

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(2) is not binding precedent of the Board.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. 27

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte PETER BUCHER

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Appeal No. 98-0952  
Application 08/399,434<sup>1</sup>

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HEARD: May 5, 1999

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Before CALVERT, Administrative Patent Judge, McCANDLISH,  
Senior Administrative Patent Judge, and ABRAMS, Administrative  
Patent Judge.

McCANDLISH, Senior Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the examiner's final  
rejection of claims 17 through 35. No other claims are  
pending in the application.

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<sup>1</sup>Application for patent filed March 7, 1995.

Appeal No. 98-0952  
Application No. 08/399,434

Appellant's invention relates to a handle for a trolley or a container of the type having a plurality of wheels. In all of the appealed claims, the handle is recited to comprise a bow (20) connected or secured to and extending between a pair of head elements (11).

Independent claim 17 is directed to the combination of the handle and the wheeled container. Independent claim 33 is directed to the combination of the handle and the trolley. Claim 21, the only other independent claim on appeal, is directed to the handle per se.

A copy of the appealed claims is appended to appellant's brief.

The following references are relied upon by the examiner in support of his rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103:

Wyatt et al. (Wyatt)	5,189,281	Feb. 23, 1993
Wang	5,452,778	Sep. 26, 1995 (filed Jan. 11, 1994)
U.K. Patent	683,658	Dec. 3, 1952

The grounds of rejection are as follows:

Appeal No. 98-0952  
Application No. 08/399,434

1. Claims 17, 19, 21, 33 and 35 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the '658 U.K. patent.

2. Claims 23 through 27 and 30 through 32 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '658 U.K. patent.

3. Claims 18, 22, 28 and 29 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '658 U.K. patent in view of Wang.

4. Claims 20 and 34 stand rejected under 35 U.S.C. § 103 as being unpatentable over the '658 U.K. patent view of Wyatt.

Reference is made to the examiner's answer for details of these rejections.

In support of his § 102(b) rejection, the examiner reads appellant's claimed handle on the handle structure (42) in the U.K. patent. As noted on page 7 of the main brief, the examiner marked up a copy of the sheet of drawings containing Figures 3 and 4 in the U.K. patent at an interview to express his understanding of the structure encompassed by the handle (42) in the U.K. patent. A photocopy of this marked-up copy is attached to appellant's main brief as Exhibit A.

Appeal No. 98-0952  
Application No. 08/399,434

According to Exhibit A, the U.K. handle (42) includes the two arm or leg portions extending from unmarked attachment bolts and a cross piece extending between the arm portions. According to the examiner's notations on Exhibit A, the arm portions taken together with the cross piece define a "bow" terminating at opposite ends in head elements in the region of the unmarked attachment bolts. In his answer (see page 8), the examiner states that the "bow" in the U.K. patent has a curvilinear shape in a vertical plane to meet the limitation pertaining to the handle in claim 17.

We cannot accept the examiner's interpretation of the U.K. patent as outlined supra. A bow, according to its applicable, common meaning in Webster's Third New International Dictionary (G. & C. Merriam Company, 1971), is "something bent into a simple curve." In contrast, the cross piece of the U.K. handle is straight in the region extending between the arm portions, while the arm portions, which are parallel to each other, are substantially straight in the regions extending to the ends at the attachment bolts. Such a configuration does not form a "bow" within the dictionary meaning of the term. In short, the handle in the U.K. patent

Appeal No. 98-0952  
Application No. 08/399,434

does not have a bow extending between two head elements as defined in the independent claims on appeal.

Since the limitation pertaining to the bow is not expressly or inherently met by the U.K. patent, we cannot agree that this patent constitutes a proper anticipatory reference for the subject matter of independent claims 17, 21 and 33 and, hence, for the subject matter of dependent claims 19 and 35. See Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986) (the absence from the reference of any element of the claim negates anticipation of that claim by the reference). Furthermore, with particular regard to claim 17, the U.K. patent does not expressly or inherently disclose a handle construction in which an intermediate handle portion extends from a "central area of a respective head element . . ."

For the foregoing reasons, we must reverse the examiner's § 102(b) rejection of claims 17, 19, 21, 33 and 35. We also must reverse the examiner's § 103 rejections of claims 18, 20, 22 through 32 and 34 inasmuch as neither the Wang patent nor the Wyatt patent rectifies the foregoing shortcoming of the U.K. patent.

Appeal No. 98-0952  
Application No. 08/399,434

Appeal No. 98-0952  
Application No. 08/399,434

The examiner's decision rejecting the appealed claims is reversed.

REVERSED

	Ian A. Calvert	)	
	Administrative Patent Judge	)	
		)	
		)	
		)	
	Harrison E. McCandlish, Senior	)	BOARD OF
PATENT	Administrative Patent Judge	)	APPEALS AND
		)	INTERFERENCES
		)	
		)	
	Neal E. Abrams	)	
	Administrative Patent Judge	)	

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Appeal No. 98-0952  
Application No. 08/399,434

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