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**D E C I S I O N**  
**of 23 February 2000**

**Case Number:** T 0073/97 - 3.4.2

**Application Number:** 90121974.1

**Publication Number:** 0431372

**IPC:** G03B 17/40, G03B 7/08

**Language of the proceedings:** EN

**Title of invention:**  
Camera and remote control device thereof

**Applicant:**  
CANON KABUSHIKI KAISHA

**Opponent:**  
-

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 123(2)

**Keyword:**  
"Added subject-matter (no) - after amendment"

**Decisions cited:**  
-

**Catchword:**  
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Boards of Appeal

Chambres de recours

**Case Number:** T 0073/97 - 3.4.2

**D E C I S I O N**  
**of the Technical Board of Appeal 3.4.2**  
**of 23 February 2000**

**Appellant:** CANON KABUSHIKI KAISHA  
30-2, 3-chome, Shimomaruko  
Ohta-ku  
Tokyo (JP)

**Representative:** Pellmann, Hans-Bernd, Dipl.-Ing. et al.  
Patentanwaltsbüro  
Tiedtke-Bühling-Kinne & Partner  
Bavariaring 4  
D-80336 München (DE)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 19 August 1996  
refusing European patent application  
No. 90 121 974.1 pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** E. Turrini  
**Members:** S. V. Steinbrener  
B. J. Schachenmann

## Summary of Facts and Submissions

- I. The appellant lodged an appeal against the decision of the Examining Division refusing European patent application 90 121 974.1 (publication No. EP-A-0 431 372) under Article 97(1) EPC.
- II. In its decision, the Examining Division held that claim 1 of the then main request was directed to subject-matter which had not been searched and which did not combine with the originally claimed and searched invention to form a single inventive concept. The claims of the main request were therefore refused as having been amended in a way not complying with Rule 86(4) EPC.

Moreover, the subject-matter of the then auxiliary requests 1 to 3 submitted at oral proceedings before the first instance was not found to be inventive in view of the following documents

D1: Patent Abstracts of Japan, vol. 6, No. 237  
(P-157)[1115], 25 November 1982;

D2: Brochure "All about Contax - Contax RTS", Asahi Sonorama Inc., Tokyo, September 1986, pages 160, 161, 194, 195, and partial English translation of page 161 furnished by the appellant; and

D3: Patent Abstracts of Japan, vol. 5, No. 169  
(P-086), 28 October 1981 (corresponding to JP-A-56 097327).

- III. In a communication pursuant to Article 11(2) of the Rules of Procedure of the Boards of Appeal annexed to the summons to oral proceedings dated 1 December 1999, the Board expressed its doubts about the admissibility under Article 123(2) and Rule 86(4) EPC, respectively, of amended claim 1 filed with the statement of grounds of appeal.
- IV. In a reply dated 21 January 2000 to this communication, the appellant filed a new amended claim 1 which it believed to be admissible and to relate to patentable subject-matter.
- V. Oral proceedings took place on 23 February 2000, in the course of which further amendments of claim 1 considered necessary by the Board for the claimed subject-matter to meet the requirements of the EPC were discussed with the appellant. At the end of the oral proceedings the Board's decision was given.
- VI. The appellant requested that the decision under appeal be set aside and that the case be remitted to the first instance for further prosecution of the application on the basis of claim 1 as filed in the oral proceedings.
- VII. Claim 1 now under consideration reads as follows:
- "1. A camera for permitting bulb exposure in a remote-control mode, comprising
- a) exposure control means (100) for performing an exposure action,
  - b) signal receiving means (101) for receiving a remote-control signal,
  - c) remote-control means (102) for making a bulb

exposure by causing said exposure control means to begin the exposure action in response to reception of the remote-control signal by said signal receiving means and to continue the exposure action after termination of the reception of the remote-control signal, and by causing said exposure control means to terminate the exposure action in response to subsequent reception of the remote-control signal by said signal receiving means,

d) timer means (106) for bringing said signal receiving means into a signal-receivable state for a predetermined period of time, said timer means being arranged to be actuated by the remote-control mode being set, and

e) signal-receivable state maintaining means, responsive to the beginning of bulb exposure by said remote-control means, for maintaining the signal-receivable state of said signal receiving means even after the lapse of said predetermined period of time."

## **Reasons for the Decision**

### *1. Admissibility of appeal*

The appeal complies with the provisions mentioned in Rule 65 EPC and is therefore admissible.

### *2. Articles 123(2) and 84 EPC*

2.1 The Board is convinced that the subject-matter of claim 1 does not extend beyond the content of the application as filed.

Features (a), (b) and (c) are based on original claim 1 with the following modifications:

- (i) the camera has been specified to permit bulb exposure in a remote control mode as disclosed at page 2, first paragraph, page 3, second paragraph and page 6, first paragraph of the original application documents;
- (ii) a further specification of feature (c) relates to the fact that the exposure action continues after termination of the reception of the remote-control signal as disclosed at page 14, penultimate paragraph and Figure 3, steps 1 to 26 of the application documents as filed; and
- (iii) the terminology of features (a) and (c) has been adapted to that used in the description and the drawings (see in particular Figure 1).

Feature (d) is a combination of the additional feature of original claim 7 with a further clarification derived from page 13, last two paragraphs and Figure 3, steps 31 to 33 of the application documents.

With respect to feature (e), reference can be made to original claim 8 and page 20, second paragraph of said application documents.

In view of the above specification (i), the Board does not consider the inclusion of the additional features of original claim 4 to which original claim 7 is appended to be necessary under Article 123(2) EPC.

2.2 In the Board's opinion, claim 1 is also clear and thus complies with the requirements of Article 84 EPC.

3. *Rule 86(4) EPC*

Since present claim 1 in substance constitutes a clarified and more restricted version of original dependent claim 8, the requirements of Rule 86(4) EPC must be considered to be met.

4. *Article 111(1) EPC*

The specific combination of features now claimed has not yet been examined by the first instance in the light of the available prior art, in particular as regards document D2 which was submitted by the appellant only after the first communication of the Examining Division.

Therefore, in order to allow an examination of the claimed subject-matter before two instances and in accordance with the appellant's request, the Board exercises its discretion under Article 111(1) EPC to remit the case to the department of first instance for further prosecution.

**Order**

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

1. The decision under appeal is set aside.
  
2. The case is remitted to the first instance for further prosecution of the application on the basis of claim 1 as filed in the oral proceedings.

The Registrar:

The Chairman:

P. Martorana

E. Turrini