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SUGHRUE MION, P.L.L.C. 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			LOWE, MICHAEL S	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KIYOAKI EGAWA

Appeal 2010-000435
Application 10/809,364
Technology Center 3600

Before CHARLES N. GREENHUT, BRETT C. MARTIN and
TIMOTHY J. O'HEARN, *Administrative Patent Judges*.

O'HEARN, *Administrative Patent Judge*.

DECISION ON APPEAL

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STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134 involving claims to a storage medium transporting apparatus. The Examiner has rejected claims 1-5 and 8-17 under 35 U.S.C. § 103(a). Claims 6 and 7 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

THE INVENTION

Appellant's claimed invention relates to a device picking and transporting storage medium. Claims 1, 16 and 17 are independent. Claim 1, reproduced below, is representative of the subject matter on appeal.

1. An apparatus for transporting a storage medium from a holder to a storage device, said apparatus comprising:

a base;

a carriage driven by a first driving force, said carriage being movable relative to said base between said holder and said storage device;

a picker provided on said carriage and driven by a second driving force, said picker selectively loading and unloading said storage medium;

a first driving device generating said first driving force;

a second driving device provided on said base and generating said second driving force; and

a transmission mechanism transmitting said second driving force from said second driving device to said picker allowing movement of said carriage,

wherein said picker has a gripper which includes first and second parts which are linked to each other rotatably around an axis,

wherein said carriage has cams which make said gripper open or close in response to the movement of said picker,

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wherein said first parts move pivotally about said axis and opens for hooking notches of said storage medium by said cams.

THE REJECTIONS

Claims 1-3 and 11-17 are rejected under 35 U.S.C. § 103(a) as unpatentable over Takeshi (JP 2002025167, pub. Jan. 25, 2002) in view of Yoshieda (US 4,655,662, iss. Apr. 7, 1987).

Claims 4, 5, and 8-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takeshi in view of Yoshieda and Ono (also known as Iizuka) (JP 03-147564, pub. Jun, 24, 1991).

ANALYSIS

Rejection of Claims 1-3 and 11-17.

The principal reference relied upon by the Examiner is Takeshi. Appellant argues that a proper obviousness rejection has not been made out because Takeshi lacks the following feature recited in the claims: “wherein said carriage has cams which make said gripper open or close in response to the movement of said picker.” App. Br. 11-13. Appellant further argues that this deficiency is not made up by Yoshieda as the Examiner asserts since the movement of gripper 17 is not related to the movement of the gripper mechanism 10 in Yoshieda. *Id.*

The Examiner proposes to use Yoshieda’s technique of using a cam/follower arrangement 38/36 to actuate Takeshi’s hooks 34. Ans. 5.

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The Appellant points out that Takeshi discloses no mechanism whatsoever, let alone cams, which operate the gripper fingers.¹ App. Br. 11-13. Appellant also argues that Yoshieda does not show a relationship between the opening and closing of grippers in response to movement of the picker. *Id.* However, Yoshieda shows that gripper 10 and gripper holder 15 move left to right to engage cam 38 and cam follower 36, which in turn closes gripper 17 jaws 18 and 19. “[I]f a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 417 (2007). Furthermore, “[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review.” *In re Sneed*, 710 F.2d 1544, 1550 (Fed. Cir. 1983). Accordingly, we agree with the Examiner that it would have been obvious to combine the references to arrive at the claimed invention and we sustain the rejection of claims 1-3 and 11-17 as unpatentable over Takeshi and Yoshieda.

Rejection of claims 4, 5, and 8-10.

The Examiner relies on the same combination of prior art discussed above, with Ono added to address the rotary shaft having a polygonal/rectangular shape in cross section, and to address a drive belt.

¹ The Examiner initially appears to dispute this point (Ans. 5) but, in any case, ultimately relies upon Yoshieda for teaching the cam arrangement as broadly recited (Ans. 5, 8).

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Appellant does not present arguments regarding these claims separate from the arguments addressed above. Therefore, the same conclusion applies and we sustain the rejection of claims 4, 5, and 8-10 as unpatentable over Takeshi, Yoshieda, and Ono.

DECISION

The Examiner's rejection of claims 1-5 and 8-17 under 35 U.S.C. § 103(a) is affirmed.

AFFIRMED

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