus the corresponding apparatus involve an inventive step.

## Reasons for the Decision

1. The appeal is admissible.
2. *Main request*
- 2.1 Allowability of the amendments and formal considerations

It is to be noted that the expression "a lid member" in claim 1 can be understood as relating also to embodiments wherein, as in Figures 3 to 5, it comprises for instance two elements (208a, 208b) which form one member when closed. It is also to be noted that the appellant has objected that the claims as a whole were not clear because it was not unambiguously derivable from their text whether a cassette or an apparatus were claimed and what was the corresponding extent of protection. However, since by carefully reading the claims the cassette and the apparatus are both sufficiently defined, this objection is not convincing. Since there were otherwise no further objections about the allowability of the amendments and formal considerations, the claims are allowable in this respect (Articles 123(3), 123 (2) and 84 EPC).

- 2.2 Claim 1
- 2.2.1 Novelty
- 2.2.1.1 A cassette for storing a sheet (F) is known from D8 (see the English translation); the cassette comprises: a casing (1) for holding the sheet (F) therein under light-shielding conditions;  
a lid member (4) mounted on said casing (1);



said casing having a space or chamber for accommodating the sheet therein, said lid member (4) being mounted on one end of the casing (1) and being openable and closable under a pressure applied thereto; and the arrangement being such that when said casing (1) with said one end is directed vertically downwardly and said lid member (4) retaining the sheet is forcibly opened, the sheet is allowed to be delivered out of said casing (1) by gravity.

The appellant has argued as follows: The person skilled in the art of D8 (see, in the translation, the paragraph bridging pages 3 and 4; see also the penultimate paragraph of page 4 to page 5, first line) would directly recognize that the sheet film (F) is an X-ray photographic film, because this is derivable from the teaching that to load the photographic film cassette with the sheet film the opening/closing cover (4) is manually opened within a dark room, the sheet film (F) being inserted and then the cover (4) being closed, and that when later the cover (4) is opened, the sheet film (F) is transported into a development station under light-shielding conditions; moreover, the skilled person generally knows, for instance from EP-A-0115802 (see page 4, lines 5 to 7), that a cassette used to house a single stimuable phosphor sheet is formed in the same manner as the conventional X-ray film cassette; therefore, the newly introduced feature of the cassette in dispute that said film is a stimuable phosphor sheet which is stored during exposure thereof to image-bearing information is not considered as being a distinguishing feature. In any case, this feature concerns the use of the cassette and not the cassette itself and is not suited therefore to contribute to the structural definition of the same.

However, as convincingly argued by the respondent, D8 is silent about the specific type of the mentioned film and the information derivable about it could as well correspond to a common photographic film; moreover, with the feature of the exposure of the phosphor sheet in the cassette in dispute, the material of the cassette is defined. Indeed, in the opinion of the Board, the cassette in dispute, in particular its material, should be such that it is adequate in any respect for holding and exposing a stimuable phosphor sheet under light-shielding conditions to image-bearing information. Thus, this feature is indeed a feature of the cassette in dispute, which cannot be derived from D8 and distinguishes the claimed cassette from the cassette known from D8.

- 2.2.1.2 Another cassette, i.e. a film holder (50) for storing a sheet (F), is known from D7 (see column 2, line 11 to column 3, line 19; column 4, lines 14 to 72; Figures 2 and 2a); the cassette comprises:  
a casing (50) for holding the sheet therein under light-shielding conditions during exposure thereof to image-bearing information; and a lid member (68) mounted on said casing;  
said casing having a space or chamber for accommodating the sheet therein, said lid member (68) being mounted on one end of the casing and being openable and closable under a pressure applied thereto; and the arrangement being such that when said casing with said one end is directed vertically downwardly and said lid member (68) is forcibly opened, the sheet is allowed to be delivered out of said casing. Indeed, the lid (68) is derivable as having a retaining function for the film (F) in that sense that, by opening forcibly the lid (68) from a closed position wherein it straddles the two slightly bowed stainless steel flat spring strips (62, 64) at the end of the cassette, said

springs (62, 64) are no longer caused to remain in a closely parallel position, i.e. are caused to provide an opening through which the film can be allowed to be delivered out of the casing.

However, whereas the cassette in dispute is for storing a stimuable phosphor sheet, the cassette of D7 (see column 4, lines 50 to 72; see also column 6, line 48 to 64 and claim 1; Figures 2a, 3, 4 and 5) is for use with films to be exposed to X-rays and is adapted to comprise or to receive intensifier screens which are generally known to be used in relation with said X-ray technique; for instance the inside faces of the front and rear walls (54, 56) are coated with fluorescent intensifier screen material (76) prior to assembly of the envelope; thus, as convincingly argued by the respondent with reference in particular to Figures 4 and 5 of D7, during the use of the known cassette, the front and rear walls (54, 56) thereof, which are made of flexible material, are pressed together so that an intimate film and intensifier screen contact is obtained. Thus, contrary to the cassette in dispute, the cassette (50) of D7 is not such that a film (F) is accommodated loosely therein.

2.2.1.3 A further cassette (10) for storing a sheet (F) is known from D1 (see column 1, line 57 to column 2, line 40; column 3, line 37 to column 5, line 30; column 6, line 51 to column 7, line 21; column 8, line 52 to column 9, line 26; Figures 1 to 4 and 11); said cassette comprises: a casing (12) for holding the sheet (F) therein under light-shielding conditions; and a lid member (114; 124) mounted on said casing (12); said casing (12) has a space or chamber (26) for accommodating the sheet therein, said lid member (114; 124) being mounted on one end (24) of the casing (12) and being openable and closable under a pressure

applied thereto; and the arrangement being such that when said casing (12) with said one end (24) is directed vertically downwardly and said lid member (114; 124) is forcibly opened, the sheet (F) can be allowed to be delivered out of said casing (12) by gravity.

However, in the known cassette, the film (F) is pressed flat, during steps of operation of the cassette, by pressing means including a pressure plate (48) and screens (50) and (54); thus, contrary to the cassette in dispute, in the casing (12) of the known cassette the space or chamber is not for accommodating the sheet loosely therein. Moreover, the lid member (114; 124) of the known cassette has no derivable retaining function and is only mentioned in relation to its light-shielding function (see column 6, line 51 to column 7, line 21; Figures 1, 3 and 4). It is also to be noted that, whereas the cassette in dispute is "for storing at least one stimuable phosphor sheet", the cassette of D1 (see Claim 1; column 3, lines 37 to 40) is "for holding a photographic film sheet", an example thereof being a sheet to be exposed to a source of X-ray radiation.

The appellant has argued that the cassette in dispute is defined by features of its use with a particular sheet, i.e. a stimuable phosphor sheet; indeed, the skilled person would get aware that, in a cassette for a sheet to be submitted to X-ray exposure, there are means (screens and adapted pressure means) which are no more necessary when said cassette is used with a stimuable phosphor sheet, and such unnecessary means cannot be used for establishing novelty. However, the appellant has not mentioned any relevant decision to support his point of ignoring unnecessary distinguishing features when establishing novelty;

moreover, since these unnecessary features are of technical nature, directly related to a different use of the cassette and are thus, as mentioned here above, distinguishing features of the cassette, the Appellant's argument is not convincing.

2.2.1.4 Therefore, since the other documents of the prior art are less relevant, the subject-matter of claim 1 in dispute is novel in the sense of Article 54 EPC.

2.2.2 Inventive step

2.2.2.1 As indicated in the patent in suit (see column 2, line 29 to column 3, line 1; column 3, lines 11 to 22), a cassette (10) used to store a stimulable phosphor sheet (15) is known from EP-A-0115802; a desired radiation image is recorded on the sheet by application of radiation to the sheet through the cassette; thereafter, the sheet stored in the cassette is placed in a radiation image information readout apparatus and is taken out of the cassette for reading the recorded image therefrom; the known cassette has two plate members connected to each by a hinge; however, contrary to the cassette in dispute, the sheet is not delivered by gravity, but removal means, in particular suction means, are necessary to remove the sheet, which is not loosely accommodated in the known cassette, therefrom; thus, the arrangement is complex and requires frequent inspection, and the technique in dispute is intended for solving these problems. It has not been contested that, starting from EP-A-0 115 802, the person skilled in the art would not arrive in an obvious way at the cassette in dispute.

2.2.2.2 The appellant has argued as follows in relation to D1 as a different starting point for the cassette in dispute:

The cassette of D1 (see Figures 1, 3 and 4) has a slot (30) through which the film sheet (F) is to be delivered out of the cassette; indeed there are means (48, 96, 100) for retaining it in the cassette; the skilled person would get aware that these means, which are complicated and necessary for pressing the sheet film against screen means for an X-ray film, were no more needed in a cassette such as the one known from EP-A-0 115 802 used to house a single stimuable phosphor sheet. Thus, when using the cassette of D1 with a stimuable phosphor sheet, he would be prompted to dispose of the screen means and thus of the associated pressing means of the cassette of D1, which in any case already includes a member (114; 124) intended to shut the slot (30); in this respect, taking into account the conclusions of the decision T 61/88 that measures for reducing the complexity of prior art techniques by disposing of or simplifying known means do not contribute to an inventive step, an inventive merit of the cassette in dispute should not be recognized.

However, as already mentioned in the decision under appeal, the only function derivable from D1 for the shutting member (114; 124) is light shielding, the retaining function for the film sheet being mentioned only in relation with the pressing and retaining means (48, 96, 100), so that, since the shielding means is not derivable as having the needed mechanical properties, the argued simplification of the cassette of D1 would no lead in an obvious way to a cassette with retaining means. The further argument of the appellant, that by adapting the shielding means (114; 124) of D1 this element could be substituted in an obvious way for the retaining means, i.e. the pressing means of D1, is not convincing either because it was not obvious, even with an additional adaptation, to

replace a means provided for one function (light shielding) by a means provided for a different function (mechanical retaining) which is thus no technical equivalent. Moreover, with respect to another argument of the appellant, although it cannot be excluded that by opening the closing means (68) of the cassette (50) of D7 the sheet can be allowed to be delivered out of said cassette by gravity, the respondent can be followed in his argument that there is no directly derivable indication for the skilled person that the cassette of D7 is intended for such a use. The whole content of D7 rather teaches towards withdrawing the film from the cassette or envelope (50) in the same common way as a letter is withdrawn from an envelope, i.e. by handling it. It is also to be noted that, as further convincingly argued by the respondent, D8 is concerned with cassettes for photographic films and thus is not comprised in the specific technical field of D1 or, in any case, of the patent in suit, in which a sheet is held in the cassette under light-shielding conditions during exposure thereof to image-bearing information, but rather to a more general technical field of storing an already exposed film before delivering it to a development station. Thus, considering the teachings of any of the documents EP-A-0 115 802, D1, D7 and D8, the person skilled in the art would not be led in an obvious way to the claimed subject-matter. Therefore, the subject-matter of claim 1 in dispute involves an inventive step in the sense of Article 56 EPC, and the claim is patentable (Article 52(1) EPC).

3. Since Claim 7 is drafted as a dependent claim, it concerns an apparatus which, in addition to the recited apparatus features, contains features which are necessary for its use, especially for processing the stimuable phosphor sheet stored in the cassette of the

type of claim 1. Since it is not directly derivable that apparatuses for use with known types of cassettes, for instance with X-ray films, can also be used, directly or with obvious adaptation, with the cassette of claim 1, the apparatus of claim 7 in dispute is also patentable. Therefore, the patent can be maintained in amended form on the basis of the claims of the respondent's main request and, thus, it is not necessary to consider his auxiliary request (Articles 52(1) and 102(3) EPC).

**Order**

**For these reasons it is decided that:**

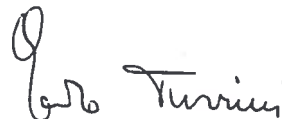
1. The decision under appeal is set aside.
2. The case is remitted to the Opposition Division with the order to maintain the patent in amended form on the basis of claims 1 to 14 of the respondent's main request presented at the oral proceedings of 7 February 1996, with the description and, if necessary, the drawings to be adapted.

The Registrar:



P. Martorana

The Chairman:



E. Turrini

MCA

B. Sch.

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