

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Ex parte PATRICK J. CAREY, THOMAS M. BROWN and DALE J. LARSON

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Appeal No. 2006-0260  
Application No. 10/139,678

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ON BRIEF

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Before CRAWFORD, LEVY, and NAPPI, Administrative Patent Judges.

CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 21 and 27, which are all of the claims pending in this application.

The appellants' invention relates to a system and method of controlling the handling, movement and sensing of mail trays or other mail items into a single file arrangement on a conveyor system for downstream processing (specification, page 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The Prior Art

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Denker	4,889,224	Dec. 26, 1989
Terrell et al (Terrell)	5,950,800	Sep. 14, 1999

The Rejection

Claims 1 to 21 and 27 stand rejected under 35 U.S.C. § 103 as being unpatentable over Denker in view of Terrell.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the answer (mailed June 29, 2005) for the examiner's complete reasoning in support of the rejections, and to the brief (filed April 11, 2005) and reply brief (filed August 29, 2005) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

The examiner has rejected the claims under 35 U.S.C. § 103 as being unpatentable over Denker in view of Terrell. We note that the test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. See In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991) and In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981).

It is the position of the examiner that Denker describes the invention as claimed except that Denker does not describe conveying mail. The examiner relies on Terrell for teaching conveying mail and concludes:

It would have been obvious to modify Denker (4,889,224) to substitute mail item(s) in order to increase versatility as taught by Terrell et al. (5,950,800) [answer at page 3].

Independent claim 1 requires that the second conveyor transport the mail in a direction substantially orthogonal to the direction of the first conveyor and that the second conveyor is capable of changing the position of the items into a uniformly

oriented single file arrangement. Independent claims 17 and 27 each require that the second conveyor transport mail in a second direction different from the first direction.

The second conveyor 14 in Denker transports mail in the same direction as the first conveyor 12. Therefore, we disagree with the examiner that Denker describes the invention as claimed except that Denker does not describe transporting mail.

Our review of the disclosure of Terrell reveals that although Terrell may be seen to describe a second conveyor (16 or 18) that conveys items in a direction different from a first conveyer (14 or 16), said items are not conveyed in a uniformly oriented manner as required by claims 1, 17 and 27 nor does the second conveyor change the position of the items as required by claims 1 and 27. Rather, the second conveyor in the system of Terrell does not convey the items in a uniformly oriented manner and utilizes an eliminator 40 to discharge the non uniform articles (col. 3, lines 52 to 62).

As such, the references do not disclose alone or in combination a second conveyor which transport items in a direction different or orthogonal to the direction of the first conveyor and which conveys or changes the positioning of the items so that they are conveyed in a uniformly oriented, single file arrangement as required by independent claims 1, 17 and 27. Therefore, we will not sustain this rejection.

The decision of the examiner is reversed.

**REVERSED**

Appeal No. 2006-0260  
Application No. 10/139,678

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