

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

**MAILED**

Paper No. 19

SEP 24 1996 UNITED STATES PATENT AND TRADEMARK OFFICE

PAT. & TM. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte ALBERT J. SUENENS and MARCEL GHYSELS

Appeal No. 94-3138  
Application No. 07/864,318<sup>1</sup>

ON BRIEF

Before ABRAMS, STAAB and MEISTER, Administrative Patent Judges.

ABRAMS, Administrative Patent Judge.

*DECISION ON APPEAL*

This is an appeal from the decision of the examiner finally rejecting claims 1 through 6, which constitute all of the claims of record in the application.

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<sup>1</sup> Application for patent filed April 6, 1992. According to the applicant, the application is a Division of Application 07/484,849, filed February 26, 1990, now Patent No. 5,126,004, granted June 30, 1992.

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The appellants' invention is directed to a method for manufacturing an innerspring construction for mattresses by adhesively attaching together a plurality of strings of pocketed coil springs. The subject matter before us on appeal is illustrated by reference to claim 1, which reads as follows:

1. A method for manufacturing an innerspring construction for mattresses comprising the steps of:

providing a plurality of strings of pocketed coil springs, said coil springs being spaced apart from each other and having longitudinal axes thereof being substantially parallel to each other and substantially perpendicular to a longitudinal direction of movement of said strings;

fixing the strings with adhesive side to side, including the steps of:

moving a first string having a particular number of pocketed springs in said longitudinal direction so that at least one side of the first string running parallel to the axis of the springs is coated with adhesive from a fixed spot;

moving the first string relative to a similar second string of pocketed springs so that a coated side of said first string is pushed into contact with a corresponding side of said second string; and

repeating the cycle of operations on successive strings so that an innerspring construction of a desired size for a mattress is obtained.

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#### THE REFERENCES

The references relied upon by the examiner to support the final rejection are:

Lingl	3,930,929	Jan. 6, 1976
Stumpf	4,566,926	Jan. 28, 1986

#### THE REJECTION

Claims 1 through 6 stand rejected under 35 USC § 103 as being unpatentable over Stumpf in view of Lingl.

The rejection is explained in the Examiner's Answer.

The opposing viewpoints of the appellants are set forth in the Brief and the Reply Brief.

#### OPINION

The appellants' method is directed to adhesively attaching together a plurality of strings of pocketed coil springs in order to assemble them into a mattress. As manifested in claim 1, the method includes the steps of moving a first string of pocketed springs in its longitudinal direction so that at least one side of the string is coated with adhesive from a fixed spot, and then moving the first string relative to a similar second string so that a coated side of the first string

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is pushed into contact with a corresponding side of the second string. The cycle then is repeated on successive strings until the desired size of innerspring construction is obtained.

Claim 1, the sole independent claim, has been rejected as being unpatentable over the combined teachings of Stumpf and Lingl. In the examiner's view, the only difference between the method disclosed by Stumpf and the method recited in claim 1 is that in Stumpf the string of springs is held stationary while the adhesive applicator moves, which is the opposite of the method set forth in the claim. However, according to the examiner, the feature of moving the work past a stationary applicator is taught by Lingl, and it therefore would have been obvious to modify the system of Stumpf so that it meets the terms of claim 1.

The appellants argue in rebuttal that Lingl is non-analogous art and therefore its use in the rejection is improper, and also that there would have been no suggestion to combine the references in the manner proposed by the examiner.

We do not subscribe to the examiner's position, and therefore will not sustain the rejection of claim 1 or, it

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follows, of claims 2 through 6, all of which depend from claim 1. Our reasons for reaching this decision follow.

We begin our analysis by noting that in rejecting claims under 35 USC § 103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness. See *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993); *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). A *prima facie* case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art. See *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993); *In re Rinehart*, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976). This is not to say, however, that the claimed invention must expressly be suggested in any one or all of the references. Rather, the test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art. See *Cable Electric Products, Inc. v. Genmark, Inc.*, 770 F.2d 1015, 1025, 226 USPQ 881, 886-887 (Fed. Cir. 1985); *In re Kaslow*, 707

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F.2d 1366, 1373, 217 USPQ 1089, 1094 (Fed. Cir. 1983); *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981).

The Stumpf system has been acknowledged on page 1 of the appellants' specification as disclosing the mattress innerspring manufacturing system over which the appellants believe their invention to be an improvement (Brief, page 4). In Stumpf, each new string of pocketed coil springs is placed upon a platform and then pushed laterally into contact with the previous string, upon the facing surface of which adhesive has been placed. An adhesive application device, such as a spray nozzle, then traverses the length of the new string, applying adhesive to its exposed side surface. The applicator is then withdrawn, and another new string of springs is laterally pushed against the previous one, thus bonding each succeeding string to its immediate predecessor.

Lingl is directed to a method and apparatus for producing prefabricated wall panels of a plurality of blocks. In the first steps of the Lingl process, mortar is applied to the sides of a plurality of blocks and the blocks are pushed together

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to form a string. Then, the string is moved past a stationary second mortar applicator which deposits the mortar on those surfaces of the blocks which will be horizontal in the finished wall panel. Finally, each string of blocks is picked up by a crane and placed atop the previously installed string.

Even assuming, *arguendo*, that the Lingl reference constitutes analogous art, we fail to perceive any teaching, suggestion or incentive in either reference which would have led one of ordinary skill in the art to modify the Stumpf method in the manner proposed by the examiner.

The basic teaching in Stumpf is to move the string of springs laterally into position against the preceding string and then apply adhesive to the exposed side of the stationary string by means of a moving applicator. To modify this so that it conforms to the language of claim 1, that is, the applicator becomes the stationary element past which the string is moved in order to have adhesive applied over its length, would require that wholesale and fundamental changes be made to the Stumpf system, including discarding a large portion of the apparatus and

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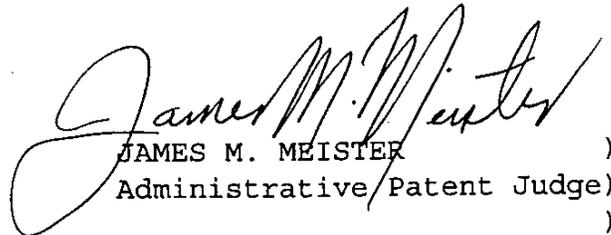
making basic changes to the disclosed method. From our perspective, the only suggestion for doing so is found in the hindsight accorded one who first viewed the appellants' disclosure. As our reviewing court stated in *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992):

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention" (citations omitted).

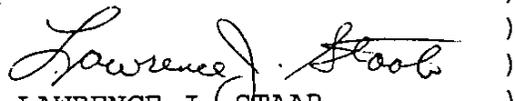
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The decision of the examiner is reversed.

REVERSED

  
JAMES M. MEISTER )  
Administrative Patent Judge)

  
NEAL E. ABRAMS ) BOARD OF PATENT  
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INTERFERENCES

  
LAWRENCE J. STAAB )  
Administrative Patent Judge)

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CUSHMAN, DARBY & CUSHMAN  
Ninth Floor  
1100 New York Ave., NW  
Washington, DC 20005-3918