

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD BYDALEK

Appeal No. 95-3918
Application 07/971,274¹

ON BRIEF

Before MEISTER, STAAB and CRAWFORD, Administrative Patent Judges.

CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the examiner's final rejection of claims 1, 10-21, 26-31 and 33-34. Claims 2-9, 22-25 and 32 have been canceled.

¹ Application for patent filed November 4, 1992.

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Appellant's claimed subject matter is a disk holder for mechanically retaining a computer disk and a storage system for a plurality of computer disk or audio compact disks. Claims 1 and 26 are exemplary of the subject matter on appeal and recite:

1. A disk holder for mechanically retaining a computer disk, audio compact disk or the like comprising an integral frame having a base and upright walls, each upright wall having a top, the tops of said upright walls being substantially coplanar, a recess surrounded by said upright walls and defined by said base and said walls, said recess being disposed below the tops of said upright walls and above the base, said walls, being disposed such that they retain a computer disk and/or audio compact disk disposed in the recess in place therein, said frame further including attachment means for removably securing said frame to various structures, said base be comprised of a plurality of ribs extending inwardly from the upright walls, said upright walls being disposed to provide a friction fit at the periphery of a disk disposed in said recess such that said disk is held against movement solely by the upright walls along its periphery.

26. A storage system for a plurality of computer disk or audio compact disks comprising:

a foundation member;

a plurality of disk holders forming a stack of said holders, each holder having an integral frame with a base and upright walls, each upright wall having a top, the tops of said upright walls being substantially coplanar, a recess surrounded by said upright walls and defined by said base and said walls, said recess being disposed below the tops of said upright walls and above the base, said walls being disposed such that they retain a disk disposed in the recess in place therein, said base being comprised of a plurality of ribs extending inwardly from the upright walls, said upright walls

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being disposed to provide a friction fit at the periphery of a disk disposed in said recess such that said disk is held against movement solely by the upright walls along its periphery;

securing means for removably securing each disk holder to the foundation member; and

a cover member, said plurality of disk holders being removably secured by the securing means between the foundation member and a first side of the cover member, said cover member having a second side opposite the first side.

THE REFERENCES

The following references were relied on by the examiner in support of the rejection:

| | | |
|--------------------------------|-----------|----------|
| Inaba et al. (Inaba) 1982 | 4,327,831 | May 4, |
| Larson et al. (Larson) 1985 | 4,550,355 | Oct. 29, |
| Spector 1992 | 5,090,561 | Feb. 25, |

(filed May 16,
1991)

THE REJECTIONS

Claims 1, 10-21, 26-31 and 33-34 stand rejected under 35 U.S.C. § 103 as being unpatentable over Inaba in view of Larson and Spector.

Rather than reiterate the examiner's full statement of the above-noted rejection and the conflicting viewpoints advanced by the examiner and the appellant regarding the

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rejection, we make reference to the Examiner's Answer (Paper No. 11) and the Appellants' Brief (Paper No. 10) for the full exposition thereof.

OPINION

We have carefully reviewed the appellant's invention as described in the specification, the appealed claims, the prior art references applied by the examiner and the respective positions advanced by the appellant and the examiner. As a consequence of our review, we have made the determination that the examiner's rejection should not be sustained.

We find that Inaba discloses a disk record container in which a disk is retained in the container by two cooperating plates in a sandwich configuration.

Larson discloses a disk cartridge with a base which is comprised of a plurality of ribs.

Specter discloses a compact disc package having a well with a diameter which substantially matches that of the disc so that the disc is snugly received therein.

According to the examiner, it would have been obvious to a person of ordinary skill in the art at the time

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the invention was made to provide the disk container of Inaba with a base comprising a plurality of ribs extending inwardly from the upright walls as shown by Larson so as to provide structural support to the base housing of the disk container, thereby preventing undue damage to the disk (Examiner's Answer at page 5). The examiner also reasons that it would have been obvious to a person of ordinary skill in the art to furnish the disk recorder container of Inaba with an interior wall providing a friction fit at the periphery of the disk so that the disc would have been released by flexing the disc holder (Examiner's Answer at page 6).

Appellants argue that Inaba requires two sides of a holder to hold the disc in place while in appellant's disc holder the disc is held solely by friction fit.

We agree with appellants. In addition, as the disc in Inaba is held in place by the cooperating plates, we can ascertain no motivation in the prior art to modify Inaba so as to provide a friction fit even if we assume that Specter discloses a friction fit. Finally, as Inaba discloses a disc with a hub which is held in place by cooperating plates, Larson discloses a disk assembly in which the disk is held by

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a releasable hub locking mechanism and Spector disclose a disc without a hub which is snugly fit in a well of a disk holder, we are at a loss to understand how these desperate teachings would be combined to produce a functioning device.

In view of the foregoing, we will not sustain the examiner's rejection.

REVERSED

JAMES M. MEISTER)
Administrative Patent Judge)
)
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) BOARD OF PATENT
LAWRENCE J. STAAB)
Administrative Patent Judge) APPEALS AND
)
) INTERFERENCES

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MURRIEL E. CRAWFORD)
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