

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

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 CHRISTER HANNERSTIG

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Appeal No. 1997-1970  
Application 08/268,732<sup>1</sup>

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ON BRIEF<sup>2</sup>

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Before COHEN, NASE and BAHR, Administrative Patent Judges.

COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection (Paper No. 10) of claims 21 through 30. Subsequent to appeal, claim 30 was

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<sup>1</sup> Application for patent filed June 30, 1994. According to the appellant, the application is a continuation of Application 07/910,012, filed September 8, 1992, now Patent No. 5,343,925, issued September 6, 1994.

<sup>2</sup> The decision in this case was made on brief since, notwithstanding the circumstance that hearing attendance was confirmed (Paper No. 28), counsel for appellant did not appear at the scheduled oral hearing.

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canceled (Paper No. 12). In the advisory action of August 15, 1996 (Paper No. 19), the examiner indicated that claims 21 through 24 stand rejected, while claims 25 through 29 are objected to (the latter claims being in dependent form, but otherwise apparently allowable). Claims 21 through 29 constitute all of the claims remaining in the application. Accordingly, only claims 21 through 24 are under rejection and before us for appellate review.

Appellant's invention pertains to a device for draping curtains. An understanding of the invention can be derived from a reading of exemplary claim 21, a copy of which appears in the APPENDIX OF CLAIMS ON APPEAL on page 10 of the brief (Paper No. 20).

As evidence of obviousness, the examiner has applied the document specified below:

Geraldine  
10, 1931

1,831,169

Nov.

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The following rejection is the sole rejection before us for review.<sup>3</sup>

Claims 21 through 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Geraldine.

The full text of the examiner's rejection and response to the argument presented by appellant appears in the final rejection (page 4) and the answer (Paper Nos. 10 and 21), while the complete statement of appellant's argument can be found in the brief (Paper No. 20).

#### 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 21 through 24,

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<sup>3</sup> The final rejection of a) claims 21 through 30 under the judicially created doctrine of double patenting, of b) claim 30 under 35 U.S.C. 102(b) as being clearly anticipated by Garcia, and of c) claims 21 through 30 as being unpatentable over Marasco in view of Swedish Patent No. 165,200 were obviously overcome and not carried forward by the examiner into the answer.

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the patent to Geraldine,<sup>4</sup> and the respective viewpoints of  
appellant and the

examiner. As a consequence of our review, we make the  
determination which follows.

We reverse the rejection of claims 21 through 24.

At the outset, we note that independent claim 21  
addresses a device for draping curtains. Among other things,  
this claim sets forth "a holder for fixing the curtain fabric  
with a predetermined folding or draping" and "a disk-like  
cover" provided on the holder. The claim additionally  
specifies that the holder is "substantially circular for  
encompassing the curtain fabric and is provided with a spring-  
loaded receiving opening adapted to be spread apart for  
receiving or removing the curtain fabric against the action of

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<sup>4</sup> In our evaluation of the applied patent, we have considered all of the  
disclosure thereof 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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a spring." Consistent with the underlying disclosure, we understand this language of the claim to require a holder configured substantially circular, i.e., within the normally expected tolerances for the form of a circle or ring, so as to be able to encompass or form a circle about the curtain fabric. It is additionally clear to us, when reading the language of claim 21 in light of the specification, that the holder provides structure to define the (spring loaded) opening, which structure is under the action of a spring.

The examiner refers to the hook or fastening device 5 of Geraldine as a holder (page 4 of final rejection; Paper No. 10).

Geraldine teaches us (page 1, line 97 through page 2, line 2) that the hook 5 co-acts with a complementary fastening member attached to the other end of a tie strap 3. As can readily be discerned from Figures 1 and 3 of Geraldine, a portion of the drapery 1, arranged in folds 2, is inboard of the hook 5 and tie strap 3, such that the strap, formed in a loop, holds the gathered folds of the drapery (page 1, lines

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85 through 88).

In accord with our understanding of the language of claim 21, supra, it is quite apparent to us that the overall teaching of Geraldine would not have been suggestive of the claimed device. More specifically, this panel of the board determines that the hook 5 of Geraldine cannot fairly be viewed as corresponding to or suggestive of the holder as defined in claim 21. The opening of the hook 5 of Geraldine is not a spring loaded receiving opening, and structure of the hook 5 is not spread apart for receiving and removing a curtain fabric against the action of a spring; all limitations required by the language of claim 21. Simply stated, the evidence before us fails to render claims 21 through 24 unpatentable under 35 U.S.C. § 103. We are, accordingly, constrained to reverse the rejection on appeal.

In summary, this panel of the board has reversed the rejection of claims 21 through 24 under 35 U.S.C. § 103 as being unpatentable over Geraldine.

The decision of the examiner is reversed.

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REVERSED

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| IRWIN CHARLES COHEN         | ) | )               |
| Administrative Patent Judge | ) |                 |
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|                             | ) |                 |
|                             | ) | BOARD OF PATENT |
| JEFFREY V. NASE             | ) |                 |
| Administrative Patent Judge | ) | APPEALS AND     |
|                             | ) |                 |
|                             | ) | INTERFERENCES   |
|                             | ) |                 |
| JENNIFER D. BAHR            | ) |                 |
| Administrative Patent Judge | ) |                 |

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