

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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JON G. WONG

Appeal No. 2000-0573
Application No. 08/678,991

ON BRIEF

Before STAAB, McQUADE, and NASE, Administrative Patent Judges.
McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Jon G. Wong appeals from the final rejection of claims 26 and 28 through 35. Claims 19 through 25, the only other claims pending in the application, stand allowed.

THE INVENTION

The invention set forth in the appealed claims relates to "in-line roller skates having wheels with different sizes to optimize the speed and maneuverability of the skates"

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(specification, page 1). Claim 26 is illustrative and reads as follows:

26. A roller skate, comprising:

a chassis comprising a first frame and a second frame extending longitudinally parallel to each other, each frame having a front end and a rear end; and

exactly four wheels, including a first wheel, a second wheel, a third wheel and a fourth wheel rotatably mounted in spaced apart manner between the first and second frames, with the first wheel positioned adjacent the front end of the frames and the fourth wheel positioned adjacent the rear end of the frames;

wherein the first and second wheels have the same size, the third and fourth wheels have the same size, and the third and fourth wheels are larger than the first and second wheels, and all four wheels are arranged so that all four wheels simultaneously contact a tractive surface when the roller skate is in use.

THE PRIOR ART

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

Madsen 1918	1,260,692	Mar. 26,
Nyitrai 1975	3,877,710	Apr. 15,
Olson et al. (Olson) 1991	5,048,848	Sep. 17,

THE REJECTIONS

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Claims 26, 28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Olson in view of Nyitrai.

Claims 30 through 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Olson in view of Nyitrai and Madsen.

Attention is directed to the appellant's brief (Paper No. 12) and to the examiner's final rejection and answer (Paper Nos. 9 and 13) for the respective positions of the appellant and the examiner with regard to the merits of these rejections.

DISCUSSION

I. The 35 U.S.C. § 103(a) rejection of claims 26, 28 and 29

Olson, the examiner's primary reference, discloses an in-line roller skate 10 comprising a chassis in the form of frame 12, first and second longitudinally extending frames in the form of side rails 20 and 22, and four identically constructed wheels 14A-14D (see column 11, lines 65 and 66) mounted in spaced apart manner between the first and second frames such

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that all four wheels simultaneously contact a tractive surface when the skate is in use (see column 14, lines 11 through 15).

The examiner concedes (see page 3 in the final rejection) that the Olson skate, with its four identically constructed wheels, does not meet the limitations in independent claim 26 requiring the first and second wheels to have the same size and the third and fourth wheels to have the same size, with the third and fourth wheels being larger than the first and second wheels. The appellant's specification (see page 11) indicates that this particular wheel arrangement permits optimal maneuverability and high speeds.

Nyitrai discloses a two-wheeled roller skate having a front wheel 16 and a rear wheel 17 which simultaneously contact a tractive surface when the skate is in use (see Figure 1). The front wheel is smaller than the rear wheel "for greater comfort and balance as skaters must bend forward in skating" (column 2, lines 47 and 48).

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In proposing to combine Olson and Nyitrai in support of the rejection of claim 26, the examiner concludes that it would have been obvious "to modify Olson et al. with the teachings of Nyitrai in order to provide front wheels of smaller diameters for greater comfort and balance as skaters must bend forward in skating" (final rejection, page 3).

Even if it is assumed for the sake of argument, however, that Nyitrai would have suggested modifying the respective sizes of Olson's wheels to enhance comfort and balance, it is not evident, nor has the examiner cogently explained, why such suggestion would have motivated the artisan to arrive at the particular four wheel arrangement specified in claim 26.

Therefore, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 26, or of claims 28 and 29 which depend therefrom, as being unpatentable over Olson in view of Nyitrai.

II. The 35 U.S.C. § 103(a) rejection of claims 30 through 35

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Independent claims 30 and 33 are substantively similar to independent claim 26 except for the limitations therein relating to the wheel sizes. Claim 30 requires the third and fourth wheels to have the same size, the second wheel to be smaller than the first wheel, and the third and fourth wheels to be larger than the first and second wheels. Claim 33 requires the third wheel to be smaller than the fourth wheel, the second wheel to be smaller than the first wheel, and the third wheel to be larger than the first and second wheels. The appellant's specification (see pages 17 and 18) indicates that the wheel arrangement recited in claim 30 allows the skate chassis to be very close to the ground and further enhances maneuverability and that the wheel arrangement recited in claim 33 further enhances stability.

The examiner concedes (see page 3 in the final rejection) that Olson, even when combined with Nyitrai, does not meet the foregoing limitations. Nonetheless, the examiner concludes that it would have been obvious in view of Madsen "to modify the combination of Olson et al. and Nyitrai in order to change the size and the arrangement of the wheels in order to

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increase flexibility of foot movement and comfort along the natural tilt of the foot" (final rejection, page 3).

Presumably, the Olson skate as so modified would meet the wheel size limitations in claims 30 and 33.

Madsen, however, does not cure the admitted deficiencies of the Olson-Nyitrai combination with respect to claims 30 and 33. Madsen discloses a skate having a plurality of rollers 16 mounted on curved stringers 14 (see Figure 1). The rollers gradually decrease in diameter under the front end of the skate to allow increased tilt of the foot when weight is shifted toward the toe (see page 1, lines 48 through 54). In short, there is nothing in this teaching which, when considered in combination with Olson and Nyitrai, would have suggested a skate having the particular four wheel arrangements recited in claims 30 and 33.

Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claims 30 and 33, or of claims 31, 32, 34 and 35 which depend therefrom, as being unpatentable over Olson in view of Nyitrai and Madsen.

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SUMMARY

The decision of the examiner to reject claims 26 and 28 through 35 is reversed.

REVERSED

LAWRENCE J. STAAB)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOHN P. McQUADE)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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JEFFREY V. NASE)	
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