

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY C. OSTWALD and DANIEL JAMES PLUTT

Appeal No. 2001-2664
Application 09/354,814

ON BRIEF

Before ABRAMS, PATE, and NASE, Administrative Patent Judges.

PATE, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 28 and 30 through 33. These are the only claims remaining in the application. We note that it appears from the examiner's answer, that the examiner has included claim 29 in the rejection. However, claim 29 was canceled in paper no. 5, filed November 27, 2000.

The claimed invention is directed to a system for moving a plurality of cartridges between a plurality of storage libraries.

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The system includes at least one transport robot operative to move along a guide structure between the libraries.

Reference is made to the appealed claims appended to appellant's brief for further details with respect to the claimed subject matter.

The reference of record relied upon by the examiner as evidence of anticipation is:

Moy et al. (Moy)	4,928,245	May 22, 1990
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REJECTION

Claims 1 through 28 and 30 through 33 stand rejected under 35 U.S.C. § 102 as anticipated by Moy.

According to appellant claims 1 through 28 and 30 through 33 stand or fall together. Accordingly, we will limit our consideration to independent claim 1 on appeal.

OPINION

We have carefully reviewed the claimed subject matter in light of the arguments of the appellants and the examiner. As a result of this review, we have reached the finding that the claims on appeal lack novelty over the applied prior art. Accordingly, the rejection of the claims on appeal is affirmed. Our reasons follow.

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As held in *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997):

the PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification.

The appellants' specification provides only general guidance as to the proper interpretation of the claim term "library" as it appears in the claims on appeal. According to appellants,

Automated data cartridge library systems are available in many shapes and sizes. The most common library systems are configured as either a two-dimensional array of storage cells that resemble bookshelves, or a cylinder of storage cells that resemble farm silos. (Specification, page 1)

Anticipation under 35 U.S.C. § 102 requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Moy discloses a system for moving a plurality of cartridges between a plurality of cylindrical arrays. Moy discloses a guide structure comprising an arm assembly 138 between first and second cylindrical arrays 130 and 134. Col.8, line 63. The guide structure includes an arm 142 which mounts column 144 on which robotic wrist assembly moves for loading and unloading the storage cells of the cylindrical arrays. Thus, the robot can be said to move along a guide structure column 144. The examiner further finds that the storage cells 132 being open to the robot, thus comprise load ports through which cartridges can be placed in the various storage cells.

Appellants argue that Moy discloses only a single library and not multiple libraries as claimed in claim 1 on appeal. The examiner argues that a library is merely a collection of similar articles kept in one area and the LSM 108 of Moy should be considered as a plurality of libraries. We note that appellants expressly state in their specification that a library system may be a cylinder of storage cells that resemble a farm silo. Even if we were not according the claim language its broadest reasonable interpretation, we agree with the examiner's finding that the LSM 108 of Moy, which clearly shows two concentric

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cylinders (130 and 134) of storage cells 132, is a plurality of libraries as the appellants have defined the term on page 1 of the specification.

Consequently, we concur in the examiner's findings of fact that appellants' representative claim 1 lacks novelty over the Moy disclosure. The rejection on appeal is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

NEAL E. ABRAMS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
WILLIAM F. PATE, III)	
Administrative Patent Judge)	APPEALS AND
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