

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte SIEGMAR MALOW

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Appeal No. 1999-1531  
Application No. 08/675,912

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HEARD: OCTOBER 25, 2000

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Before COHEN, McQUADE, and LAZARUS, Administrative Patent Judges.

COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 11 through 15. These claims constitute all of the claims remaining in the application.

Appellant's invention pertains to a conveyor for advancing items in a conveying direction, in combination with force-exerting means for exerting an abutting force. A basic understanding of the invention can be derived from a reading

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of exemplary claim 15, a copy of which appears in the APPENDIX to the brief (Paper No. 13).

As evidence of obviousness, the examiner has applied the documents listed below:

Threefoot et al. (Threefoot)	1,632,203	Jun. 14, 1927
Carlson	5,103,959	Apr. 14, 1992

The following rejection is before us for review.

Claims 11 through 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Threefoot in view of Carlson.<sup>1</sup>

The full text of the examiner's rejection and response to the argument presented by appellant appears in the final rejection and answer (Paper Nos. 9 and 14), while the complete statement of appellant's argument can be found in the main and reply briefs (Paper Nos. 13 and 20).

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<sup>1</sup> Claims 11 through 15 replaced finally rejected claims 9 through 14, as indicated in the advisory action of October 20, 1998.

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OPINION

In reaching our conclusion on the issues raised in this appeal, this panel of the board has carefully considered appellant's specification and claims, the applied teachings,<sup>2</sup> and the respective viewpoints of appellant and the examiner. As a consequence of our review, we make the determination which follows.

We cannot sustain the examiner's rejection of appellant's claims under 35 U.S.C. § 103(a).

Claim 15 is drawn to a conveyor for advancing items in a conveying direction, in combination with force-exerting means for exerting an abutting force, the conveyor comprising, inter alia,

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<sup>2</sup> In our evaluation of the applied prior art, we have considered all of the disclosure of each document for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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an item supporting means, an item stopping device including a stop roller disposed in a travel path of items and forming an abutment to stop items in the advance thereof on the item supporting means, an item on the item supporting means is adapted to abut an outer surface of the stop roller with an abutting force at a location above the rotational axis of a roller shaft, a spring urging the stop roller into an upper end position, the spring force being opposed by a component force of the abutting force and being so dimensioned that the spring force is overcome by a predetermined magnitude of the component force for shifting the stop roller into a lower end position, the force exerting means comprising transport containers having a leading end wall for contacting the stop roller to exert the abutting force thereon.

At the outset, we note that in the body of the rejection (final rejection, page 2) the examiner perceives modifications that "could" be undertaken. However, 35 U.S.C. § 103(a) expressly requires a patentability assessment of the differences between the subject matter sought to be patented

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and the prior art to ascertain whether the subject matter as a whole "would have been" obvious.

We turn now to the examiner's evidence of obviousness.

The patent to Threefoot teaches (page 5, lines 37 through 95) a conveyor system that includes (Figs. 3A, 4) a stop or detent roller 86 biased by compression springs into the path of oncoming boxes or cases. When current passes through a solenoid 93, an armature 92 is pulled down removing the roller 86 from the path of the boxes or cases, thereby permitting a box to roll downwardly onto a conveyor 17. As we see it, one having ordinary skill in the art would not have discerned from the overall teaching of Threefoot that the roller 86 was capable of being depressed by the force of a box or case acting thereon.

The Carlson patent discloses (column 5, line 36 to column 6, line 37) an integrated buffing and grinding system that includes a pallet stopping device 64 comprising a cylinder 67

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with a piston and piston rod that can be operated by pressurized air or hydraulic fluid (Figs. 2 and 3). Further, a pallet engaging or stopping member includes inclined portions 84 to engage corresponding inclined portions on a pallet to stop the pallet. After an article is loaded on a pallet, a signal is sent to retract the pallet engaging member.

It is readily apparent to us, from a combined consideration of the Threefoot and Carlson documents, that the evidence relied upon by the examiner neither teaches nor would have been suggestive of the subject matter of claim 15, in particular, the feature of a component force of the abutting force such that the spring force is overcome by a predetermined magnitude of the component force for shifting the stop roller into a lower end position. As explained, supra, the applied patents each teach other than the depressing of a stop roller out of a conveying path by the abutting force exerted by the conveyed item on the stop roller, as argued (main brief, pages 5 and 6). It is for this

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reason that the rejection on appeal is not well founded and  
must be reversed.

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The decision of the examiner is reversed.

REVERSED

IRWIN CHARLES COHEN	)	
Administrative Patent Judge	)	
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	)	
	)	
	)	BOARD OF PATENT
JOHN P. McQUADE	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
RICHARD B. LAZARUS	)	
Administrative Patent Judge	)	

ICC/sld

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SPENCER AND FRANK  
1100 NEW YORK AVE, N.W.  
SUITE 300 EAST  
WASHINGTON, DC 20005-3955

COHEN

APPEAL NO. 1999-1531 - JUDGE

APPLICATION NO. 08/675,912

APJ COHEN

APJ McQUADE

APJ LAZARUS

DECISION: **REVERSED**

Prepared By:

**DRAFT TYPED:** 02 Jul 01

**FINAL TYPED:**