

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT L. MUELLER,
NICHOLAS D. THAYER and
MARK A. SMITH

Appeal No. 2003-0605
Application 09/257,322

ON BRIEF

Before THOMAS, HAIRSTON, and JERRY SMITH, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 1, 4-18 and 21. Because the examiner has indicated at page 8 of the answer that the outstanding rejection of claims 4-17 has been withdrawn, only the rejection of claims 1, 18 and 21 remains for our consideration.

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Representative claim 1 is reproduced below:

1. A data cartridge exchange apparatus for a data storage system, comprising:

a drawer sized to receive a data cartridge;

a first guide rail having a first configuration mounted to said drawer;

a guide rail having a second configuration, said guide rail having the second configuration being sized to engage said first guide rail having the first configuration;

a second guide rail having the first configuration mounted to the data storage system, said second guide rail having the first configuration being sized to engage said guide rail having the second configuration so that said drawer can be moved between a retracted position and an extended position;

a cartridge magazine sized to be received by said drawer, said cartridge magazine being sized to receive the data cartridge; and

a cartridge magazine alignment apparatus mounted to the data storage system, said cartridge magazine alignment apparatus engaging said cartridge magazine when said drawer is in the retracted position and holding said cartridge magazine in a registration position.

The following references are relied on by the examiner:

Ishikawa	5,644,445	July 1, 1997
Cirocco	5,951,132	Sep. 14, 1999
		(filing date Nov. 18, 1997)

Claims 1, 18 and 21 stand rejected under 35 U.S.C. § 103.

As evidence of obviousness, the examiner relies upon Ishikawa in view of Cirocco.

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Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and reply brief for appellants' positions, and to the answer for the examiner's positions.

OPINION

We reverse.

As expressed at pages 5 and 6 of the answer, the examiner's rejection is predicated on the view that Ishikawa fails to disclose the specifically claimed structure of the guide rail mechanism. The examiner takes the position (answer, pages 5-6) that Ishikawa does provide for the drawer 6 to slide from its retracted to its extended position by means of a guide rail mechanism which is not described in detail. Because Cirocco's specific teachings of guide rail mechanisms make up for Ishikawa's silence as to this matter (answer, page 7), the examiner considers that it would have been obvious for the artisan to have utilized the teachings of Cirocco's guide rail mechanism for the non-disclosed corresponding portion in Ishikawa.

Contrary to the examiner's apparent views, Figures 1-3 of Ishikawa do not show and column 4, beginning at line 15, does not discuss the use of a guide rail mechanism in Ishikawa's cartridge

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library apparatus. It is thus apparent to us that no such guide rail mechanism of the type claimed and depicted and discussed in detail in *Cirocco* would have been necessary to have embodied or further embellished upon the teachings in *Ishikawa*. *Ishikawa* apparently simply uses a slidable drawer 6 as labeled and depicted in Figures 1-3. The drawer appears to slide on its bottom as a conventional drawer does without the need for any side mounted rail assembly, such as assemblies 19, 19a in Figures 1, 2 and 8-12 in *Cirocco*.

When all of this is considered within 35 U.S.C. § 103, we find that it would not have been obvious for the artisan to have modified *Ishikawa's* teachings within 35 U.S.C. § 103 to have utilized the particular slide rail mechanism in *Cirocco*. Moreover, since the examiner's position admits that *Ishikawa* does not teach or suggest the slide rail mechanism of the type set forth in independent claims 1 and 18 on appeal, this reference alone could not have rendered obvious the subject matter of these independent claims. Therefore, we conclude that the examiner has not established a prima facie case of obviousness within 35 U.S.C. § 103.

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In view of the foregoing, the decisions of the examiner
rejecting claims 1, 18 and 21 under 35 U.S.C. § 103 is reversed.

REVERSED

James D. Thomas)	
Administrative Patent Judge)	
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Kenneth W. Hairston)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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Jerry Smith)	
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