

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte CHRISTOPHER M. WENDEL

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Appeal No. 98-1040  
Application 08/388,573<sup>1</sup>

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ON BRIEF

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Before PATE, STAAB and McQUADE, Administrative Patent Judges.

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Christopher M. Wendel appeals from the final rejection of claims 1 through 9, all of the claims pending in the application.<sup>2</sup> We reverse.

The invention relates to "modular furniture of the type

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<sup>1</sup> Application for patent filed February 14, 1995.

<sup>2</sup> Claim 1 has been amended subsequent to final rejection.

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used for temporary exhibition or display purposes and, in particular, to a novel base or cabinet formed of four (identical) panels

interengaged by the use of lap joints which facilitates rapid assembly" (specification, page 1). Claim 1 is illustrative and reads as follows:

1. A cabinet stand assembly for rapid set-up and take down which comprises:

a) four panels with each panel of the same width having a pair of opposing edges and a pair of opposing large area surfaces extending between said edges;

b) a first releasable fastener affixed to one of said pair opposing edges of each panel; and

c) a second releasable fastener affixed to a large area surface of each of said panels proximate to the other of said pair of opposing edges, said first and second fasteners releasably engaging each other upon contact therebetween, the placement of said four panels in alternate overlapping edge configuration whereby adjacent first and second fasteners interengage forming a cabinet stand assembly of equal width sides.

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

Manlove et al. (Manlove)                      3,837,721  
Sept. 24, 1974

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Citterio 1983	4,371,221	Feb. 1,
Cobos et al.(Cobos) 1990 Green 3, 1995	4,951,576 5,454,331	Aug. 28, Oct. (filed
Dec. 10, 1993)		
Merlo et al.(Solari) <sup>3</sup> (Italian Patent Document)	573,065	Feb. 18, 1958

The claims on appeal stand rejected under 35 U.S.C. § 103  
as follows:

a) claims 1 through 3, 5 and 6 as being unpatentable over  
Solari in view of Green;

b) claim 4 as being unpatentable over Solari in view of  
Green and Manlove;

c) claim 7 as being unpatentable over Solari in view of  
Green and Citterio; and

d) claims 8 and 9 as being unpatentable over Solari in  
view of Green and Cobos.

Reference is made to the appellant's brief (Paper No. 13)  
and to the examiner's answer (Paper No. 14) for the respective  
positions of the appellant and the examiner with regard to the

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<sup>3</sup> An English language translation of this reference,  
prepared on behalf of the Patent and Trademark Office, is  
appended hereto.

merits of these rejections.

Solari, the examiner's primary reference, discloses a folding portable stand, intended for the setup of booths at expositions or the like, which, when it is opened and unfolded [see Figure 1], forms a complete vertical wall of a central furniture unit and is constituted by additional parts, among them adaptable segments which can be oriented as desired and equipped with various shelves or removable platforms for the support of any objects to be displayed, whereas said mobile unit, when folded or closed [see Figure 3], can form, with the aid of supplementary panels, a closed box in which the various shelves, platforms or other removable accessories can be placed and which constitutes the shipping container for the transport of the portable unit itself [translation, page 2].

As best shown in Figure 3, the panels of the stand are joined by hinges which allow the stand to be closed into box form or opened into a variety of display positions.

The Solari stand fails to meet a number of limitations in claim 1 including those relating to the first and second releasable fasteners. These particular limitations require a first releasable fastener to be affixed to one of a pair of opposing edges of each of four panels and a second releasable fastener to be affixed to a large area surface of each panel proximate to the other of said pair of opposing edges, with the fasteners releasably engaging each other for placement of

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the four panels in alternate overlapping edge configuration. The examiner's reliance on Green to overcome these deficiencies in Solari is not well founded.

Green pertains to furniture which can be easily assembled without the use of metal fasteners. To this end, each piece of furniture consists of a number of components joined by mortises and tenons. Figures 7 through 15 depict a drawer having panels connected by such structure.

According to the examiner, "[i]t would have been obvious and well within the level of ordinary skill in the art to modify the structure of Solari to include alternate overlapping joints, as known in the art and further shown in [Figure 7 of] Green, used for the same intended purpose, thereby providing structure as claimed" (answer, page 5).

Green, however, does not teach first and second releasable fasteners which are disposed as required by claim 1 to place four panels in alternate overlapping edge configuration. Moreover, there is nothing in the combined teachings of Solari and Green which would have furnished the artisan with any motivation to somehow modify the articulated panel joints disclosed by Solari with the fixed panel joints

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disclosed by Green. To do so would apparently render the Solari stand incapable of its essential folding characteristic. Thus, even if the Solari and Green references are analogous art (the appellant argues that they are not), their combined teachings would not have suggested the subject matter recited in claim 1 to one of ordinary skill in the art. Since Manlove, Citterio and Cobos do not cure this

fundamental flaw in the examiner's evidence of obviousness, we

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shall not sustain the standing 35 U.S.C. § 103 rejection of  
claim 1 or of claims 2 through 9 which depend therefrom.

The decision of the examiner is reversed.

REVERSED

WILLIAM F. PATE, III	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
LAWRENCE J. STAAB	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
JOHN P. McQUADE	)	
Administrative Patent Judge	)	

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