

DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD
P.G.DIPLOMA IN PATENTS LAW

2018-19
Supplementary Exams (Nov-Dec, 2019)

Paper IV – Practical (Abuse of Patents)

Time: 2 ½ hours.

TOTAL MARKS: 100

INSTRUCTIONS TO CANDIDATES

1. The question paper to be interpreted as given and no clarification can be sought from the invigilator.
2. You should accept the facts given in the papers and not use any special knowledge you may have.
3. Assume also that the prior art given is exhaustive.
4. Marks are awarded more for the points selected for discussion and reasoning displayed than for conclusions reached.
5. Answers in illegible handwriting will not be taken into consideration.

You are an Indian registered patent agent. You received a letter on from one Mr. Client as follows:

Please respond to Mr. Client, advising him and explaining in detail addressing all the concerns raised by him. (5 X 20 Marks)

Letter from your Client

Dear Patent Agent,

We are an Indian company who specialize in designing, manufacturing and marketing stationary, computer accessories and related products. One of the new products we recently developed is a tablet stand, for supporting portable computers, tablets, mobile phones, ebook readers and books, to help users read more easily. We filed a patent application in India on April 02, 2012 for this tablet stand, which became a granted patent in India with patent number IN61 on March 01, 2015. A copy of this patent is attached as “**Document 1 - Indian patent no. 1601 (“IN61”)**”. We have started manufacturing and marketing this tablet stand too, and we have received very positive feedback from customers. We only applied for this patent in India.

We recently found a similar product (“Product A”) in India that performs the same function as our tablet stand. We are still investigating the situation and trying to identify the source of this product, as we have no idea when it appeared as we have not found it being sold in stationary or computer shops in India local distributor, XYZ Pvt. Ltd. We have prepared a brief summary of this product based on the sample we obtained, as attached “**Document 2- Summary of the alleged infringing product**”, for your review.

As you can see from the summary, while this stand does not look identical to ours, we still believe that this product has copied our idea to some extent, hence we believe that our patent 30 has been infringed. We also heard that although we have obtained our patent, the patent may still be challenged and that if this challenge is successful, our patent will be

gone. As we are worried about this, we conducted our own searches and we discovered two earlier patents. Copies of which are enclosed as “**Document 3 – US patent US93**”, and “**Document 4 – EP patent EP94**”, for your review.

We plan to take action to protect our interests, but we are not sure how should we go from here to enforce our patent. We require your advice on this and in particular, on the following aspects.

- 1) **Is our patent infringed as Product A performs the same function as ours? Also is our patent valid? (in your answer, please quote legal basis)**
- 2) **Assuming our patent is valid and infringed, can we send a letter to XYZ Pvt. Ltd, asking them to stop infringement of our patent saying that if they do not stop we will sue them for patent infringement?**
- 3) **Assuming our patent is valid and infringed, if XYZ Pvt Ltd does not reply to our letter, and continue importing the product, can we sue them and what can we get if we win?**
- 4) **We were told that patent litigation is a complicated process, so what alternatives to litigation are available to us, and assuming our patent is valid and infringed, what can XYZ do to avoid infringement?**
- 5) **If there are any issues with our patent, what can we do to improve our position?**

Regards,
Client.

Additional Information:

You confirmed the following upon checking the documents received:

- (1) Both US93 and EP94 were published before IN61's filing date; and*
- (2) Both US93 and EP94 were not cited as prior art during the prosecution of IN61.*

Document 1 – Extracts of Indian Patent No. 1601 (“IN61”)

BRIEF DESCRIPTION OF THE DRAWINGS

Fig.1 is a perspective view of an embodiment of the foldable stand for a portable handheld electronic device according to the present invention;

Fig.1B is a bottom view of Fig.1;

Fig.1C is an enlarged partial view of Fig.1B;

Fig. 2 is a side view of the foldable stand shown in Fig. 1;

Fig. 3 is a perspective view of the foldable stand for a portable handheld electronic device in a folded state;

Fig. 4 is a bottom view of the foldable stand shown in Fig. 3; and

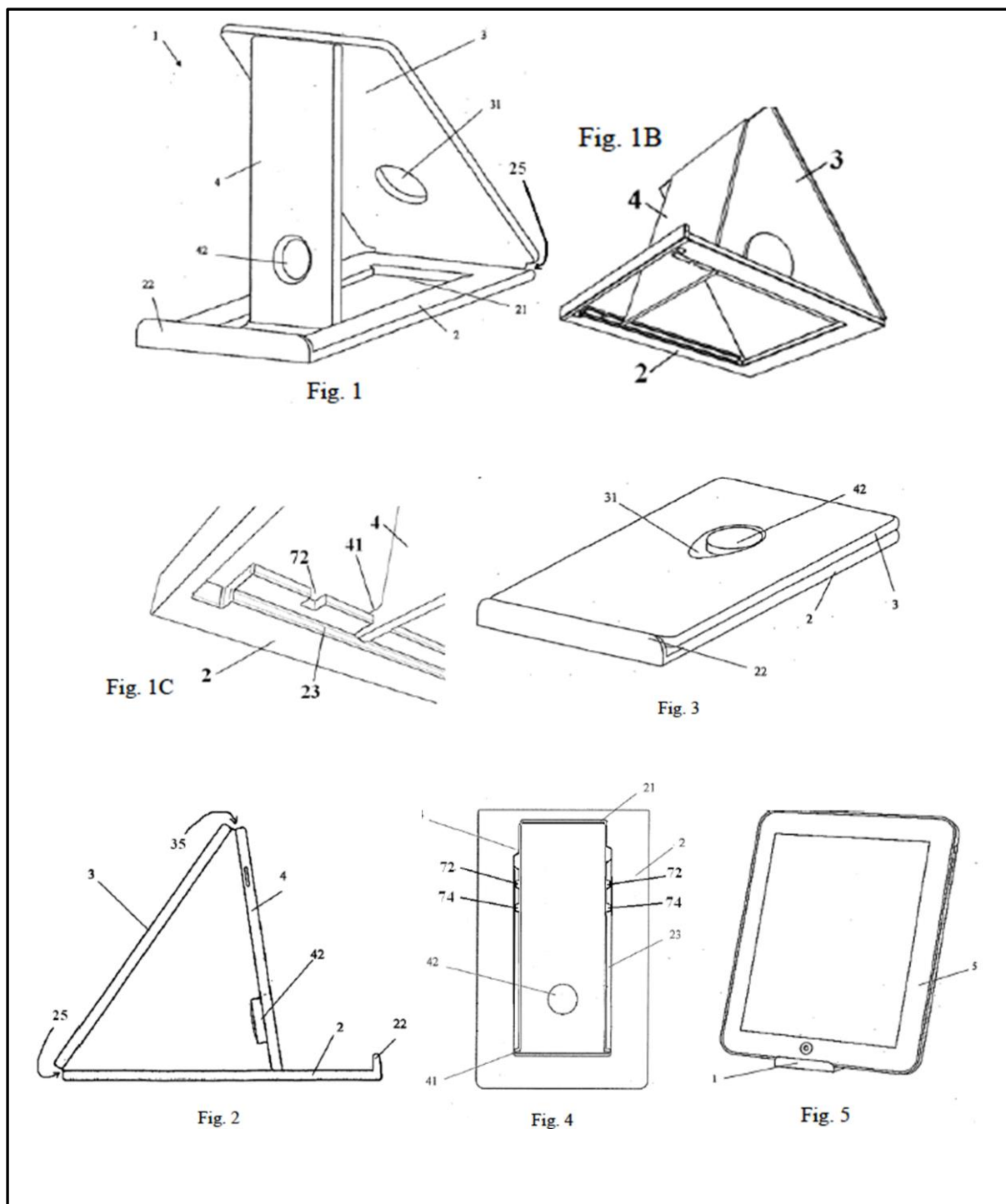
Fig. 5 illustrates the foldable stand in use with a portable handheld electronic device according to the present invention.

DETAILED DESCRIPTION OF THE INVENTION

[0001] Figs. 1, 1B, 1C and 2 illustrate an embodiment of a foldable stand for portable handheld electronic device according to the present invention. As shown in Figs. 1 and 2, the stand 1 comprises a frame 2 and a cover 3 pivotably connected to the frame 2. The cover 3 may be connected to the frame 2 by virtue of a first pivot 25, a hinge or other means known in this art. Alternatively, cover 3 may be formed integrally with the frame 2 and a joint

part there between is relatively thinner than the cover and frame, to enable the cover 3 to be pivot able with respect to the frame 2. The frame 2 provides structural stability to the stand in the open position.

[0002] A groove 21 is formed into an upper surface of the frame 2 between the frame 2 and the cover 3, and a pillar 4 is connected to the cover 3 at an upper edge thereof, by a second pivot 35, and the pillar 4 is slidably mounted in the groove 21 at a lower edge thereof. The groove 21 is formed in such a manner that it may house the entire pillar 4 when the cover 3 is closed with respect to the frame 2, as shown in Fig. 3. The groove 21 may be formed through only a part of the thickness of the frame 2, or it may be formed through the whole thickness of frame 2, i.e. a through hole is formed in frame 2.



[0002] A groove 21 is formed into an upper surface of the frame 2 between the frame 2 and the cover 3, and a pillar 4 is connected to the cover 3 at an upper edge thereof, by a second pivot 35, and the pillar 4 is slidably mounted in the groove 21 at a lower edge thereof. The groove 21 is formed in such a manner that it may house the entire pillar 4 when the cover 3 is closed with respect to the frame 2, as shown in Fig. 3. The groove 21 may be formed through only a part of the thickness of the frame 2, or it may be formed through the whole thickness of frame 2, i.e. a through hole is formed in frame 2.

[0003] The frame 2, the cover 3, and the pillar 4 may be made of any suitable material, such as, but not limited to, plastics, rubbers, metals, and ceramics.

[0004] To form the configuration shown in Fig. 1 from a folded state of Fig. 3, the cover 3 may first be opened by pivoting it around the frame 2 about first pivot 25. With the opening of the cover 3, the pillar 4 may be pivoted around the cover 3 on one hand, and the lower edge of the pillar 4 may slide along groove 21 on the other hand. Finally, the frame 2, the cover 3 and pillar 4 may form a stable triangle, as shown in the configuration of Fig. 1. As a result, and as shown in Fig. 5, an electronic device 5 may be supported on the stand 1, in which one side of the device presses against the frame 2 and the back of the device rests on the pillar 4. Other parts of the portable stand (such as the cover 3) may be used to support the electronic device. Cover 3 needs not cover the frame 2 and the pillar 4 in the closed position as long as the cover 3 is able to support the pillar 4 in the open position.

[0005] To prevent the electronic device 5 from sliding off from the frame 2, a protrusion 22 having a height greater than the thickness of frame 2, may be formed upwards from the front edge of the frame 2.

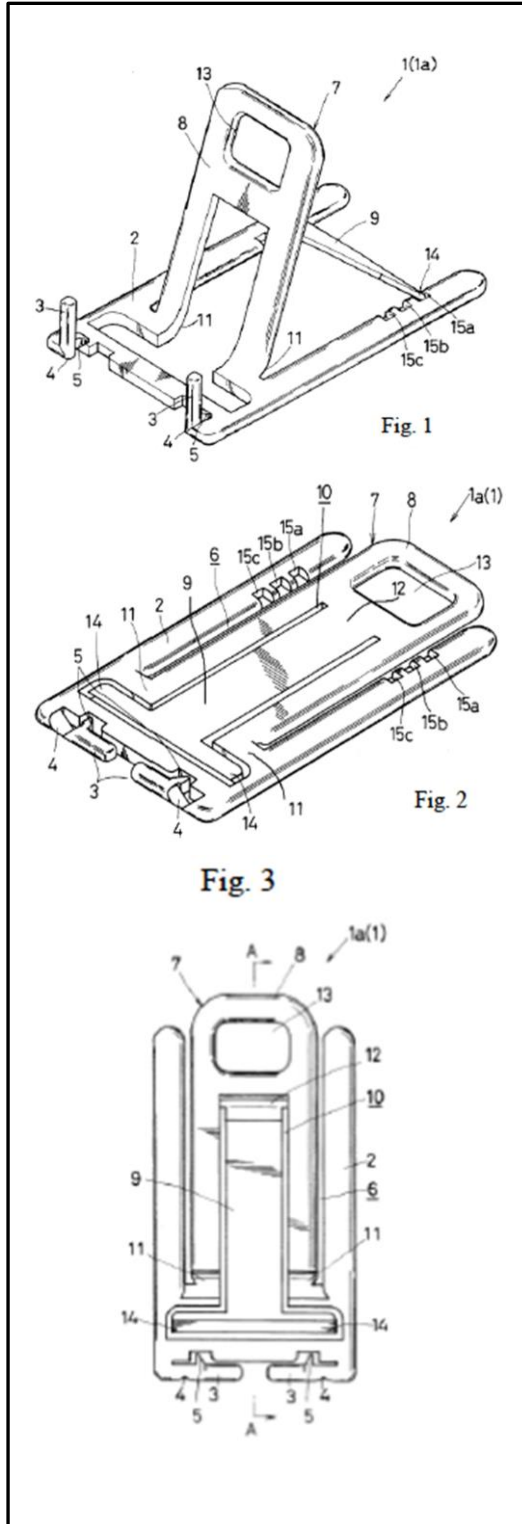
[0006] As shown in Fig. 4, a projection 41 may extend outwards from each side of the pillar 4 at the lower edge thereof, while a concave portion 23 (Fig.1C) may be formed into the frame 2 around the groove 21 at the lower part of the groove 21. The total length from the tip of one 30 projection to the other is slightly greater than the width of the groove 21. Thus, the projection 41 can engage with the concave portion 23 to prevent the lower edge of the pillar 4 from being pulled out upwardly from the groove 21. Two or more pairs of cutouts 72, 74 are formed.

CLAIMS

1. A foldable stand for a portable handheld electronic device comprising:
 - i. a frame in which a groove is formed;
 - ii. a cover pivotably connected to the frame; and
 - iii. a pillar disposed between the frame and the cover, to support the cover at a raised position relative to the frame when the cover is opened with respect to the frame;
 - iv. wherein the groove is configured to contain the pillar when the cover is closed with respect to the frame. The foldable stand according to claim 1, wherein the pillar is pivotably connected to the cover at an upper edge thereof and engageable to the frame at a lower edge thereof.
2. The foldable stand according to claim 1, wherein a projection is formed outwards from each side of the pillar to engage a corresponding concave portion in the frame.
3. The foldable stand according to claim 3, wherein two or more pairs of cutouts are formed on the frame and opening to the groove, the projections being engagable to the cutouts to adjust the position of the pillar along the groove.
4. The foldable stand according to claim 1, wherein a protrusion is formed upwards from a front edge of the frame.
5. The foldable stand according to claim 1, wherein a boss is formed on the pillar, a corresponding hole is formed in the cover to engage the boss when the stand is in the folded state.

Document 2 - Summary of the alleged infringing product

Fig. 1 is a perspective view of a tablet stand 1 in the raised state. As shown in this drawing, the tablet stand 1 comprises a folding body 1a (see FIG. 2) formed in a single piece from a synthetic resin that can be folded and held in a stand-like state for use. A material capable of forming a flexible thin part for a hinge section, such as polypropylene, etc. is ideal as the synthetic resin.



forms a grounding section 2 having left and right portions connected by a front portion, the grounding section has sufficient width to provide stability to the stand in use. This grounding section 2 is designed to be in contact with a surface of installation, for example, the surface of a desk, the surface of a cabinet, etc.

Moreover, at the front end of this grounding section 2, two fastening sections 3, 3 are formed through hinge sections 4, 4. The direction of formation of the fastening sections 3, 3 is the direction of width (Fig. 2) of the folding body 1a (tablet stand 1) and those fastening sections 3, 3 can be put in standing position relative to the surface of installation if they are folded at the hinge sections 4, 4. The projections formed on the inner side of the fastening sections 3, 3 are fastening claws 5, 5 constitute a fastening means. These fastening claws 5, 5 maintain the standing state of the fastening sections 3, 3 by engaging with the top face of the grounding section 2 when the fastening sections 3, 3 are put into the standing position.

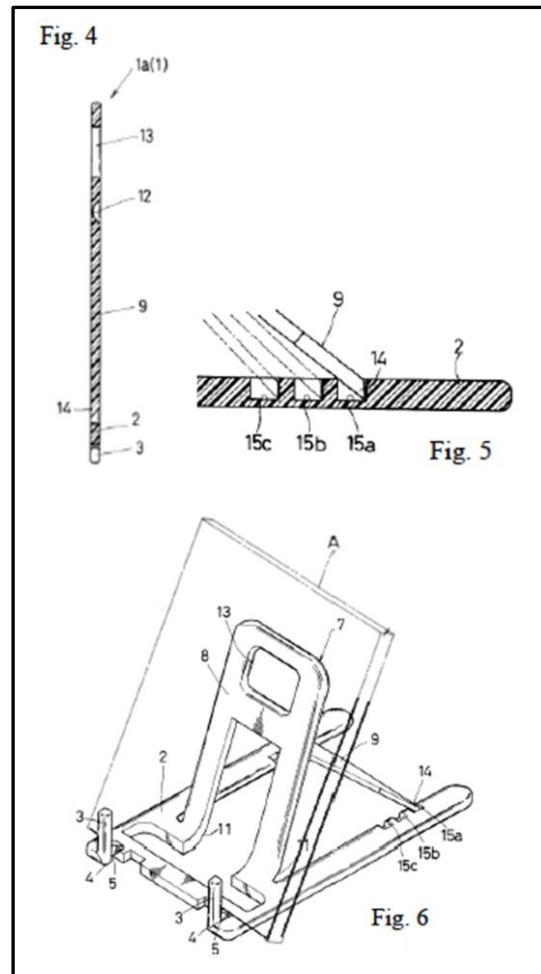
In the portion held between the left and right sides of the said grounding section 2, a back rest 7 is formed through a separating groove 6 from each of the left and right sides of a respective grounding section 2. This back rest 7, which is intended to support the back face of a tablet, is composed of a rest body 8 that will be in direct contact with the back face of the tablet and a supporting leg 9, which supports the rest body 8 at a prescribed angle and is formed by a 25 separating groove 10 between the rest body 8 and supporting leg 9.

The rest body 8 is formed as an inverted U shape in plan view (Fig. 3), while the supporting leg 9 is formed as an inverted T shape in plan view. The rest body 8 and supporting leg 9 are foldably connected to each other through joint portion 12. The said hinges 4, 4, joint portion 11, 11 and joint portion 12 are all have thickness thinner than the rest part of the stand.

A notch 13 is formed to make it easy to raise the rest body 8 and hold the folding body 1a (tablet stand 1) by hand as well as to improve the product design. In addition, the free edge of the supporting leg 9 is formed with a length that can reach the opposite end of the grounding section 2 from where it is situated in an unfolded state, as indicated in FIG. 2 and FIG. 3. The protrusions that form the inverted T of the supporting leg may act as pointed fastening claws 14, 14.

These fastening claws 14, 14 are intended to support the back rest 8 at a prescribed angle and may be fastened to one of paired notches 15a, 15b, and 15c, which are formed on the opposing inside of the grounding section 2 (see FIG. 5). In this example, 3 sets of fastening notches 15a, 15a, 15b, 15b, 15c, 15c are formed along the longitudinal direction of the grounding section 2 so that 3 resting angles may be obtained.

The tablet stand 1 (1a) constructed in this way may be used as described hereafter. First, the two fastening sections 3, 3 are bent at the hinges 4, 4 and held in the bent state by the fastening claws 5, 5. Next, the rest body 8 is raised by pulling the notch 13 upwards, thereby causing joint 11 to bend and causing the rest body to become angled with respect to grounding section 2. Subsequently, the supporting leg 9 is bent to the back side of the grounding section 20 and is fastened by the fastening claw 14 to the desired pairing of fastening notches 15a, 15a, 15b, 15b, 15c, 15c of the grounding section 2. This allows the rest body 8 to be retained at the desired rest angle.



In order to put up the tablet A, all you have to do is just fasten the lower end of the tablet A to the fastening sections 3, 3 and lean the back face of the tablet on the rest body 8 (see FIG. 25 6). When the tablet stand is out of use or when it is being stored before sale (e.g. in packaging), the fastening claws 14, 14 of the supporting leg 9 are released from the fastening notches 15a, 15a, 15b, 15b, 15c, 15c and the rest body 8 and the supporting leg 9 are allowed to return to the same plane, which is also in plane with the grounding section. After that, the fastening sections 3, 3 are extended and deformed back into the sheet-like folding body 1a.

In this way, the described tablet stand can realize cost reduction by reducing the number of parts and eliminating assembly work thanks to its single-piece molding from a synthetic resin.

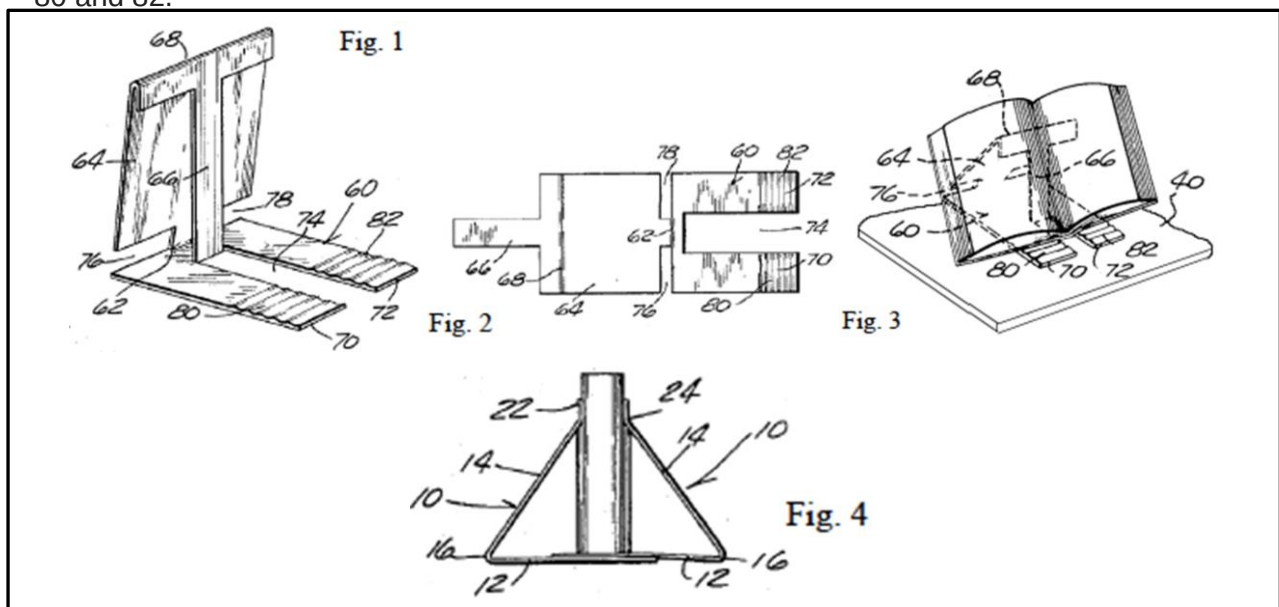
The described tablet stand is easy to handle because all you have to do to use it is to raise the back rest 7 and fix the supporting leg into place. This tablet stand is also convenient for storing or carrying because it can be deformed into a sheet-like compact folding body 1a when it is not in use. In addition, in the said deformation in which the back rest 7 is raised, the supporting leg 9 swings to the back side and the fastening claws 14, 14 move toward the fastening notches 15a, 15a, 15b, 15b, 15c, 15c when the rest body 8 is raised, thus facilitating the raising of the back rest 7.

Furthermore, when in use, the stand provides a stable supporting is possible regardless of the weight of the tablet A. This is because the rest body 8 is supported by the supporting leg 9. The grounding section 2 is formed on outer side of rest body 8, hence the periphery of the device is used as the grounding section, and therefore, the stand is more stable.

This effect is further enhanced by the upward projection of the fastening sections 3, 3, which help to ensure the stable standing of the tablet A however large it may be. Sitting on rest body 8 and hold by fastening sections 3, tablet A of various forms and sizes can be held at a desired position and angle for viewing.

Document 3 – Prior Art #1 – Extracts of US Patent US93

Figs. 1, 2 and 3 illustrate a book holder which is fabricated in one piece. In use, as shown in Fig. 3, the book holder rests on a table surface 40, to support a book thereon for reading. This type of construction lends itself well to use wherein the material of the book holder is to be corrugated paper box board or other similar material such as light metal. As shown in the figures, a horizontal portion 60 is connected by a fold line 62 to a link portion 64. A vertical portion 66 is in turn connected to link portion 64 at a fold line 68. To form the book support, a fold is made along line 62 placing link portion 64 in a generally upright position with respect to horizontal portion 60. A fold is then made along line 68 turning vertical portion 66 down into engagement with table surface 40. Vertical portion 66 can then be fixedly attached to the horizontal portion 60 to complete the configuration. In this invention, horizontal portion 60 has a bifurcated end providing legs 70 and 72 having a space 74 there between. The width of space 74 is equal to or greater than the width of vertical portion 66 and the hinge at fold line 62. Notches 76 and 78 are provided at fold line 62 in alignment with and having a width equal to or greater than the width of legs 70 and 72. This is to permit two such book ends to overlap as illustrated in Fig. 4 and in addition to allow legs 70 and 72 to extend beyond link portion 64 of the opposing book end. Legs 70 and 72 are provided with one or more ridges 80 and 82.



supports in position. The vertical portion 66 limits movement of the link portion 64 in the extending direction, i.e. angularly away from horizontal member 60, so that a book can rest against the upper edge of the link portion 64 when being supported. The book rests on the book holder in an inclined position suitable for reading, with the lower edge of the book stopped by the ridges 80 and 82 to prevent the book from skidding down the book holder. The construction and arrangement of the overall book support is relatively simple and can be fabricated from a variety of materials. It can be made of relatively substantial materials such

as metal, wood, plastic, or the like, or can be fabricated of relatively inexpensive materials, such as, paper board, corrugated paper, etc. These also afford the advantage that the book supports can be used as a promotional item with the upright compression member providing a rather substantial area to carry any suitable indicia which might be related to a given promotion, advertising, or the like.

Document 4 – Prior Art #2 – Extracts of EP Patent EP94

Collapsible display device

In the drawings,

Fig. 1 is a plan view of a preferred embodiment of the invention, illustrating the improved display rack folded flat and locked together for carrying or storage;

Fig. 2 is a partial cross-sectional view taken along the line 2-2 of Fig. 1;

Fig. 3 is a front View, in perspective, of the device of Fig. 1, showing it opened and in a position for use;

Fig. 4 is a perspective view of the device shown in Fig. 3, taken from the rear and to one side thereof; and

Fig. 5 is a partial plan view of the device illustrated in Fig. 1, showing a modification of the invention applied thereto.

Referring now to the preferred embodiment shown in Figs. 1 to 5 inclusive of the drawings, 1 is a substantially rectangular flat piece of plastic, or other appropriate material having a triangular opening therein into which two substantially triangular sections 2 and 3 of the same or different material are adapted to fit, section 3 being within a triangular opening in section 2. The inner triangular section 3 is provided with spring-pressed pin hinges 5 and notches 7, near its apex, so that it may be swung within the triangular opening in section 2. Triangular section 2 is provided with pin hinges 4 and notches 6, near its base to permit swinging it within the triangular opening in section 1. Pins 8 are provided on the bottom edge of section 3 for insertion into slots 13 in section 2 when the rack is folded flat, and for insertion into countersunk holes 9 in the back of the upper central portion of section 1 when it is desired to lock the device in position for use. Detent and socket locking means 10 and 11 are provided respectively, at the positions where the middle lower edge of section 3 is adjacent section 2 and the apex of section 2 is adjacent section 1, to lock all of the sections together when the rack is collapsed.

It is obvious, of course, that locking means 11 may be dispensed with if the extending ends of pins 8 and slots 13 are so shaped that they co-act to perform the function of locking means.

When it is desired to set the rack up for use. section 2 is swung back and section 3 is swung forward and both sections are rotated upon their respective pin hinges 4 and 5 until the lower face of section 2 protrudes beyond the front surface of section 1 to form a shelf or ledge 14, as shown in Figs. 3 and 4, and the upper end of section 3 is brought to rest on a surface common to the lever edge of section 1, with the pins 8 adjacent a pair of the countersunk holes 9 in section 1 into which they may be placed to lock the rack in position for use.

Fig. 1

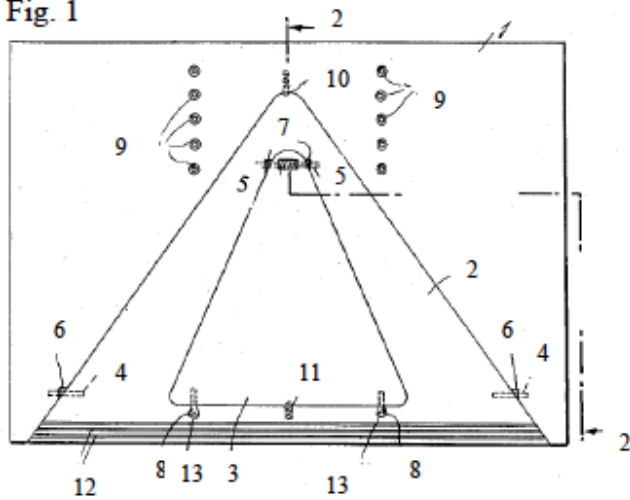


Fig. 2

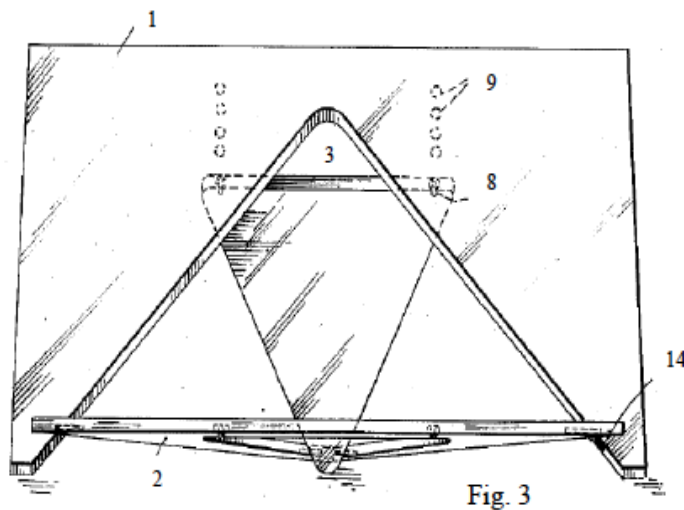
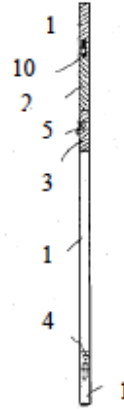


Fig. 3

Fig. 4

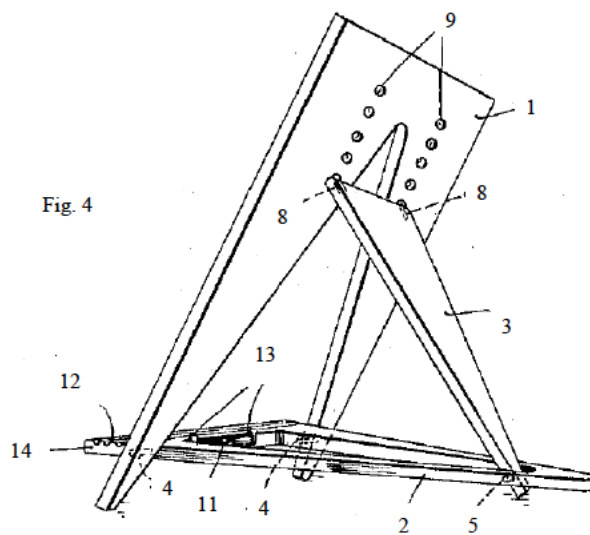
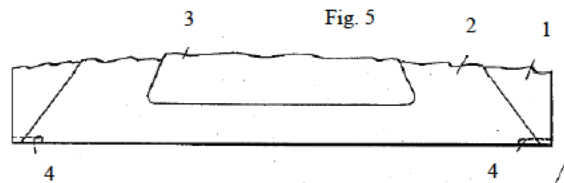


Fig. 5



Triangular section 3 acts as an easel support or prop permitting frame section 1 to be adjusted to different angles by slipping the pins 8 into different holes 9 on the back of section 1.

When it is desired to collapse the rack, the reverse procedure is followed, viz. the pins 8 are removed from the holes 9 and sections 2 and 3 are swung until they lie in the same plane

with section 1 where they are locked together in flat position by the locking means 10, and 11 or 8.

As stated heretofore, the display rack may be used in a plurality of positions, i.e. it may be placed with any of its three component sections 1, 2 or 3 comprising the base portion thereof or it may, when opened, be placed on its side, to provide a support or backing for material on display.

If the rack is to be used for holding sheet music, books or like material, the lower face of section 2 may be provided with a line or lines of transverse scoring or grooves, as shown at 12 in Fig. 1, to more securely hold such material in position for use, but the use of such scoring is optional.

When it is desired to utilize the device of the present invention as an easel for photographs; mirrors or the like, hinges 4 and notches 6, instead of being located at the positions illustrated in the drawings, may be placed so as to rotatably join sections 1 and 2 along their bottom edges or bases thereby eliminating protrusion of the lower face of section 2 beyond the front surface of section 1 when the sections are swung into position for use. This modification is illustrated in Fig. 5. With this arrangement, the entire front face of section 1, at all times, presents a flat surface to which a photograph, mirror or the like, may be appropriately fastened in any known manner.

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