

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 JOHN J. DELL and H. MARK HALL

Appeal No. 2001-1609
Application No. 09/031,778

ON BRIEF

Before STAAB, NASE, and BAHR, Administrative Patent Judges.
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 11 to 13 and 15 to 21, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates to a mobile workstation (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

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

Cope et al. (Cope)	4,428,631	Jan. 31, 1984
Maguire, Jr. (Maguire)	5,416,666	May 16, 1995
Wacker et al. (Wacker)	5,443,017	Aug. 22, 1995
Leonard	5,450,800	Sep. 19, 1995

Claim 19 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Wacker.

Claims 11 to 13, 16 to 18, 20 and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Wacker in view of Maguire and Leonard.

Claim 15 stands rejected under 35 U.S.C. § 103 as being unpatentable over Wacker in view of Maguire and Leonard as applied to claim 11 above, and further in view of Cope.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the answer (Paper No. 17, mailed October 23, 2000) for the examiner's complete reasoning in support of the rejections, and to the brief (Paper No. 16, filed August 9, 2000) and reply brief (Paper No. 18, filed December 1, 2000) 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 anticipation rejection

We will not sustain the rejection of claim 19 under 35 U.S.C. § 102(b).

To support a rejection of a claim under 35 U.S.C. § 102(b), it must be shown that each element of the claim is found, either expressly described or under principles of

inherency, in a single prior art reference. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

Claim 19 reads as follows:

A workstation for use in a healthcare facility, the workstation comprising:
(a) a work surface having a top surface and a bottom surface, the work surface having means for carrying healthcare equipment;
(b) a pedestal for supporting said work surface, said pedestal being vertically adjustable so as to adjust the work surface between a standing position and a sitting position;
(c) a movable base for supporting said pedestal; and
(d) a counterbalance attached to the bottom surface of the work surface, said counterbalance counterbalancing weight of the healthcare equipment carried by the work surface as the height of the work surface is adjusted.

Wacker discloses a modular work station having a dual column construction with a separately adjustable work surface supported on each column. Each of the columns utilizes a tubular telescoping construction and can provide as many as three individual modes of adjustable movement to the work surface, including lift, tilt, and horizontal back and forth movements. The lift and tilt functions are preferably provided by motor driven linear actuators mounted within the telescoping column with appropriate controls to prevent contact between adjacent work surfaces when one or both of the surfaces is also provided with back and forth sliding movement. As shown in Figures 1 and 2, adjustable work table 10 comprises a base 12, a pair of vertical columns 14, 16, and a table top 18, 20 carried

by each column. Each column 14, 16 is independently capable of raising the respective table top 18, 20. As shown in Figure 3, when motor 46 through reducer 44 rotates lead screw 42 in either direction, tubular nut 40 is either raised or lowered. The raising or lowering of tubular nut 40 causes both platform 38 and inner, upper column member 16a, which fits in telescoping relation within outer lower column member 16b, to be raised and lowered, along with table top 20.

The examiner determined (answer, pp. 4-5) that claim 19 was anticipated by Wacker since (1) the claimed work surface having a top surface and a bottom surface was readable on Wacker's table top 20; (2) the claimed pedestal was readable on Wacker's outer lower column member 16b; (3) the claimed movable base was readable on Wacker's base 12; and (4) the claimed counterbalance was readable on the motor assemblies (e.g., motor 34, motor 46, nut 40, screw 42, reducer 44, reducer 36) contained within Wacker's column 16.

In our view, the examiner's above-noted determination that claim 19 is anticipated by Wacker is not sustainable for the following reasons. First, the claimed pedestal (i.e., a pedestal for supporting said work surface, said pedestal being vertically adjustable so as to adjust the work surface between a standing position and a sitting position) is not

readable on Wacker's outer lower column member 16b since Wacker's outer lower column member 16b is not vertically adjustable. Second, the claimed counterbalance (i.e., a counterbalance attached to the bottom surface of the work surface, said counterbalance counterbalancing weight of the healthcare equipment carried by the work surface as the height of the work surface is adjusted) is not readable on the motor assemblies within Wacker's column 16 since the motor assemblies within Wacker's column 16 are not attached to the bottom surface of the work surface separate from the claimed vertically adjustable pedestal. Lastly, the examiner has not pointed out nor is it apparent to us as to how the limitation that the work surface has "means for carrying healthcare equipment" is met by Wacker. This means is in addition to the claimed top surface of the work surface and in our view must under the sixth paragraph of 35 U.S.C. § 112 be construed to cover the corresponding structure, material, or acts described in the specification (i.e., basket 36 of wire mesh sized to hold charts and diagnostic equipment) and equivalents thereof. Clearly, Wacker does not disclose anything similar to or equivalent to the appellants' basket 36.

For the reasons set forth above, the decision of the examiner to reject claim 19 under 35 U.S.C. § 102(b) is reversed.

The obviousness rejections

We will not sustain the rejection of claims 11 to 13, 15 to 18, 20 and 21 under 35 U.S.C. § 103.

Claims 20 and 21

The decision of the examiner to reject dependent claims 20 and 21 under 35 U.S.C. § 103 is reversed since the examiner has not asserted that the above-noted limitations of parent claim 18 would have been obvious at the time the invention was made to a person of ordinary skill in the art.

Claims 11 to 13 and 15 to 18

Claim 11 reads as follows:

A mobile workstation comprising:

(a) work surface having a top surface for carrying electrical equipment and a bottom surface;

(b) a pedestal for supporting said work surface;

(c) means housed in said pedestal for adjusting the height of said work surface; and

(d) a power supply for supplying power to the electrical equipment attached to the bottom surface, the power supply providing a counterbalance for counterbalancing weight of the electrical equipment as the height of said work surface is adjusted.

The examiner determined (answer, p. 3) that (1) Wacker teaches all the limitations of claim 11 except for the claimed power supply; and (2) it would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ a power supply within Wacker's column 16 based on the teachings of Maguire.

In our view, the combined teachings of Wacker and Maguire would not have been suggestive of the claimed invention.¹ In that regard, while Maguire clearly teaches a workstation having an annunciator unit provided with a power supply therein, Maguire teaches providing such an annunciator unit on the top of the workstation. Thus, absent the use of impermissible hindsight,² we see no suggestion, motivation or teaching in the applied prior art to have positioned an annunciator unit with a power supply therein within Wacker's column 16.

For the reasons set forth above, the decision of the examiner to reject claim 11, and claims 12, 13 and 15 to 18 dependent thereon, under 35 U.S.C. § 103 is reversed.³

¹ 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).

² Hindsight knowledge derived from the appellants' own disclosure to support an obviousness rejection under 35 U.S.C. § 103 is, of course, impermissible. See, for example, W. L. Gore and Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

³ We have also reviewed the references to Leonard and Cope but find nothing therein which makes up for the deficiencies of Wacker and Maguire.

CONCLUSION

To summarize, the decision of the examiner to reject claim 19 under 35 U.S.C. § 102(b) is reversed and the decision of the examiner to reject claims 11 to 13, 15 to 18, 20 and 21 under 35 U.S.C. § 103 is reversed.

REVERSED

LAWRENCE J. STAAB)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JEFFREY V. NASE)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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JENNIFER D. BAHR)	
Administrative Patent Judge)	

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BUCHANAN INGERSOLL
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