Appeal decision

Appeal No. 2019-5334

Appellant	DAI NIPPON PRINTING CO. LTD.
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The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2016-552095, entitled "LIGHT CONTROL SHEET, CURTAIN PROVIDED WITH SAME, AND METHOD FOR PRODUCING LIGHT CONTROL SHEET" (International publication published on April 7, 2016, International publication No. WO2016/052560, the number of claims: (1)) has resulted in the following appeal decision.

Conclusion

The examiner's decision is revoked.

The Invention of the present application shall be granted a patent.

Reasons

No. 1 Outline of the case

1 History of the procedures, etc.

Japanese Patent Application 2016-552095 (hereinafter, referred to as "the Application") was originally filed on September 29, 2015 (Priority Claim based on earlier application: September 30, 2014) as an International Patent Application. The outline of history of the procedures etc. is as follows.

Dated September 14, 2018: Notification of reasons for refusal

Dated November 19, 2018: Written opinion

Dated November 19, 2018: Written amendment
Dated January 18, 2019: Examiner's decision of refusal (hereinafter, referred to as "the examiner's decision")
Dated April 22, 2019: Written request for appeal
Dated April 22, 2019: Written amendment

2 The Invention

The invention according to Claim 1 of the present application is as follows as described in Claim 1 of the scope of claims amended by the written amendment dated April 22, 2019 (hereinafter, referred to as "the Invention").

"A method for producing a light control sheet which is provided with a deflection layer having an incident surface and an exit surface opposite to each other and deflecting light incident from the incident surface to emit the light from the exit surface, and a color member laminated on the deflection layer and whose surface expresses color, comprising:

a step of selecting the color member in which an aperture ratio and brightness of the color member are set in a region between a straight line defined by $y = -1.4137x + 91.447$ and a straight line defined by $y = -1.6000x + 194.20$, using the aperture ratio and the brightness, on a coordinate plane in which the aperture ratio of the color member is x [%] and the brightness of a surface of the color member is y; and

a step of laminating the selected color member on the deflection layer".

Further, the amendment by the written amendment dated April 22, 2019 aims at the matters prescribed in Article 17-2(5)(i) of the Patent Act (deletion of claims specified in Article 36(5) of the Patent Act).

3 Outline of the examiner's decision

The reasons for refusal stated in the examiner's decision with respect to the Invention are briefly that since the Invention could have easily been invented by a person ordinarily skilled in the art of the invention (hereinafter, referred to as "a person skilled in the art") on the basis of inventions described in publications that had been distributed in Japan or a foreign country before the filing of the application or well-known arts, the Appellant should not be granted a patent for the Invention in accordance with the provisions of Article 29(2) of the Patent Act.

Cited Document 1: Japanese Unexamined Patent Application Publication No. 2011-164311 (primary cited document)

Cited Document 2: Japanese Unexamined Patent Application Publication No. 2004-162194 (document indicating well-known arts)
Cited Document 3: Japanese Unexamined Utility Model Application Publication No. H05-21095 (document indicating well-known arts)
Cited Document 4: Japanese Unexamined Patent Application Publication No. 2005-154970 (document indicating well-known arts)
Cited Document 5: Microfilm of Japanese Utility Model Application No. H02-90984 (Japanese Unexamined Utility Model Application Publication No. H04-48398) (document indicating well-known arts)

No. 2 Judgment by the collegial body
1 Description in the Cited Documents and Cited Invention
(1) Description in Cited Document 1

Cited Document 1 (Japanese Unexamined Patent Application Publication No. 2011-164311) cited in the reasons for refusal stated in the examiner's decision is a publication that had been distributed in Japan or a foreign country prior to the filing of the application, and contains the following description. Further, underlines are provided by this collegial body, and indicate the parts used for the recognition and judgment of the Cited Invention.

A "[Technical Field]
[0001]

The present invention relates to an optical body, a method of manufacturing the same, a window member, a fitting, and a solar shading device. In particular, the invention relates to an optical body that can block sunlight.

[Background Art]
[0002]

Recently, a film or a pane for a window to block sunlight is used from the viewpoint of reducing air conditioning load. Especially, a film or a pane that blocks visible light rays as well as infrared light at the same time is used, because over half of solar energy is in visible light rays. Moreover, it is important to partially block the visible light rays in view of the purpose of reducing glare caused by late afternoon sunlight.

[0003]

A transflective layer made of a metal obtained through film deposition is known as such a film or a pane (for example, see Patent Documents 1 to 3). However, since a transflective layer is deposited on a flat plate in these films or panes, visible light rays

are reflected therefrom to form a mirror shape, and therefore, a problem of glare or reflection arises.

...(omitted)...

[Summary of Invention]

[Problem to be solved by the invention]

[0005]

Accordingly, the present invention is intended to provide an optical body, a method of manufacturing the same, a window member, a fitting, and a solar shading device, each capable of blocking sunlight including visible light rays, as well as suppressing glare and reflection".

B "[Means for solving the problem]

[0006]

...(omitted)...

[0008]

In the present invention, since the transflective layer is formed on the concave-convex surface of the first optical layer, sunlight including visible light rays can be blocked and glare or reflection can be suppressed. Moreover, since the concave-convex surface of the first optical layer on which the transflective layer is formed is enclosed by the second optical layer, a transmission image becomes clearly visible.

[Advantage of the Invention]

[0009]

As described above, according to the present invention, sunlight including visible light rays can be blocked and glare and reflection can be suppressed".

C "[Description of Embodiments]

[0011]

...(omitted)...

[0012]

<1. First Embodiment>

[Construction of Optical Film]

FIG. 1A is a cross-sectional view illustrating an example of construction of an optical film according to a first embodiment of the present invention. FIG. 1B is a cross-sectional view illustrating an example in which an optical film according to the first embodiment of the present invention is affixed to an adherend. An optical film 1 as an optical body is an optical film having so-called directional reflection performance.

As illustrated in FIG. 1A, the optical film 1 includes an optical layer 2 having an interface of an concave-convex shape therein, and a transflective layer 3 disposed on the interface of the optical layer 2. The optical layer 2 includes a first optical layer 4 that has a first surface of an concave-convex shape and a second optical layer 5 that has a second surface of an concave-convex shape. The interface in the optical layer is formed by the first surface and the second surface, each of which has the concave-convex shape and is opposite to the other. Specifically, the optical film 1 includes the first optical layer 4 having an concave-convex surface, a reflective layer 3 formed on the concave-convex surface of the first optical layer, and a second optical layer 5 formed on the reflective layer 3 to endose the concave-convex surface on which the reflective layer 3 is formed. The optical film 1 has an incident surface S1 on which light such as sunlight is incident and an exit surface S2 from which light which has passed through the optical film 1 among the light which has been incident on the incident surface S1 is emitted. The optical film 1 is suitable for application to an indoor wall member, an outdoor wall member, a window member, and the like. Additionally, the optical film 1 is suitable for use as a slat (solar shading member) of a blind device and a screen (solar shading member) of a roll screen device. In addition, the optical film 1 is suitable for use as an optical body which is provided for a day-lighting portion of a fitting (an interior member or an exterior member), such as a Shoji.
...(omitted)...
[0020]

It is preferable that the first optical layer 4 and the second optical layer 5 have the same optical characteristics such as a refractive index.
[0021]

The first optical layer 4 and the second optical layer 5 preferably have transparency in the visible region. Here, the definition of transparency has two kinds of meanings: no light absorption and no light scattering.
...(omitted)...
[0030]

The value of the transmittance image visibility for a D65 light source is preferably 30 or more, more preferably 50 or more, and even more preferably 70 or more when an optical comb of 0.5 mm is used for measurement. When the value of the transmission image visibility is less than 30, the transmission image tends to appear blurred. When it is 30 or more and less than 50, there is no problem in daily living, although the effect depends on brightness on the outside.
...(omitted)...

[0033]

(First Optical Layer and Second Optical Layer)

The first optical layer 4 is a layer to support and protect the transflective layer 3, for example. For example, the first optical layer 4 is formed of a layer containing a resin as a main component from the viewpoint of imparting flexibility to the optical film 1. Among both principal surfaces of the first optical layer 4, for example, one surface is a smooth surface, and the other is an concave-convex surface (first surface). The transflective layer 3 is formed on the concave-convex surface.

[0034]

The second optical layer 5 is a layer to protect the transflective layer 3 by enclosing the first surface (concave-convex surface) of the first optical layer 4 on which the transflective layer 3 is formed. The second optical layer 5 is formed of, for example, a layer containing a resin as a main component, from the viewpoint of imparting flexibility to the optical film 1. Among both principal surfaces of the second optical layer 5, for example, one surface is a smooth surface, and the other is an concave-convex surface (second surface). The concave-convex surface of the first optical layer 4 and the concave-convex surface of the second optical layer 5 are in a relation in which recesses and projections are in an inverse relationship.

...(omitted)...

[0061]

(Transflective Layer)

The transflective layer is a semitransmissive reflective layer. Examples of the semitransmissive reflective layer include a thin metallic layer, a metallic nitride layer, etc. containing a semiconductor material. Judging from the viewpoint of antireflection, tone adjustment, chemical wettability improvement, or reliability improvement against environmental deterioration, it is preferably formed as a laminate in which the above-mentioned reflective layer is laminated on or under an oxide layer, a nitride layer, an oxynitride layer, or the like.

...(omitted)...

[0063]

Although the film thickness of the transflective layer can be set to a range of 2 nm or more and 40 nm or less, for example, the thickness is not limited thereto as long as the film thickness ensures a semitransmissivity in the visible region and the near-infrared region. The term of semitransmissivity represents that the transmittance in a wavelength range of 500 nm or more and 1000 nm or less is 5% or more and 70% or less, preferably 10% or more and 60% or less, more preferably 15% or more and 55% or

less. Moreover, the term of the transflective layer represents a reflective layer whose transmittance in a wavelength range of 500 nm to 1000 nm is 5% or more and 70% or less, preferably 10% or more and 60% or less, and even more preferably 15% or more and 55% or less.

[0064]

(Function of Optical Film)

FIGS. 5A and 5B are cross-sectional views to describe an example of the function of an optical film. Herein, the description is made in connection with an example in which the shape of the structure is a prism shape having an inclination angle of 45°. As illustrated in FIG. 5A, a portion of the light L_1 out of the sunlight incident on the optical film 1 is directionally reflected toward the sky direction to the same extent as the incident direction, and the remaining portion of the light L_2 passes through the optical film 1.

...(omitted)...

[0072]

[Method of Manufacturing Optical Film]

...(omitted)...

[0073]

First, as illustrated in FIG. 9A, for example, a metal mold having an concave-convex shape the same as the shape of the structure 4, or a metal mold (replica) that has the inverse shape of the former metal mold is formed through tool bit processing, laser processing, or the like. Next, as illustrated in FIG. 9B, the concave-convex shape of the metal mold is transferred to a film-shaped resin material, for example, by a melt extrusion process, a transfer method, or the like.

...(omitted)...

[0075]

Next, the transflective layer 3 is deposited on one principal surface of the first optical layer 4 as illustrated in FIG. 10A. Examples of the method of depositing the transflective layer 3 include a sputtering method, a deposition method, a CVD (Chemical Vapor Deposition) method, a dip coating method, a die coating method, a wet coating method, and a spray coating method or the like. Among these deposition methods, one method is appropriately selected depending on the shape or the like of the structure 4c. Next, if necessary, an annealing process 31 is performed on the transflective layer 3 as illustrated in FIG. 10B. The temperature of the annealing process is, for example, within a range of 100°C or above and 250°C or below.

[0076]

Next, as shown in FIG. 10C, the uncured resin 22 is applied onto the semitransparent layer 3. As the resin 22, for example, an energy ray-curable resin, a thermosetting resin, or the like can be used. As the energy ray-curable resin, an ultraviolet curable resin is preferable. Next, as shown in FIG. 11A, the resin 21 is covered with the second base material 5a to form a laminate. Next, as illustrated in FIG. 11B, the laminate is put under pressure 33 while the resin 22 is being cured, for example, by an energy ray 32 or heat 32....(omitted)...In this way, as illustrated in FIG. 11C, the second optical layer 5 is formed on the transflective layer 3, and thus the optical film 1 is obtained.

...(omitted)...

[0108]

<7. Seventh Embodiment>

A seventh embodiment will be described in connection with a roll screen device which is another example of the solar shading device capable of adjusting an amount of incident light rays, which is to be blocked by a solar shading member, by winding or unwinding the solar shading member.

[0109]

FIG. 22A is a perspective view illustrating an example of construction of the roll screen device according to the seventh embodiment of the present invention. As illustrated in FIG. 22A, a roll screen device 301 serving as the solar shading device includes a screen 302, a head box 303, and a core member 304. The head box 303 is constructed to enable the screen 302 to rise and fall in accordance with operation of an operation unit, such as a chain 205. The head box 303 includes therein a winding shaft to wind up and wind off the screen, and an end of the screen 302 is coupled to the winding shaft. Moreover, the core member 304 is coupled to the other end of the screen 302. The screen 302 has flexibility. The shape of the screen 302 is not especially limited, but is preferably selected in accordance with the shape of the window member, etc. to which the roll screen device 301 is applied; for example, a rectangular shape may be selected.

[0110]

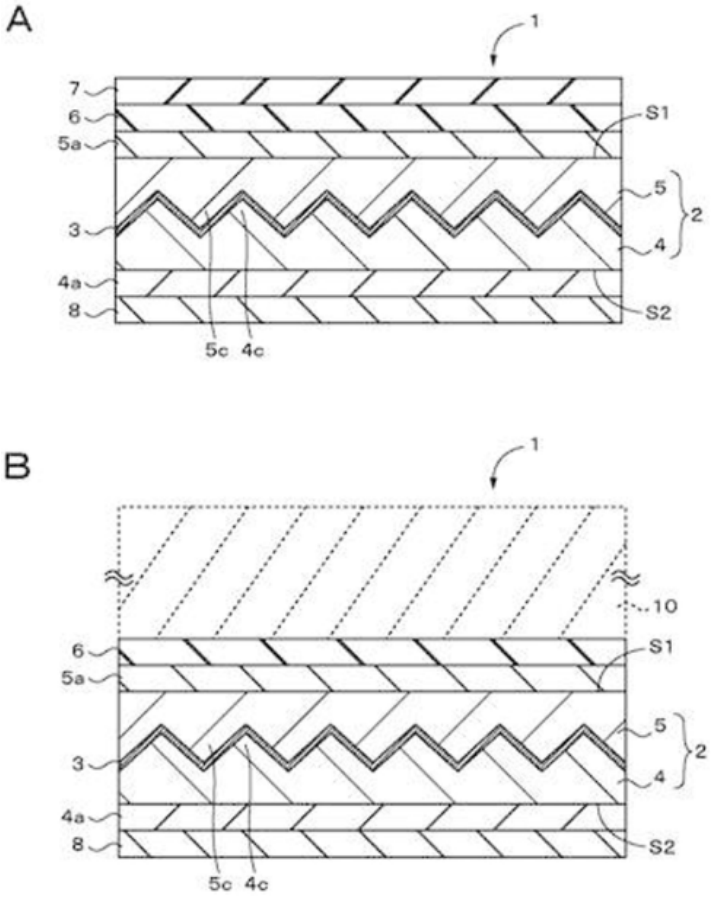
FIG. 22B is a cross-sectional view taken along line B-B illustrated in FIG. 22A. As illustrated in FIG. 22B, the screen 302 preferably includes the base 311 and the optical film 1, and has flexibility. Of two principal surfaces of the base 211 (note by the collegial body: "base 211" is thought as a misprint of "base 311"), the optical film 1 is preferably disposed on the incident surface side (surface side facing the window member) on which extraneous light is incident. The optical film 1 and the base 311

are affixed to each other with an affixing layer, such as a bonding layer or an adhesion layer. The construction of the screen 302 is not limited to the example, and the optical film 1 itself may be used as the screen 302.

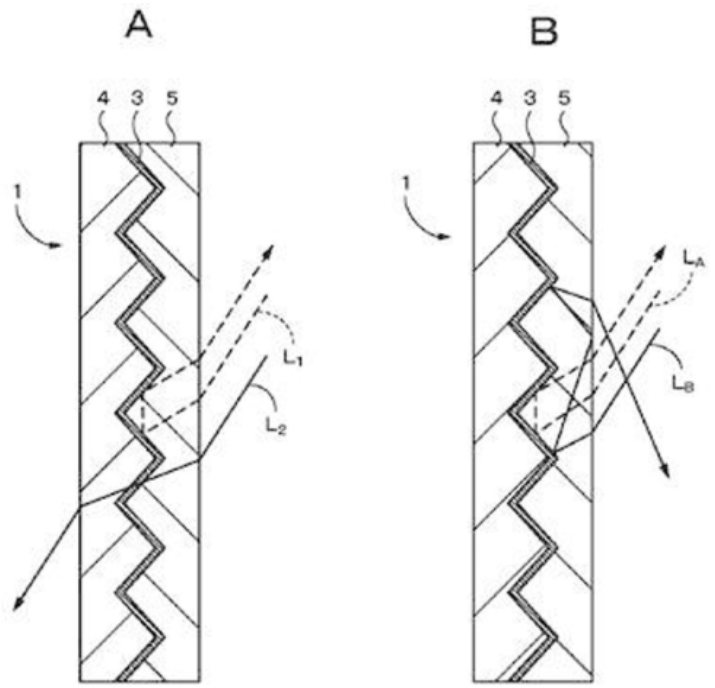
[0111]

The base 311 can be formed in the shape of, for example, a sheet, a film, or a plate. Glass, resin material, paper, cloth, etc. can be used as a material of the base 311. In consideration of the case of taking visible light into a predetermined indoor space, for example, a resin material having transparency is preferably used. The glass, the resin, the paper, or the cloth used here may be the same as that generally used in conventionally roll screens. The optical film 1 used here may be one type or a combination of two or more types of the optical films 1 according to the above-described first to fifth embodiments".

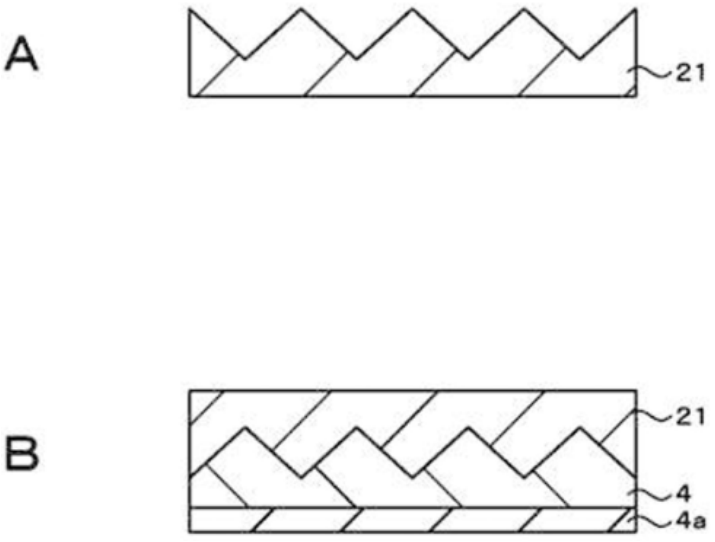
D FIG. 1



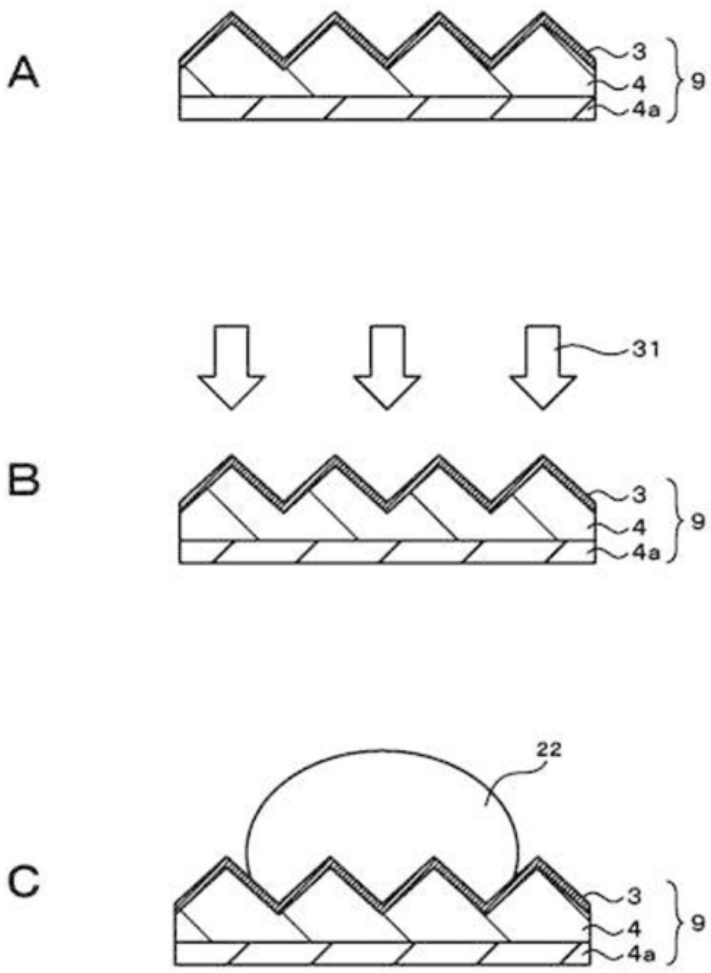
E FIG. 5



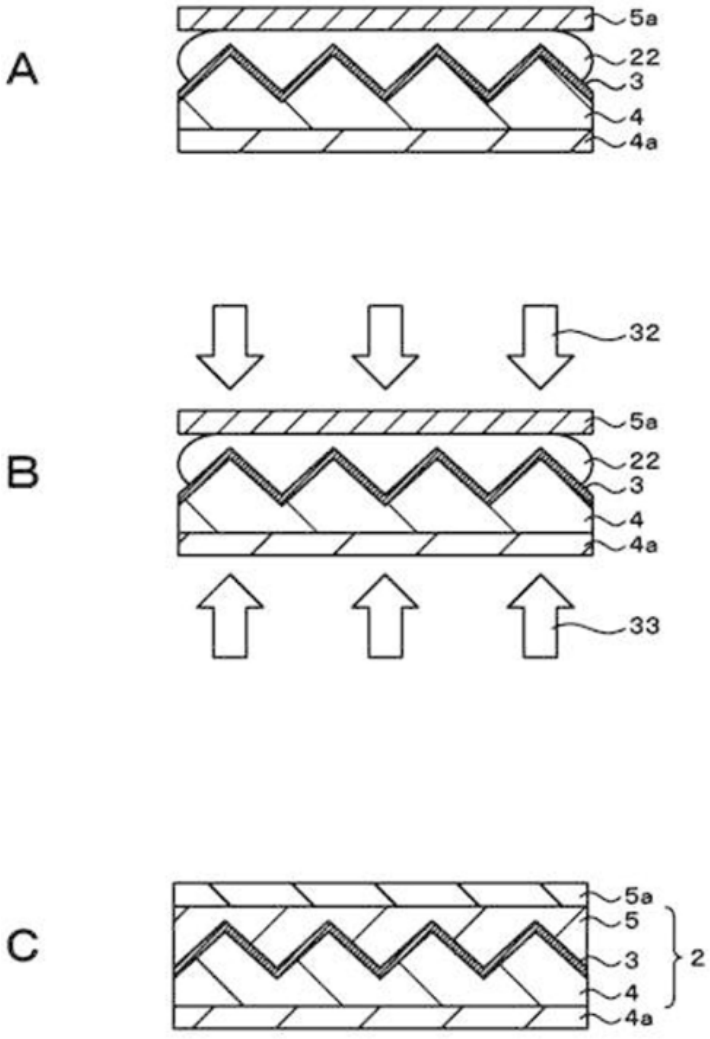
F FIG. 9A, FIG. 9B



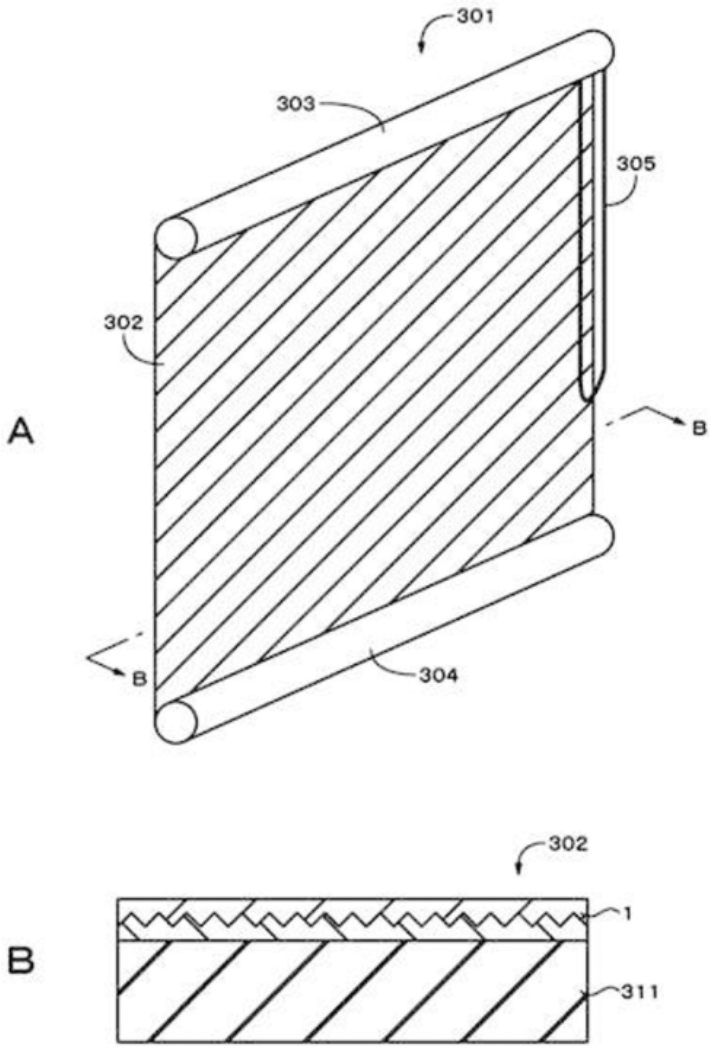
G FIG. 10



H FIG. 11



I FIG. 22



J Cited Invention

In [0109] to [0111] of Cited Document 1, as "the seventh embodiment," "a roll screen device" is described. Herein, taken together the description of [0110], it can be understood that "the screen 302" of "the roll screen device" "is manufactured by affixing the optical film 1 and the base 311 to each other with an affixing layer, such as a bonding layer or an adhesion layer". Further, in [0111] of Cited Document 1, it is described that "cloth" can be used as "the base 311" of "the screen 302," and the feature of the first embodiment described in [0012] to [0082] can be used as "the optical film 1".

In consideration of the above description, Cited Document describes the following invention of "a method of manufacturing a screen 302 of a roll screen device" (hereinafter, referred to as "the Cited Invention", further, "a transflective layer" described in [0061] of Cited Document 1 and "a reflective layer 3" described in [0012] denote the same element, so that the term was unified and described as "a reflective

layer 3").

"A method of manufacturing a screen 302 of a roll screen device,

wherein the screen 302 includes a base 311 and an optical film 1, has flexibility, the optical film 1 is provided on an incident surface side (surface side facing a window member) of two principal surfaces of the base 311, and cloth, etc. can be used as the base 311;

wherein the optical film 1 includes a first optical layer 4 having an concave-convex surface, a reflective layer 3 formed on the concave-convex surface of the first optical layer, and a second optical layer 5 formed on the reflective layer 3 to endose the concave-convex surface on which the reflective layer 3 is formed, and has an incident surface S1 on which light such as sunlight is incident and an exit surface S2 from which light which has passed through the optical film 1 among the light which has been incident on the incident surface S1 is emitted, and the reflective layer 3 is a semitransmissive reflective layer;

wherein a portion of the light L_1 out of the sunlight incident on the optical film 1 is directionally reflected toward the sky direction to the same extent as the incident direction, and the remaining portion of the light L_2 passes through the optical film 1; and

wherein the screen 302 is manufactured by affixing the optical film 1 and the base 311 to each other with an affixing layer, such as a bonding layer or an adhesion layer".

(2) Description in Cited Document 2

Cited Document 2 (Japanese Unexamined Patent Application Publication No. 2004-162194) cited in the reasons for refusal state in the examiner's decision is a publication that had been distributed in Japan or a foreign country prior to the filing of the application and includes the following descriptions.

A "[0001]

[Field of the Invention]

The present invention relates to woven fabrics and interior products having excellent anti-visibility without impairing a daylighting property.

... (Omitted) ...

[0008]

[Problem to be solved by the invention]

The present invention has been made to solve the above-mentioned problems of the prior art, and an object of the present invention is to provide a anti- visibility-proof

fabric and interior products having excellent anti-visibility without impairing a daylighting property".

B "[0009]
[Means for solving the problem]
... (Omitted) ...
[0012]
[Embodiments of the invention]
The present invention will be described in detail below.
... (Omitted) ...
[0022]
Next, in the woven fabric of the present invention, the cover factor (CF) needs to be 800 to 2000.
[0023]
Here, the cover factor (CF) is expressed.
$CF = (DWp/1.1)^{1/2} \times MWp + (DWf/1.1)^{1/2} \times MWf$
DWp is the total warp fineness (dtex), MWp is the warp weave density (thread/2.54 cm), DWf is the total weft fineness (dtex), and MWf is the weft weaving density (thread/2.54 cm).
[0024]
If CF is less than 800, the gap formed by the warp and the weft tends to be large, which is not preferable because the anti-visibility is lowered. On the contrary, if CF is greater than 2000, the daylighting property is lowered, which is not preferable.
... (Omitted) ...
[0026]
The anti-visibility-proof woven fabric of the present invention can be woven by a conventional weaving method using the multifilament (A) as a warp or a weft.
... (Omitted) ...
[0027]
In the anti-visibility-proof woven fabric of the present invention thus obtained, the light transmittance is preferably 20% or more (more preferably 30% to 70%). Here, the light transmittance is a value obtained by subtracting the shading rate measured by the JIS L1055 6.1A method (illuminance 100,000 lux) from 100. If the light transmittance is less than 20%, the daylighting property may be insufficient. On the contrary, if the light transmittance is larger than 70%, the anti-visibility may be lowered.
[0028]

The light-transmitting woven fabric can be easily obtained by being woven using the multifilament (A) as the warp or weft, and then selecting the type and use amount of dye so that the anti-visibility-proof woven fabric is finished from colorless, or light to medium color at the time of dyeing finish processing.

... (Omitted) ...

[0031]

The anti-visibility-proof woven fabric of the present invention is suitably used as interior products such as curtains, roll blinds, and partitions after being sewn as appropriate".

2 Comparison and judgment

(1) Comparison

Comparing the Invention with the Cited Invention, the following matters can be acknowledged.

A Deflection layer

"The screen 302" of the Cited Invention "is manufactured by affixing the optical film 1 and the base 311 to each other with an affixing layer, such as a bonding layer or an adhesion layer". Further, "the optical film 1" of the Cited Invention, "has an incident surface S1 on which light such as sunlight is incident and an exit surface S2 from which light which has passed through the optical film 1 among the light which has been incident on the incident surface S1 is emitted," and "a portion of the light L_1 out of the sunlight incident on the optical film 1 is directionally reflected toward the sky direction to the same extent as the incident direction, and the remaining portion of the light L_2 passes through the optical film 1".

According to the configuration above, "the optical film 1" of the Cited Invention can be said as "one of those overlapping" (Kojien 6th edition), that is "a layer". Further, "the optical film 1" of the Cited Invention has "the incident surface S1" and "the exit surface S2" opposite to each other, and light incident from "the incident surface S1" is emitted from "the exit surface S2".

Therefore, "the optical film 1" of the Cited Invention and "the deflection layer" of the Invention are common in that each is "a layer" "having an incident surface and an exit surface opposite to each other and" "emitting" "light incident from the incident surface" "from the exit surface".

B Color member

"The screen 302" of the Cited Invention "is manufactured by affixing the optical

film 1 and the base 311 to each other with an affixing layer, such as a bonding layer or an adhesion layer". Further, "cloth, etc. can be used as the base 311" of the Cited Invention.

According to the configuration above, "cloth" of the Cited Invention is laminated on "the optical film 1". Also, considering a matter of common general technical knowledge, "cloth" of the Cited Invention is a member whose surface expresses color (Note by the collegial body: "a color" of the Invention includes colorless such as "white" ([0032] of the specification of the present application)).

Therefore, "cloth" of the Cited Invention and "a color member" of the Invention are common in the point that they are "laminated on the layer and the surface of which expresses color".

C Light control sheet

According to the configuration described in A above, it can be said that "the screen 302" of the Cited Invention functions as a sheet controlling light by the action of "the optical film 1". Further, "the screen 302" of the Cited Invention is provided with "the optical film 1" and "cloth".

Therefore, "the screen 302" of the Cited Invention and "the light control sheet" of the Invention are common in the point that each is "a light control sheet which is provided with" "a layer" and "a color member".

D Method of manufacturing light control sheet

In "a method of manufacturing a screen 302 of a roll screen device" of the Cited Invention, "the screen 302 is manufactured by affixing the optical film 1 and the base 311 to each other with an affixing layer, such as a bonding layer or an adhesion layer". Further, "cloth, etc. can be used as the base 311".

According to the configuration above, "a method of manufacturing a screen 302 of a roll screen device" of the Cited Invention includes a step of laminating "the base 311"; that is, "cloth", on "the optical film 1".

Therefore, "a method of manufacturing a screen 302 of a roll screen device" of the Cited Invention and "a method for producing a light control sheet" of the Invention are common in that point that each is "a method for producing a light control sheet, comprising :" "a step of laminating" "the color member on" "the layer".

(2) Corresponding Feature and Different Feature

A Corresponding Feature

The Invention and the Cited Invention are identical in the following configuration.

"A method for producing a light control sheet which is provided with a layer having an incident surface and an exit surface opposite to each other and emitting light incident from the incident surface from the exit surface, and a color member laminated on the layer and the surface of which expresses color, comprising

a step of laminating the color member on the layer".

B Different Features

The Invention and the Cited Invention are different in the following features.

(Different Feature 1)

In the Invention, "a layer" is a "deflection" layer deflecting light incident from the incident surface to emit the light from the exit surface, whereas in the Cited Invention, "a portion of the light L1 out of the sunlight incident on the optical film 1 is directionally reflected toward the sky direction to the same extent as the incident direction, and the remaining portion of the light L2 passes through the optical film 1".

(Different Feature 2)

In the Invention, "a method for producing a light control sheet" comprising: "a step of selecting the color member in which an aperture ratio and brightness of the color member are set in a region between "a straight line defined by $y = -1.4137x + 91.447$" and "a straight line defined by $y = -1.6000x + 194.20$", "on a coordinate plane in which the aperture ratio of the color member is x [%] and the brightness of a surface of the color member is y;" and a step of laminating the "selected" color member on the deflection layer, whereas the Cited Invention is not specified to include these steps (a step of obtaining "cloth" is unclear.)

(3) Judgment

In consideration of the case, Different Feature 2 will be examined.

"the screen 302" of the Cited Invention" is provided with the optical film 1 and cloth," and "cloth, etc. can be used as the base 311". Therefore, in the Cited Invention, it is recognized that a step of obtaining "cloth" suitable for "a roll screen" is "a method of manufacturing a screen 302 of a roll screen device" of the Cited Invention, or an inherent process in the design stage prior to that.

However, in Cited Document 1, it is merely described that "the cloth used here may be the same as that generally used in conventionally roll screens." ([0111]), and no

other description or suggestion is found in Cited Document 1.

Incidentally, Cited Document 2 describes the technology relating to "woven fabrics and interior products having excellent anti-visibility without impairing a daylighting property" ([0001]). Further, the woven fabric "is suitably used as interior products such as curtains, roll blinds, and partitions after being sewn as appropriate" ([0031]).

Then, in [0022] of Cited Document 2, it is described that "in the woven fabric of the present invention, the cover factor (CF) needs to be 800 to 2000" (note by the collegial body: "The cover factor" is well known as an evaluation index for woven fabrics). In addition, in [0024] of Cited Document 2, as the reasons for that, it is described that "if CF is less than 800, the gap formed by the warp and the weft tends to be large, which is not preferable because the anti-visibility is lowered. On the contrary, if CF is greater than 2000, the daylighting property is lowered, which is not preferable".

Furthermore, although in [0027] of Cited Document 2, it is described that "in the anti-visibility-proof woven fabric of the present invention thus obtained, the light transmittance is preferably 20% or more (more preferably 30% to 70%)," it is also described that "the light-transmitting woven fabric can be easily obtained by being woven using the multifilament (A) as the warp or weft, and then selecting the type and use amount of dye so that the anti-visibility-proof woven fabric is finished from colorless or light to medium color at the time of dyeing finish processing," in [0028].

However, the above-mentioned description relating to the cover factor is a description relating to weaving method of woven fabric, but not a description relating to a step of selecting a woven fabric. Also, the above-mentioned description of color intensity of the woven fabric is a description relating to the dyeing finish processing of the woven fabric, but not a description relating to a step of selecting a woven fabric.

Therefore, it cannot be said that the technology described in Cited Document 2 immediately motivates the adoption of the configuration of the Invention relating to Different Feature 2 in the Cited invention.

Furthermore, it will be examined, assuming that a step of obtaining "cloth" inherent in the Cited Invention is a step of selecting "cloth" and the technology described in Cited Document 2 is a technology considered when selecting "cloth".

In the step of selecting "cloth," if adopting the technology described in Cited Document 2, cloth is selected in consideration of the cover factor and color intensity of the cloth. Against this, a step of selecting "the color member" of the Invention is "a

step of selecting it using the aperture ratio and the brightness".

Herein, "the cover factor" is an amount that depends on the type of cloth, even if it correlates with "the aperture ratio". Also, "color intensity" is an amount that depends on chromaticity, even if it correlates with "brightness". Against this, "the aperture ratio" and "brightness" of the Invention are amounts that do not depend on the type or chromaticity of the cloth. Therefore, it can be said that "the cover factor" and "the aperture ratio", and "color intensity" and "chromaticity" are different concepts from the technical viewpoint.

Consequently, "a step of selecting" "cloth" "using the aperture ratio and the brightness" is different from "a step of selecting" "cloth" "using the cover factor and color intensity", and is viewed as "a step" relating to a manufacturing method.

As described above, it cannot be said that the configuration of the Invention is conceived even if combining the Cited Invention and the technology described in Cited Document 2.

[0060] and [0062] of the specification of the present application, respectively describe that "the present inventor found that suitable lighting performance can be exhibited and glare and dazzling can be suppressed when used in combination with the lighting sheet 2 as the color member 3 if the total light transmittance of the cloth is 40% or more and 80% or less" and "it means that the total light transmittance can be adjusted by adjusting the aperture ratio and the brightness, and the total light transmittance can be flexibly adjusted in a range of 40% or more and 80% or less by suitably adjusting the aperture ratio and the brightness". Then, the effect that "the total light transmittance can be flexibly adjusted in a range of 40% or more and 80% or less by suitably (note by the collegial body: "suitably" is thought to be a misprint of "appropriately") adjusting the aperture ratio and the brightness," is an effect that cannot be expected from the Cited Invention or the technology described in Cited Document 2.
(Note by the collegial body: Furthermore, in the written request for appeal (4), the Appellant also alleges that "the idea of selecting a member that is desirable for daylighting using the aperture ratio and brightness of the member is completely new, and it is considered to be unpredictable from the matters described in Cited Documents 1 to 4. Then, the effect of being able to efficiently provide a useful light control sheet for daylighting without adjusting or measuring the total light transmittance is also considered to be a new useful matter that is difficult to predict from the prior art.")

It is the same even if examining the descriptions of Cited Documents 3 to 5.

(4) Summary

It cannot be said that the Invention could have been invented easily even by a person skilled in the art, on the basis of the technology described in Cited Document 1 and well-known arts, with no need to examine other different features.

No. 3 Regarding the examiner's decision

As described in "No. 2" above, reasons for the examiner's decision cannot be maintained.

No. 4 Summary

As described above, the Application cannot be rejected due to the reasons of the examiner's decision.

In addition, no other reasons for refusal were found.

Therefore, the appeal decision shall be made as described in the conclusion.

April 7, 2020

Chief administrative judge: SATOMURA, Toshimitsu

Administrative judge: HIGUCHI, Nobuhiro

Administrative judge: KAWAHARA, Tadashi