

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID R. FUNK and STEVEN C. GEVAERT

Appeal No. 1998-0357
Application 08/258,429¹

HEARD: October 6, 1999

Before PATE, McQUADE and BAHR, Administrative Patent Judges.

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

David R. Funk et al. appeal from the final rejection of claims 1, 3, 4, 6 through 21, 24 through 31 and 33 through 55, all of the claims pending in the application.² We affirm-in-part.

¹ Application for patent filed June 10, 1994.

² Claim 13 has been amended subsequent to final rejection.

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The invention relates to "a modular training table system having cable or wire management capabilities" (specification, page 1). A copy of the claims on appeal appears in the appendix to the appellants' brief (Paper No. 23).

The references relied upon by the examiner as evidence of obviousness are:

Grund et al. (Grund) 1993	5,220,871	Jun. 22,
Newhouse et al. (Newhouse) 1993	5,237,935	Aug. 24,
Arnold et al. (Arnold) 1984 British Patent Document	2,130,877	Jun. 13,
Gutmann 1986 German Patent Document ³	3,506,381	Aug. 28,

Claims 41 through 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gutmann.

Claims 1, 3, 4, 6 through 17 and 47 through 55 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Newhouse in view of Grund, taken with or without Arnold.

³An English language translation of this reference, prepared on behalf of the Patent and Trademark Office, is appended hereto.

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Claims 18 through 21, 24 through 31 and 33 through 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Newhouse in view of Grund, taken with or without Arnold, and further in view of Gutmann.

Reference is made to the appellants' brief (Paper No. 23) and to the examiner's answer (Paper No. 24) for the basic positions of the appellants and the examiner with regard to the merits of these rejections. As noted below, the appellants' counsel has since conceded that certain of the claims on appeal recite unpatentable subject matter.

With regard to the rejection of claims 41 through 46, Gutmann discloses a cabinet module for use with a computer work station. The module includes a base frame 7 consisting of a longitudinal beam 8, two lateral beams 9 and 10 and two plug-in beams 12 and 13 which can be inserted into the open ends of lateral beams 9 and 10 for additional stability, a vertical support column 14 extending upwardly from the base frame 7 and a cabinet body 1 adjustably mounted on the vertical support column.

Independent claim 41 recites a table leg assembly comprising a leg member defining upper and lower ends, an axially extending foot member, and a mounting member which (1) is separate from the leg and foot members, (2) is engaged with the lower end of the leg member and the upper surface of the foot member and (3) includes an upper connection arrangement for securement to the lower end of the leg member and a lower connection arrangement for securement to the foot member. The examiner has found that Gutmann's vertical support column 14 and longitudinal beam 8 constitute a leg member, Gutmann's plug-in beam 12 constitutes a foot member and Gutmann's lateral beam 10 constitutes a mounting member (see page 4 in the answer). Even if this somewhat tenuous analysis is accepted at face value, it still fails to provide a solid foundation for the examiner's conclusion of obviousness. More particularly, Gutmann's mounting member (lateral beam 10) is not separate from the leg member (column 14 and longitudinal beam 8) and does not include an upper connection arrangement for securement to the lower end of the leg member and a lower connection arrangement for securement to the foot member

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(plug-in beam 12). Given these deficiencies, Gutmann does not provide the factual basis necessary to justify the examiner's conclusion of obviousness. Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 41, or claims 42 through 46 which depend therefrom, as being unpatentable over Gutmann.

As for the other two rejections on appeal, the Newhouse, Grund and Arnold references all pertain to table/desk assemblies having various cable management characteristics.

At the oral hearing held October 6, 1999, the appellants' counsel, Andrew S. McConnell, conceded that the subject matter recited in claims 1 and 13 would have been obvious to one of ordinary skill in the art in view of the teachings of the applied references. Therefore, we shall sustain the standing 35 U.S.C. § 103(a) rejection of claims 1 and 13 as being unpatentable over Newhouse in view of Grund, taken with or without Arnold.

We also shall sustain the standing 35 U.S.C. § 103(a) rejection of claims 8, 12, and 47 through 52 as being unpatentable over Newhouse in view of Grund, taken with or

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without Arnold, in light of the appellants' statement that these claims stand or fall with claim 1 (see page 18 in the brief).

Claim 3 is similar to claim 1, the only substantial difference being that claim 3 additionally requires the power supply system which is common to both claims to include wall structure defining first and second cable-receiving passages wherein the wall structure functions to isolate the passages from one another. The appellants' argument that the applied prior art would not have suggested a table assembly having this feature is belied by Newhouse's teaching of wire organizer elements 106 and 160. These elements comprise housing wall structures which define first and second cable-receiving passages that are isolated from one another to permit cable segregation where

desired. Thus, we shall sustain the standing 35 U.S.C. § 103(a) rejection of claim 3 as being unpatentable over Newhouse in view of Grund, taken with or without Arnold.

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Claim 4 depends from claim 3 and further requires the wall structure to define an upper wall, a side wall, and first and second transverse walls, wherein the upper, side and first transverse walls define in part the first passage and the first transverse wall separates the first and second passages. Since there is nothing in the applied references which would have suggested a table assembly having this particular wall structure, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 4, or claims 6 and 7 which depend therefrom, as being unpatentable over Newhouse in view of Grund, taken with or without Arnold.

Claim 9 recites a table assembly comprising a cover movably mounted to the power supply system housing and releasably engaged with the lower surface of the table top. Since there is nothing in the applied references which would have suggested a table assembly having such a cover, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 9, or of claims 10 and 11 which depend therefrom, as being unpatentable over Newhouse in view of Grund, taken with or without Arnold.

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Claim 14 is similar to claim 9 in that it recites a table assembly comprising an access cover interconnected between the power and communication structure and the lower surface of the table. Since there is nothing in the applied references which would have suggested a table assembly having such a cover, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 14, or of claims 15 through 17 which depend therefrom, as being unpatentable over Newhouse in view of Grund, taken with or without Arnold.

Claim 18 recites a modular table system comprising table support structure essentially similar to the table leg assembly recited in claim 41. The examiner's reliance on Gutmann to overcome the implicitly acknowledged lack in Newhouse, Grund and Arnold of any teaching or suggestion of such support structure is not well founded for the reasons explained above. Therefore, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 18, or of claims 19 through 21 and 24 through 30 which depend therefrom, as being unpatentable over Newhouse in view of Grund, taken with or without Arnold, and further in view of Gutmann.

Claim 31 recites a method of constructing a table which is substantially similar to the table recited in claim 1 except for the differences embodied in the claimed steps of providing a leg structure and a foot having a length determined by the width of the table top and mounting the foot to the leg structure. The appellants' argument (see page 36 in the brief) that the applied references, and particularly Gutmann, would not have suggested a method having such steps is belied by Gutmann's disclosure of the use of plug-in beams 12 and 13, which in effect are foot extenders, to add stability to the associated support assembly. Gutmann's teaching here is exemplary of the common sense expedient of providing a table leg foot with a length appropriate to the width of the table top. Therefore we shall sustain the standing 35 U.S.C. § 103(a) rejection of claim 31 as being unpatentable over Newhouse in view of Grund, taken with or without Arnold, and further in view of Gutmann.

We also shall sustain the standing 35 U.S.C. § 103(a) rejection of claims 33 through 40 as being unpatentable over Newhouse in view of Grund, taken with or without Arnold, and

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further in view of Gutmann, in light of the appellants' statement that these claims stand or fall with claim 31 (see page 18 in the brief).

Claim 53 recites a table assembly comprising a power supply housing, one or more first power supply receptacles mounted to the housing and facing in a front direction and one or more second power supply receptacles mounted to the housing and facing in a rear direction. Claim 54 recites a table system comprising a power supply housing containing a pair of spaced electrical connectors, electrical power cable means extending between and interconnected with the electrical connectors, one or more power supply receptacles interconnected with the electrical connectors and a jumper interconnected with at least one electrical connector of a first table assembly and at least one electrical connector of an adjacent table assembly. Since there is nothing in the applied references which would have suggested a table assembly or system having the foregoing components, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claims 53 and 54 as being unpatentable over Newhouse in view of Grund,

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taken with or without Arnold.

Finally, given the appellants' concession that the subject matter recited in claim 1 would have been obvious to one of ordinary skill in the art in view of the teachings of the applied references, it is not apparent, nor have the appellants' cogently explained (see pages 32 and 33 in the brief), why the subject matter recited in claim 55 would not have been similarly obvious. Therefore, we shall sustain the standing 35 U.S.C. § 103 (a) rejection of claim 55 as being unpatentable over Newhouse in view of Grund, taken with or without Arnold.

In summary, the decision of the examiner to reject claims 1, 3, 4, 6 through 21, 24 through 31 and 33 through 55 is affirmed with respect to claims 1, 3, 8, 12, 13, 31, 33 through 40, 47 through 52 and 55, and reversed with respect to claims 4, 6, 7, 9 through 11, 14 through 21, 24 through 30, 41 through 46, 53 and 54.

AFFIRMED-IN-PART

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Administrative Patent Judge)	
)	
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JOHN P. McQUADE)	
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