

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(2) is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHARLES M. TAYLOR

Appeal No. 98-1049
Application 08/493,463¹

HEARD: May 4, 1999

Before FRANKFORT, McQUADE and NASE, Administrative Patent
Judges.

FRANKFORT, Administrative Patent Judge.

¹ Application for patent filed June 22, 1995.

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DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 18 and 19. Claims 1 through 12 and 14 through 17, which are the only other claims remaining in the application, stand allowed. Claim 13 has been canceled.

Appellant's invention relates to a picnic caddy for storing and transporting articles commonly used at a picnic, or at other outdoor or indoor activities. A copy of independent claims 18 and 19, as reproduced from Appendix A of appellant's brief, is attached to this decision.

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

Steely et al. (Steely)	2,897,910	Aug. 4, 1959
Karoff	2,926,794	Mar. 1, 1960

Claims 18 and 19 stand rejected under 35 U.S.C. § 103 as being unpatentable over Karoff in view of Steely. According to the examiner

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Karoff teaches a serving table/caddy (Fig. 1) comprising: first and second upright support pillars (14), a first tray (23) extending laterally away on one side from the support pillars, and a second tray (21) extending laterally away from another side of the support pillars. For claims 18 and 19, Karoff fails to teach a means for mounting the pillars in a vertical relationship/clamp. Steely teaches a serving table/caddy (Fig. 1) having a means

for mounting the pillars in a vertical relationship/clamp (22) arranged at one end of the table. It would have been obvious to modify the serving table/caddy of Karoff by adding a mounting means/clamp thereon (such as the one taught by Steely), to provide a means on the table/caddy which would securely hold it in one position" (final rejection, page 2).

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellant regarding the above-noted rejection, we make reference to the final rejection (Paper No. 8, mailed November 20, 1996) and the examiner's answer (Paper No. 14, mailed October 28, 1997) for the examiner's complete reasoning in support of the rejection, and to appellant's brief (Paper No. 13, filed September 29, 1997) for appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by appellant and the examiner. As a consequence of our review we have reached the determination that the examiner's rejection of claims 18 and 19 under 35 U.S.C. § 103 will not be sustained. Our reasoning follows.

Looking to the examiner's prior art rejection of claim 18 under 35 U.S.C. § 103, we note that claim 18 sets forth "means for securely mounting," which means are located or arranged at one end of the first and second upright support pillars of the claimed picnic caddy. As urged by appellant on pages 5 and 6 of the brief, under 35 U.S.C. § 112, sixth paragraph, the recited means must be construed to cover the corresponding structure described in the specification and equivalents thereof. From Figures 1, 2 and 3, and the description thereof in the specification, it is readily apparent that the "means for securely mounting" of claim 18 on appeal

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is the clamping arrangement seen at the base portion (22) of each of the upright pillars (14), which structure includes a support projection (32) and a clamping leg (48) provided on each support pillar and a clamp (50) extending upwardly through each clamping leg (48). In use, this clamping arrangement allows an end edge of a picnic table top or other horizontal surface to be inserted between the projection (32) and the clamping leg (48), with the clamps (50) then being tightened to fixedly secure the picnic caddy to the picnic table top or other horizontal surface. With this understanding of what constitutes the "means for securely

mounting" of claim 18 on appeal, we turn to the examiner's rejection based on the combined teachings of Karoff and Steely.

From our perspective, neither Karoff nor Steely discloses, teaches or suggests a "means for securely mounting"

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like that required in appellant's claim 18 on appeal. The examiner's position that the locking structure (22) of Steely is "an equivalent mounting means which performs the same function as that of the disclosed invention's means" (final rejection, page 3) is entirely untenable. Both the structure and function of the locking device (22) of Steely are entirely different than the clamping arrangement disclosed and claimed by appellant or any equivalents thereof. Thus, even if one were to modify the serving table or cart of Karoff to have a locking structure like that of Steely, the resulting table or cart would not be responsive to the picnic caddy as defined in appellant's claim 18 on appeal. For this reason, the examiner's rejection of claim 18 under 35 U.S.C. § 103 as being unpatentable over the combined teachings of Karoff and Steely will not be sustained.

Independent claim 19 on appeal differs from claim 18 in that it specifically recites a "clamp" arranged at one end of

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said first and second upright support pillars, instead of the "means for securely mounting" as in claim 18. Again, we agree with appellant that the examiner's determination that the locking structure (22) of Steely is a clamp is untenable. Thus, for the reasons set forth on pages 7 and 8 of the brief, we will likewise not sustain the examiner's rejection of claim 19 on appeal under 35 U.S.C. § 103.

As is apparent from the foregoing, the decision of the examiner rejecting claims 18 and 19 of the present application under 35 U.S.C. § 103 is reversed.

REVERSED

	CHARLES E. FRANKFORT)	
	Administrative Patent Judge)	
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)	BOARD OF
PATENT)	
	JOHN P. McQUADE)	APPEALS AND
	Administrative Patent Judge)	
INTERFERENCES)	
)	

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JEFFREY V. NASE)
Administrative Patent Judge)

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18. A picnic caddy, comprising:

first and second upright support pillars arranged in a parallel spaced apart relationship to one another;

means for securely mounting, arranged at one end of said first and second upright support pillars, the first and second support pillars in a vertical relationship;

a first tray extending laterally away on one side from said first and second support pillars;

a second tray extending laterally away from another side of said first and second support pillars;

wherein said first and second trays are connected to opposite sides of said first and second upright support pillars.

19. A picnic caddy, comprising:

first and second upright support pillars arranged in a parallel spaced apart relationship to one another;

a clamp arranged at one end of said first and second upright support pillars;

a first tray extending laterally away on one side from said first and second support pillars;

a second tray extending laterally away from another side of said first and second support pillars;

wherein said first and second trays are connected to opposite sides of said first and second upright support pillars.