

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

Paper No. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DANIEL C. ROBBINS

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Appeal No. 95-0794  
Application 08/220,406<sup>1</sup>

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ON BRIEF

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Before THOMAS, HAIRSTON, and KRASS, Administrative Patent Judges.  
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1, 7, 8, 10, 17 and 20 through 24. Claims 2 through 6, 9, 11 through 16, 18 and 19 have been canceled.

The invention pertains to a portable computer that is convertible between multiple operative positions. For example, as shown in Figure 1, both the screen and keyboard are viewable by a user but with the proper orientation and

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<sup>1</sup> Application for patent filed March 30, 1994. According to appellant this application is a continuation of Application No. 07/994,856, filed December 22, 1992, now abandoned.

movement of the pivoted cover, base and display portion, the computer can be placed, for example, in the position shown in Figure 4 wherein the keyboard is protected by the cover and only the screen portion is viewable. This position might be chosen for input employing a pen whereas the previous position might be used for input employing a keyboard.

Representative independent claim 1 is reproduced as follows:

1. A convertible computer, comprising:

a base portion having a keyboard side and a rear side;

a display portion, pivotally attached to said base portion, having a display and input assembly side and a rear side; and

a cover pivotally attached to said base portion,

wherein said cover is positionable at a first position over the keyboard side of said base portion when the rear side of said display portion is positioned substantially adjacent the rear side of said base portion, and at a second position substantially adjacent the rear side of said base portion when both the keyboard side of the base portion and the display and input assembly side of said display portion can simultaneously be viewed by a user.

The examiner relies on the following references:

Lloyd                                    5,002,184                                    Mar. 26, 1991

Toshiba (EP)                            0,454,120                                    Oct. 30, 1991

Claims 1, 7, 8, 10, 17 and 20 through 24 stand rejected under 35 U.S.C. ' 103 as unpatentable over Toshiba in view of Lloyd.

Reference is made to the brief and answer for the respective positions of appellant and the examiner.

OPINION

We reverse as we find that the examiner has not established a prima facie case of obviousness with regard to the instant claimed subject matter.

The examiner contends that Toshiba discloses the claimed invention except for the cover hinged to the computer and we agree. The examiner also contends that Lloyd teaches the provision of a cover hinged to a computer and, again, we agree. However, the examiner then concludes that it would have been obvious "to provide a cover hinged to a computer as taught by Lloyd, since Lloyd states at column 1, line 61-column 2, line 12 that such a modification would provide a high degree of protection for the computer" [answer-page 3]. The examiner's further explanations, at page 4 of the answer, as to how one would make the selection of how to mount the cover, appear, to us, to be no more than impermissible hindsight.

The instant claims call for a cover "pivotally attached to said base portion" [claim 1], "pivotally attached to the second end of said base portion" [claim 10], or "flexibly connected to said second panel" [claim 17]. Toshiba, as the examiner recognizes, has no such cover. Moreover, the skilled artisan would not have seen the need to supply a cover in Toshiba since

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Toshiba's device is already clearly protected, at least as shown, for example, in Figures 7A, 7B and 7D. One might argue that the keyboard appears to be unprotected in the Figure 7C mode of Toshiba, wherein the keyboard 27 is on the bottom of the device, and so the artisan might have been led to provide for protection of the keyboard in that circumstance. However, even if we were to agree that the artisan would have recognized the desirability of a cover, or some protective device, for the keyboard in Toshiba, when in the Figure 7C configuration, there is still no suggestion or teaching in the applied references, taken as a whole, which would have led the artisan to provide for a cover, as specifically claimed.

The instant claims do not merely call for a pivotal or flexible cover but, rather, that cover must be

positionable at a first position over the keyboard side of said base portion when the rear side of said display portion is positioned substantially adjacent the rear side of said base portion, and at a second position substantially adjacent the rear side of said base portion when both the keyboard side of the base portion and the display and input assembly side of said display portion can simultaneously be viewed by a user. [claim 1].

Independent claims 7 and 10 contain similar language.

There is clearly no evidence provided by the applied references indicating how or why the pivotable cover taught by Lloyd would be applied to Toshiba in any way so as to result in a cover positionable in two positions as specifically required by

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the claim language. For example, taking the Figure 7 embodiment of Toshiba, in order to meet the instant claim language, any cover applied to Toshiba's device would need to be across the bottom of the device (covering the keyboard 27) as the device is depicted in Figure 7C and switchable to a second position so as to be across the bottom of main case 29 in Figure 7A. There is simply no evidence of record indicating how, or why, a pivotable cover would be attachable in Toshiba's device so as to result in these two positions. The reason, of course, is that the two pivots attached to the ends of the base member in the instant invention make possible the two positions recited in the claims whereas Toshiba teaches a pivot only at one end of the base member. Thus, even if a cover would somehow be attached in Toshiba in a manner so as to meet the instant claim language with respect to one position, that cover would not be positionable in the other position required by the claims.

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The examiner's decision 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
	)	
	)	
Errol A. Krass	)	
Administrative Patent Judge	)	

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