

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

Ex parte ICHIRO TATSUDA

---

Appeal No. 97-2423  
Application 08/275,964<sup>1</sup>

---

HEARD: March 12, 1999

---

Before HAIRSTON, BARRETT, and GROSS, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

DECISION ON APPEAL

---

<sup>1</sup> Application for patent filed July 15, 1994, entitled "Magnetic Tape Library Apparatus Including Magnetic Cartridge Rotatable Table," which claims the foreign filing priority benefit under 35 U.S.C. § 119 of Japanese Application 5-244327, filed September 30, 1993.

Appeal No. 97-2423  
Application 08/275,964

This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 1-4, 6, 8, and 9. Claims 5 and 7 stand objected to as being dependent upon a rejected base claim, but are indicated to be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims (Examiner's Answer, page 9).

We reverse.

#### BACKGROUND

The disclosed invention is directed to a tape library apparatus which insures reading of bar code labels placed in different positions on magnetic tape cartridges by providing a rotatable table for rotating a cartridge placed thereon to provide rotational movement of the cartridge with respect to the bar code reader.

Claim 9 is reproduced below.

9. A library apparatus for use with cartridges comprising:

a cell unit having a plurality of cells for accommodating the cartridges;

a drive unit for performing write and read operations on any one of said cartridges;

Appeal No. 97-2423  
Application 08/275,964

a cartridge access station for loading and unloading said cartridges; and

an accessor moved along a predetermined movement path for transferring said cartridges between said cell unit, said drive unit, and said cartridge access station;

a bar code reader for reading bar codes on the cartridges; and

a rotatable table for rotating a cartridge placed thereon with respect to said bar code reader, said bar code reader reading a bar code from the cartridge placed, by said accessor, on said rotatable table.

The examiner relies on the following prior art:

Smith et al. (Smith)	4,717,090	January 5, 1988
Simone	4,907,889	March 13, 1990

Claims 1-4, 6, 8, and 9 stand rejected under 35 U.S.C.

§ 103 as being unpatentable over Simone and Smith.

We refer to the Examiner's Answer (Paper No. 11) (pages referred to as "EA\_\_") and the Supplemental Examiner's Answer (Paper No. 14) (pages referred to as "SEA\_\_") for a statement of the examiner's position and to the Brief (Paper No. 10) (pages referred to as "Br\_\_") and the Reply Brief (Paper No. 12) (pages referred to as "RBr\_\_") for a statement of appellant's position. The Reply Brief Addressing Supplemental Examiner's Answer received

Appeal No. 97-2423  
Application 08/275,964

December 5, 1996, (Paper No. 15) has not been entered as noted in the communication (Paper No. 16), and has not been considered.

OPINION

Appellant argues (Br7): "When properly interpreted, neither Simone nor Smith suggest any structure for accomplishing respective rotation between a bar code reader and a tape cartridge. Nor do the references even recognize that such rotation would be desirable." The examiner states (EA8): "The rotation table of Simone rotates the cartridge with respect to the bar code reader. Appellant is correct in stating that Simone does not have relative movement between the cartridge and bar code reader, but this is not claimed." The issue then is whether the claims require relative rotational movement between the cartridge and the bar code reader.

Claim 9 recites "a rotatable table for rotating a cartridge placed thereon with respect to said bar code reader, said bar code reader reading a bar code from the cartridge placed, by said accessor, on said rotatable table." Independent claims 1 and 8 contain a similar

Appeal No. 97-2423  
Application 08/275,964

limitation. The recitation of "a rotatable table for rotating a cartridge placed thereon with respect to said bar code reader" (emphasis added) clearly requires rotational relative motion between the table holding the cartridge and the bar code reader. Since "relative motion" is defined as "the motion of one body with respect to another regarded as fixed," as noted by appellant (RBr2), rotating a cartridge "with respect to" the bar code reader indicates relative motion therebetween. The examiner's argument (SEA1) that the claims do not contain the actual words "relative" or "relative motion" is unpersuasive. If the bar code reader is mounted on the rotatable table, as shown in Blum, U.S. Patent 4,654,727, issued March 31, 1987, mentioned at column 1, lines 51-58, of Simone, there is no relative motion between the cartridge on the table and the bar code reader. Since Simone does not teach or suggest the limitation of "a rotatable table for rotating a cartridge placed thereon with respect to said bar code reader," the rejection of claims 1-4, 6, 8, and 9 is reversed.

REVERSED

Appeal No. 97-2423  
Application 08/275,964

	KENNETH W. HAIRSTON	)	
	Administrative Patent Judge	)	
		)	
		)	
		)	BOARD OF
PATENT		)	
	LEE E. BARRETT	)	APPEALS
	Administrative Patent Judge	)	AND
		)	INTERFERENCES
		)	
		)	
	ANITA PELLMAN GROSS	)	
	Administrative Patent Judge	)	

Appeal No. 97-2423  
Application 08/275,964

Patrick B. Burns  
GREER, BURNS & CRAIN LTD.  
233 South Wacker Drive  
Suite 8660 - Sears Tower  
Chicago, IL 60606