

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. 29

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte GEORGE R. COCKRAM

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Appeal No. 2002-1877  
Application No. 09/290,742

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ON BRIEF<sup>1</sup>

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Before COHEN, ABRAMS, and FRANKFORT, Administrative Patent Judges.  
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 and 3 through 10. These claims constitute all of the claims remaining in the application.

Appellant's invention pertains to a cross brace assembly for a wheelchair having a seat and at least two wheels, a collapsible wheelchair, and a wheelchair. A basic understanding of the

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<sup>1</sup> Attendance at the hearing set for Wednesday, March 19, 2003 was waived by appellants (Paper No. 28).

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invention can be derived from a reading of exemplary claims 1, 7, and 10, respective copies of which appear in APPENDIX "A" of the main brief (Paper No. 19).

As evidence of obviousness, the examiner has applied the documents listed below:

Orlandino et al (Orlandino)	4,564,212	Jan. 14, 1986
Jindra et al (Jindra)	6,073,951	Jun. 13, 2000 (filed Sep. 30, 1998)

The following rejection is before us for review.

Claims 1 and 3 through 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jindra in view of Orlandino.

The full text of the examiner's rejection and response to the argument presented by appellant appears in the final rejection and the answer (Paper Nos. 16 and 20), while the complete statement of appellant's argument can be found in the main and reply briefs (Paper Nos. 19 and 21).

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OPINION

In reaching our conclusion on the obviousness issue raised in this appeal, this panel of the board has carefully considered appellant's specification and claims, the applied teachings,<sup>2</sup> and the respective viewpoints of appellant and the examiner. As a consequence of our review, we make the determinations which follow.

We do not sustain the rejection of claims 1 and 3 through 10 under 35 U.S.C. § 103(a) as being unpatentable over Jindra in view of Orlandino.

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<sup>2</sup> In our evaluation of the applied prior art, we have considered all of the disclosure of each document for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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Independent claim 1 sets forth a cross brace assembly for use on a wheelchair comprising, inter alia, a cross brace assembly comprising a pair of cross arms having an intermediate pivot point, a support attached to a lower portion of at least one of said cross arms which non-latchingly contacts and supports an upper end of the other of the cross arms when the cross brace assembly is in an open position, and two positioning links pivotally connected at one end to a side frame member and pivotally connected at another end to a cross arm so that a positioning link substantially does not transfer any bearing load. Independent claim 7 addresses a collapsible wheelchair comprising, inter alia, a cross brace assembly comprising first and second cross arms with a scissoring-type pivot point therebetween, with each of the cross arms having a support member which non-latchingly supports the other of the cross arms when the cross brace assembly is in an open position. Independent claim 10 specifies a wheelchair comprising, inter alia, a pair of cross arms, with the top portion of each cross arm being pivotally connected to a positioning link so that the positioning link does not transfer any bearing load, at least one of the cross arms having a positioning brace connected thereto which

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non-latching contacts and supports the top portion of the remaining cross arm.

Applying the evidence of obviousness, the examiner concludes (Paper No. 16; page 3) that it would have been obvious to a person of ordinary skill in the art to install the support (latching brace member 32) of Orlandino onto the crossbrace assembly disclosed in Jindra (Figs. 2,3). In the answer (page 5), the examiner additionally determines that it would have been obvious to remove the gripping channel 40 from the latching brace member of Orlandino so that the crossbrace arms only sit upon the brace member 32.

Simply stated, the applied evidence does not support the examiner's conclusion of obviousness. When we set aside in our minds that which appellant teaches us in the present application, and focus just upon the combined teachings of Jindra and Orlandino, it at once becomes apparent to us that the reference patents would not have been suggestive of the now claimed invention. From our perspective, each of Jindra (Figs. 2 and 3) and Orlandino (Figs. 1 and 2) teach alternative folding configurations which are distinctly different from one another.

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As such, we fail to perceive why one having ordinary skill in the art would have been motivated to install a latching brace member on the crossbrace assembly of Jindra, particularly when the latter assembly appears to already include structure for maintaining the open position. Additionally, absent impermissible reliance upon appellant's own disclosure, it is quite clear to this panel of the Board that one having ordinary skill in the art would not have derived any suggestion whatsoever from the evidence of obviousness to remove the gripping latching channel 40 from the latching brace 32 (Fig. 3) of Orlandino. Only appellant teaches a support which non-latchingly contacts and supports an upper end of a cross arm, as now claimed. It is for the reasons articulated above that the obviousness rejection on appeal is not sound.

In summary, this panel of the board has not sustained the rejection of appellant's claims under 35 U.S.C. § 103(a).

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The decision of the examiner is reversed.

REVERSED

IRWIN CHARLES COHEN	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
NEAL E. ABRAMS	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
CHARLES E. FRANKFORT	)	
Administrative Patent Judge	)	

ICC/lbg

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