

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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL H. HAMISCH, JR. and JOHN D. MISTYURIK

Appeal No. 2000-2256
Application No. 09/069,377

HEARD: NOVEMBER 27, 2001

Before COHEN, ABRAMS, and STAAB, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 34 and 35. Claim 36, the only other claim remaining in the application, stands allowed.

Appellants' invention pertains to an ink ribbon cartridge. A basic understanding of the invention can be derived from a reading of exemplary claim 34, a copy of which appears in the APPENDIX to the main brief (Paper No. 9).

Appeal No. 2000-2256
Application No. 09/069,377

OPINION

In reaching our conclusion on the anticipation issue raised in this appeal, this panel of the board has carefully considered appellants' specification, drawings, and claims, the applied patent, and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determination which follows.

We do not sustain the rejection of claims 34 and 35. Our reasons appear below.

As disclosed (specification, page 2), it is a feature of the present invention for an ink ribbon cartridge to have a flexible resilient housing wall within which the ink ribbon is based. The housing wall deflects resiliently when the cartridge is being inserted until the housing wall encounters a recess which causes the cartridge to detent essentially into its operating position. More specifically (specification,

Appeal No. 2000-2256
Application No. 09/069,377

pages 11 and 12), the housing member 161 with housing sections 130 and 131 have two abutting portions 130' and 131' which are flexible and resilient enough to deflect during assembly onto the printer 20 until arcuate portion 164 finally enters and detents into a recess 165 in the shelf 44 to hold the cartridge 24 detented essentially in the operating position (Figs. 3 and 15). A latching gripper 84 (Fig. 2) engages a grip member 85 on the cartridge housing 23 (Fig. 3).

Claim 34 is drawn to an ink ribbon cartridge for use in a printer having a platen and a print head cooperable with the platen for printing on a web of record members, the printer having a guide with a recess, the cartridge comprising, inter alia, a cartridge housing having a flexible wall which deflects resiliently while the cartridge is being loaded onto the printer in contact with the guide and which expands into the recess when the cartridge is essentially in the operating position. Dependent claim 35 sets forth the cartridge housing as having a grippable surface by which the cartridge can be latched to the printer.

Appeal No. 2000-2256
Application No. 09/069,377

The examiner concludes that the subject matter of each of claims 34 and 35 is anticipated by the Harvey disclosure.

The Harvey patent teaches a thermal transfer ribbon cartridge positioned between first and second printer sidewalls, with the cartridge including members engageable with the first sidewall for releasably locking the cartridge in position (column 2, lines 23 through 27). The locking mechanism is integrally formed with the cartridge (column 2, lines 37, 38 and 51, 52) and includes a first member 32 and a second member 34. The first end portion 36 of the first member 32 and the first end portion 46 of the second member 34 are each integrally formed with and attached to the left housing sidewall 12 of the cartridge.

We fully comprehend the examiner's point of view and perspective of the language of appellants' claim 34, in particular, and the teaching of the Harvey patent, as clearly articulated in the answer. Nevertheless, as explained below, when we consider claim 34, as a whole, read in light of the

Appeal No. 2000-2256
Application No. 09/069,377

underlying disclosure, we perceive that the claimed subject matter is not readable on the Harvey patent and, thus, not anticipated thereby.

As can be discerned from our review of claim 34 above, an ink ribbon cartridge is set forth comprising a cartridge housing, with the cartridge housing having a flexible wall which deflects resiliently and then expands. This language has to be understood in light of appellants' disclosure (specification, page 2) wherein the term "wall" in the application is explicitly referenced relative to the ink ribbon cartridge having a flexible resilient housing wall within which the ink ribbon is based. Thus, as we see it, it is reasonable and consistent with appellants' specification, to appreciate claim 34 as referencing the flexible wall of the cartridge housing. With this latter understanding of the claimed subject matter in mind, we recognize the attributes of the locking member 32 (Fig. 3) of Harvey (integrally formed with the left housing wall 12 of the cartridge 10), as relied upon by the examiner. However, locking member 32 cannot be fairly determined to be a flexible "wall" of the cartridge

Appeal No. 2000-2256
Application No. 09/069,377

housing 10 when understood in light of appellants' teaching, as explained above. Since the content of claim 34 is not readable on the Harvey document, claim 34 and claim 35 dependent thereon are not anticipated under 35 U.S.C. § 102(b).

In summary, this panel of the board has not sustained the anticipation rejection on appeal.

The decision of the examiner is reversed.

Appeal No. 2000-2256
Application No. 09/069,377

REVERSED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
NEAL E. ABRAMS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
LAWRENCE J. STAAB)	
Administrative Patent Judge)	

ICC:lbg

Appeal No. 2000-2256
Application No. 09/069,377

JOSEPH JOHN GRASS
MONARCH MARKING SYS INC.
P.O. BOX 608
DAYTON, OH 45401

COHEN

APPEAL NO. 2000-2256 - JUDGE

APPLICATION NO. 09/069,377

APJ COHEN

APJ ABRAMS

APJ STAAB

DECISION: REVERSED

Prepared By:

DRAFT TYPED: 19 Aug 02

FINAL TYPED: