

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ANDREW L. MCANALLY, STEVEN L. SANDS,  
BLAKE WEST, and STEVEN MILLS

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Appeal No. 2001-1534  
Application 08/997,713

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ON BRIEF

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Before KRASS, JERRY SMITH and BARRY, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-29, which constitute all the claims in the application.

The disclosed invention pertains to a peripheral device bay including a frame and an adapter plate for use in a computer system.

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Representative claim 1 is reproduced as follows:

1. A peripheral device bay comprising:

a frame sized to extend around a plurality of peripheral devices and including a plurality of adapter plate mounting features; and

an adapter plate removably attached to the frame, the adapter plate including a plurality of peripheral device mounting features located on the adapter plate and allowing a plurality of peripheral devices to be disposed thereon.

The examiner relies on the following reference:

Hobbs et al. (Hobbs)                      5,684,671                      Nov. 4, 1997

Claims 1-29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Hobbs.

Rather than repeat the arguments of appellants or the examiner, we make reference to the briefs and the answer for the respective details thereof.

#### OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

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It is our view, after consideration of the record before us, that the evidence relied upon does not fully meet the invention as set forth in claims 1-29. Accordingly, we reverse.

Appellants have indicated that for purposes of this appeal the claims will all stand or fall together as a single group [brief, page 3]. Consistent with this indication appellants have made no separate arguments with respect to any of the claims on appeal. Accordingly, all the claims before us will stand or fall together. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Therefore, we will consider the rejection against independent claim 1 as representative of all the claims on appeal.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The examiner indicates how he reads the claimed invention on the disclosure of Hobbs [final rejection, page 2, incorporated

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into answer, page 3]. With respect to representative, independent claim 1, appellants argue that cage 247 of Hobbs does not include a plurality of adapter plate mounting features as claimed. Appellants also argue that mounting plates 244 and 262 of Hobbs do not include a plurality of peripheral device mounting features located on the adapter plate and allowing a plurality of peripheral devices to be disposed thereon as claimed [brief, pages 3-5]. The examiner responds by marking up drawings of Hobbs and by noting that the peripheral devices of Hobbs are part of an assemblage which includes a frame (247), peripheral devices (43, 57, 241, 243 and 245) and adapter plates (244, 262) having adapter plate mounting features thereon. The examiner finds that it is this assemblage which she regards as the claimed peripheral device [answer, pages 3-4]. Appellants respond that claim 1 does not recite that the adapter plates have adapter plate mounting features thereon, but rather, that the adapter plate includes a plurality of peripheral device mounting features located on the adapter plate. Appellants also note that the drawings marked up by the examiner do not support the examiner's position [reply brief].

We do not sustain the examiner's rejection of claims 1-29 because we agree with appellants' arguments that the examiner's findings are not supported by the evidence of record. In the rejection, the examiner identifies the frame as element 15 or 247

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and the adapter plate as element 244 or 262. Once the claimed invention is read on Hobbs in that manner, we agree with appellants that the adapter plate does not have a plurality of peripheral device mounting features located in the adapter plate as claimed. We have also reviewed the examiner's marked up copy of the Hobbs drawings, but like appellants, we do not see how the marked up drawings support the examiner's position that the claimed invention is fully met by the disclosure of Hobbs. The examiner is clearly reading something material into the identified assemblage of components from Hobbs, but we are unable to divine from the rejection exactly how the examiner's interpretation of the claimed invention is met by Hobbs. If the entire assemblage of Hobbs is the peripheral device as asserted by the examiner, then it is not clear how the designated frame extends around a plurality of peripheral devices as claimed.

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In summary, we have not sustained the examiner's rejection of the appealed claims as anticipated by the disclosure of Hobbs. Therefore, the decision of the examiner rejecting claims 1-29 is reversed.

REVERSED

Errol A. Krass	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
Jerry Smith	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
Lance Leonard Barry	)	
Administrative Patent Judge	)	

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