

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FELIX KRAMER

Appeal No. 2006-1343
Application No. 10/121,530

HEARD: JUNE 8, 2006

Before FRANKFORT, BAHR and NAPPI, Administrative Patent Judges.
FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1, 6 through 8, 16 and 17. Claims 9 through 15, the only other claims remaining in the application, have been indicated to contain allowable subject matter, but currently stand objected to as being dependent upon a rejected parent claim. Claims 2 through 5 have been cancelled.

Appellant's invention relates to a device for handling printed products supplied to a stacking device, which products are picked up at a delivery end of a printing machine or printed product processing machine by a transport device (3) for further transport in a suspended position and are supplied via a conveying path to a transfer device (5) arranged upstream of the stacking device. Independent claim 1 is representative of the subject matter on appeal and a copy of that claim can be found in the Appendix attached to appellant's corrected brief (filed September 21, 2005).

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

Müller	5,110,108	May 5, 1992
Sjogren et al. (Sjogren)	5,226,780	Jul. 13, 1993
Landgren	5,931,459	Aug. 3, 1999
Mack et al. (Mack)	6,000,695	Dec. 14, 1999

Claims 1, 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mack in view of Landgren and Müller.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Mack in view of Landgren and Müller as applied to claims 1 and 6 above, and further in view of Sjogren.

Claims 1, 16 and 17 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mack in view Landgren and Müller.

Rather than reiterate the examiner's full statement of the above-noted rejections and the conflicting viewpoints advanced by appellant and the examiner regarding those rejections, we make reference to the answers (mailed January 14, 2005 and November 2, 2005) for the examiner's reasoning in support of the rejections, and to appellant's brief (filed September 7, 2004), reply brief (filed March 17, 2005) and corrected brief (filed September 21, 2005) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by appellant and the examiner. As a consequence of our review, we have made the determination that the examiner's rejections on appeal will not be sustained. Our reasons follow.

Looking first to the rejections of claims 1, 6 and 7, and claims 1, 16 and 17 under 35 U.S.C. § 103(a) based on the combined teachings of Mack, Landgren and Müller, we note that Mack discloses a device for handling printed products supplied to a stacking device, which products are picked up at a delivery end of a printing machine or printed product processing machine (at 45) by a transport device (2) for further transport via a conveying path to a transfer/diverter device (8, 9, 14-17) arranged upstream of a stacking device (10, 11). See, e.g., column 1, lines 8-18 of Mack. The transport device (2) is a chain-conveyor system where the printed sheets (24) are transported along the conveying distance following the slack side (4) of a conveyor chain while being supported via a continuous floatation-guiding arrangement (6) supplied with a suitable blast medium (e.g., air) through a plurality of connection ports (7). An objective of the invention in Mack is to facilitate transfer of the printed sheets (24) from the chain-conveyor system to the stacking device while avoiding moving parts, such as gripper bars (col. 2, lines 26-29). To that end, Mack uses a diverter and pneumatic conveyor/transfer system to move the sheets (24) between the chain-conveyor system (2) and the stacking devices (10, 11), as seen best in Figures 2-3 of the patent.

The first difference highlighted by the examiner between the claimed subject matter and Mack is that Mack fails to teach a transport device that transports the printed products in a suspended manner. The examiner looks to Landgren to address this difference, urging that Landgren teaches a conveyor chain (4) with gripper systems (50) which transport printed products in a suspended position. In the examiner's view, it would have been obvious to one of ordinary skill in the art to combine the delivery device of Mack with the suspension gripper transport device of Landgren "if one desired to transport the printed products in a manner that would reduce the amount of contact on the freshly printed products so as to reduce the possibility of smearing the ink and to make the transport system less complicated, requiring less parts and maintenance and therefore less costly" (answer, page 4).

The second difference highlighted by the examiner is that Mack fails to disclose or teach a conveying drum as defined in claim 1 on appeal that serves to transfer the printed products from the conveying path to the stacking device. To account for this difference the examiner turns to Müller, contending that Müller teaches a conveying drum (7) located at the end of a conveying path

(1) and which includes pivotable grippers (16, 17) configured to grip downwardly extending ends of printed products (3) and release them at the bottom of the drum in an approximately horizontal position. The examiner then urges that it would have been obvious to one of ordinary skill in the art "to alter the transfer device as taught by Mack to include the conveyor drum, as taught by Müller, at the upstream end of the transfer path, if one so desired to ensure that a continuous conveying flow be realized and that the printed products are subjected to a gentle processing" (answer, page 5).

After considering the teachings to be fairly derived from Mack, Landgren and Müller by one of ordinary skill in the art, we find that we are in agreement with appellant's assessment that neither Landgren nor Müller provide any teaching, suggestion or incentive for modifying the particular sheet transport and stacking system found in Mack to use a conveyor device like that in Landgren or a transfer device like that in Müller. Mack utilizes a chain-conveyor and continuous floatation-guiding arrangement (6) along with a diverter and specialized air conveying/braking arrangement to move a printed product from the delivery end of a printing machine or printed product processing machine (at 45) to selective stacking levels (10, 11) of a stacking apparatus (40) "while avoiding moving parts, such as gripper bars" (col. 2, lines 26-28) and also ensuring that the printed products arrive via smear- and scratch-free delivery on the particular selected stack level (col. 3, lines 19-23). Those aspects of Mack and the significance placed thereon in the disclosure of that patent belie the examiner's rationale for the proposed combinations as set forth in the final rejection and answer, and lead us to conclude that the examiner is utilizing impermissible hindsight to selectively pick and choose among the prior art references and appellant's own specification as

a roadmap for their combination. Thus, we will not sustain the examiner's rejection of claims 1, 6, 7, 16 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Mack in view of Landgren and Müller.

We have also reviewed the patent to Sjogren relied upon by the examiner in the rejection of dependent claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Mack in view Landgren and Müller as applied above, and further in view of Sjogren. Here again, we agree with appellant's assessment of the rejection on

appeal, noting particularly page 12 of the briefs. Thus, we will not sustain the examiner's rejection of claim 8 under 35 U.S.C. § 103(a).

Since we have refused to sustain any of the rejections on appeal, it follows that the decision of the examiner is reversed.

REVERSED

CHARLES E. FRANKFORT)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JENNIFER D. BAHR)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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ROBERT E. NAPPI)	
Administrative Patent Judge)	

Comment [jvn1]: Type or Paste Address

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