



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/199,556	09/06/2011	Laura J. Miranti	MIR-02	6775
30568	7590	07/14/2017	EXAMINER	
Mary J. Gaskin Annelin & Gaskin 7 Switchbud Place, Ste 192-271 The Woodlands, TX 77380			LEWIS, JUSTIN V	
			ART UNIT	PAPER NUMBER
			3725	
			MAIL DATE	DELIVERY MODE
			07/14/2017	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* LAURA J. MIRANTI

---

Appeal 2016-005262  
Application 13/199,556  
Technology Center 3700

---

Before HUBERT C. LORIN, NINA L. MEDLOCK, and  
BRADLEY B. BAYAT, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–18. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We REVERSE.

## THE INVENTION

Claim 1, reproduced below with line breaks and indentation added for clarity, is illustrative of the subject matter on appeal.

1. A sturdy photo album comprising:

a plurality of stiff pages,

each of the pages having a first bound edge, an unbound edge opposite the first bound edge, a lower portion, a central portion having a single die cutout opening, and an upper portion having a slot with an opening along an edge of the upper portion leading to the die cutout opening,

each of the pages comprising a first face and a second face, each of the faces formed from one half of a single continuous spread of white board material so that adjoining open pages are formed with a first face and a second face from the continuous spread with a fold line in between the adjoining open pages along the first bound edge, each of the faces further having a backside,

each of the pages further comprising a U-shaped stiff spacer disposed between the backside of the first face and the backside of the second face of each page, the spacer being glued to both the backside of corresponding portions of the first face and to the backside of corresponding portions of the second face; and

a plurality of pieces of clear plastic for covering the die cutout openings in the pages;

the album being designed for inserting two photographs, back to back, through the opening into the slot in the upper portion of each page and arranging the photographs for viewing through the die cutout opening in each page.

### THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Ortis et al. ("Ortis")	US 2,850,291	Sept. 2, 1958
Lu	US 4,822,195	Apr. 18, 1989
Rosinski, III	US 5,199,743	Apr. 6, 1993
Minch	US 5,437,514	Aug. 1, 1995
Nelson et al. ("Nelson")	US 6,139,210	Oct. 31, 2000
Jordan	US 6,547,472 B2	Apr. 15, 2003
Hewitt et al. ("Hewitt")	US 2006/0261591 A1	Nov. 23, 2006
Loo	US 2007/0024046 A1	Feb. 1, 2007
Alon et al. ("Alon")	US 2007/0029782 A1	Feb. 8, 2007

The following rejections are before us for review:

1. Claims 1–3, 5, and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Minch, Loo, Nelson, Hewitt, and Lu.
2. Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Minch, Loo, Nelson, Hewitt, Lu, and Rosinski.
3. Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Minch, Loo, Nelson, Hewitt, Lu, and Jordan.
4. Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Minch, Loo, Nelson, Hewitt, Lu, and Alon.
5. Claims 9–13, 15, and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Minch, Ortis, Loo, Nelson, Hewitt, and Lu.
6. Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Minch, Ortis, Loo, Nelson, Hewitt, Lu, and Rosinski.

7. Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Minch, Ortis, Loo, Nelson, Hewitt, Lu, and Jordan.
8. Claim 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Minch, Ortis, Loo, Nelson, Hewitt, Lu, and Alon.

#### ANALYSIS

Both independent claims (claims 1 and 9) call for “a U-shaped stiff spacer disposed between the backside of the first face and the backside of the second face of each page” (Appeal Br. 27–29, Claims Appendix). The Examiner found said limitation in Minch at Figures 3 and 5, numeral 13, and col. 3, ll. 7–10 (Ans. 2–3, 8–9, 15). We have reviewed said disclosures but agree with the Appellant (Appeal Br. 8–10; Reply Br. 3) that the evidence does not support the Examiner’s finding.

The Appellant’s Specification, in the “Summary of the Invention” section, describes the “U-shaped spacer” thusly:

The U-shaped spacer is formed to have an opening that is larger than the outer dimensions of the sides and bottom of the of the die cutout, creating a hidden “pocket” between the unglued portions of the backs of the pieces of white board material. An opening, or slot, in the top of each page (between the two pieces of white board material) allows two photographs to be inserted inside each page, back to back.

(Spec. 3, ll. 16–19.)

As the Appellant argues (Appeal Br. 8), Minch at col. 1, ll. 54–60 discloses that “the present invention avoids the use of an intermediate spacing member.” Minch discloses that numeral 13 is “a decorative edging layer” that “[e]xtend[s] around the outer periphery of the other sides of the backing layer 11” (Minch col. 2, ll. 51–53). This arrangement is shown in

Figure 3 of Minch. Minch discloses that the space for insertion of photographs is created by raised portion 30 and transition portion 31 of frame layer 17 (Minch col. 3, ll. 42–68). Although the presence of decorative edging layer 13 creates a gap between backing layer 11 and frame layer 17, as shown in Figure 3, this inconsequential gap is entirely separate from slot 32 and is not related to the insertion of photographs. Minch does not disclose that decorative edging layer 13 creates any kind of space or pocket suitable for insertion of photographs.

A prima facie case of obviousness has not been made out in the first instance by a preponderance of the evidence. Accordingly, we reverse the rejection of independent claims 1 and 9. For the same reasons, we also do not sustain the rejection of dependent claims 2–8 and 10–18. *Cf. In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (“dependent claims are nonobvious if the independent claims from which they depend are nonobvious”).

#### CONCLUSION

The Appellant has shown that the Examiner erred in rejecting claims 1–18 under 35 U.S.C. § 103(a).

#### DECISION

The Examiner’s rejections under 35 U.S.C. § 103(a) are reversed.

REVERSED