

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JAY M. HENRIOTT

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Appeal No. 1999-0632  
Application No. 08/744,692<sup>1</sup>

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ON BRIEF

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

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 3 and 9 through 12. Claims 4 through 7 and 13, the only other claims pending in this application, have been indicated as allowable by the examiner.

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<sup>1</sup> Application for patent filed November 7, 1996. According to the appellant, the application is a continuation of Application 08/391,422, filed February 16, 1995, now abandoned.

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Claim 3 has been amended after the final rejection (see Paper  
No. 17 and Paper No. 19).

We REVERSE.

BACKGROUND

The appellant's invention relates to a desk system comprising a work surface, a cabinet disposed over the work surface and having a plurality of connected panels defining a cabinet interior, and a support structure including support stanchions extending upwardly completely through the work surface and completely through a lower panel of the cabinet. The cabinet is fixedly attached to the upper end portions of the stanchions.<sup>2</sup> A copy of the claims on appeal is contained in the appendix to the appellant's brief.

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

Friedman 1964	3,125,385	Mar. 17,
Boundy et al. (Boundy) 1988	4,762,072	Aug. 9,
Simonton et al. (Simonton) 1992	5,130,494	Jul. 14,

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<sup>2</sup> It appears to us that the appellant's Figure 2 may be inconsistent with other portions of the appellant's disclosure in that the portions (50) of the stanchions (48) do not appear to be illustrated in Figure 2 as extending through the cabinet bottom (64) and into the cabinet interior; only the cover plate (56) seems to be illustrated within the cabinet interior. Figure 3 and page 5, lines 17-24, of the specification, on the other hand, suggest that the portions (50) extend through the cabinet bottom into the cabinet interior. The examiner may wish to address this issue in the event of any further prosecution.

The following rejections are before us for review.

1. Claims 1 through 3, 9, 10 and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Friedman in view of Boundy.

2. Claim 11 stands rejected under 35 U.S.C. § 103 as being unpatentable over Friedman in view of Boundy, as applied to claim 1 above, and further in view of Simonton.

Reference is made to the brief (Paper No. 20, filed February 19, 1998) and reply brief (Paper No. 22, filed July 6, 1998) and the final rejection (Paper No. 15, mailed August 18, 1997) and answer (Paper No. 21, mailed April 27, 1998) for the respective positions of the appellant and the examiner with regard to the merits of these rejections.

#### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we shall not sustain the examiner's rejections.

Friedman discloses a merchandise display structure comprising a base storage cabinet (11) and modular units (10) supported above and vertically spaced from the base storage cabinet by cylindrical mounting posts (39,40). Each modular unit (10) comprises a display compartment (22) containing a fluorescent light fixture (23) affixed to the interior of an upper wall (12) of the modular unit. As best seen in Figure 2, each modular unit is provided with a plurality of openings (29,30) in the upper and lower walls thereof for receiving the cylindrical mounting posts and each of the cylindrical mounting posts (39) is provided with a central bore for the passage of electrical wiring.

Boundy discloses a desk and space dividing panel assembly comprising a plurality of wall panel members (12,14,16,18) provided with notches (24) for mounting such items as a desk (28) and shelves (26). At least some of the panels are provided at the bottom thereof with a communication raceway (32) covered by a baseplate (34) having spaced openings (137) surrounding power receptacles therein. As best shown in Figure 2, an electrical upfeed housing (78) comprising telescopically engaged upper and lower housing sections (80,

82, respectively) extends from a baseplate opening (137) to the bottom of an electrical service trough (54) fixed to the back edge of the desk (28) to electrically communicate the trough with the raceway. When the electrical upfeed assembly is assembled as described in column 4, line 66, to column 5, line 26, a slot (100) proximate the upper end (98) of the upper section (80) engages with an edge of a trough opening (90) in the trough (54) and tabs (130, 132) provided in the lower end of the lower housing section (82) are received in the baseplate opening (137) to retain the electrical upfeed assembly in place.

Simonton discloses a work space management system comprising a desk (12) with a horizontal work surface (22). A grommet (100) provided with a pivoting wire access arm (226) is disposed in the work surface to permit wires routed through the desk knee space (41) below the work surface to be brought to the desk top. The wire access arm (226) may be pivoted to an open or closed position depending on whether access through the grommet is required (column 10, lines 15-39).

In rejecting independent claim 1, the examiner finds that Friedman discloses a desk system comprising a support

structure including support stanchions (cylindrical mounting posts 39, 40), a work surface (apparently the top surface of base storage cabinet 11) and a cabinet (modular unit 10) disposed over the work surface (final rejection, page 3). The examiner asserts that Friedman discloses the invention as claimed "except the stanchion extending completely through the openings in the lower panel and work surface." To overcome this deficiency, it is the examiner's position that

Boundy et al. teaches the use of stanchions (80) attached rear corners of [sic] and that extend **completely** through an opening (90) of a lower panel into an interior space (Figure 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the stanchions of Friedman with the teachings of Boundy et al., to insure a secure and better mounting of the stanchion to a lower panel of the cabinet. Furthermore, it would have been an obvious multiplicity of parts to modify the stanchion of Friedman to extend completely through the openings of both the lower panel and work surface, as Boundy shows the conventional use of a stanchion extending completely through an opening, for better stability [final rejection, pages 3 and 4].

We agree with the appellant (brief, pages 5 and 6) that the teachings of Boundy of a mounting arrangement for an electrical upfeed housing, in a non-weight-bearing environment, would not have suggested modification of the

weight-bearing cylindrical mounting posts (39,40) of Friedman. In our opinion, while it would have been apparent to one of ordinary skill in the art that the slot arrangement (100) taught by Boundy engages one edge of the trough slot (90) to help secure the housing (78) at the upper end thereof, one of ordinary skill in the art would not have considered such a securement desirable for a weight-bearing junction between the upper end of the mounting post (39,40) and a modular unit of the Friedman merchandise display structure.

Moreover, we do not consider reasonable the examiner's characterization of the Friedman merchandise display structure as a "desk" system.

Where words in the preamble of a claim are essential to point out the invention defined in the claim, those words do constitute a limitation which must be accorded weight in interpreting the scope of the claim. See Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In our judgement, the words "desk system" give life and meaning to the claim, for it is only by that phrase that it can be known that the subject matter defined by the claim is comprised of a desk system. Every structure comprising a work

surface and support structure is not a "desk system." Thus, we conclude that it is a limitation which must be observed when interpreting the scope of claim 1. One of ordinary skill in the art would understand a desk to be a structure having a horizontal work surface and support structure, such as legs, defining an opening beneath the work surface to accommodate the legs of a seated person and, thus, would not consider the Friedman base storage cabinet (11), or any of the modular units (10) stacked thereon, to be a "desk." It follows then that we do not consider the Friedman structure to be a "desk system" as claimed.

For the foregoing reasons, we shall not sustain the examiner's rejection of claim 1, or claims 2, 3, 9, 10 and 12 which depend therefrom.

We have reviewed the teachings of Simonton, but find nothing therein which would overcome the deficiencies noted above with regard to the combination of Friedman and Boundy. Therefore, we shall also not sustain the examiner's rejection of claim 11.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 through 3 and 9 through 12 under 35 U.S.C. § 103 is reversed.

REVERSED

CHARLES E. FRANKFORT	)	
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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