

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 48

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ANDREW J. KURRASCH, MICHELE BEKINS and STEPHEN R. TEAYS

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Appeal No. 1999-2809  
Application No. 08/155,946

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ON BRIEF

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Before FRANKFORT, MCQUADE, and NASE, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1, 3-12, 14-16, 18-21, 23-25, 55-90, 92-95, 97-99, 101-103, 105 and 106. Claims 2, 13, 17, 22, 26-54, 91, 96, 100 and 104 have been canceled.

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BACKGROUND

Appellants' invention relates to a cabinet structure having improved strength and sound absorption, wherein said cabinet structure includes a top piece (10), a bottom piece (8), side walls (4) and a rear wall (6). At least one of the walls includes an outer wall (14 or 20) attached to an inner wall (12 or 18) to define a cavity therebetween. The cavity includes at least one strengthening element (16) having a pattern of apertures facing the inner and outer walls and positioned between the inner wall and the outer wall in the cavity and having a thickness so as to contact the inner wall and the outer wall, wherein the pattern of apertures comprises a plurality of interconnected columns having two or more vertically aligned apertures and no two abutting apertures of adjacent columns form a horizontal row.

The prior art references of record relied upon by the examiner in rejecting claims 1, 3-12, 14-16, 18-21, 23-25, 55-90, 92-95, 97-99, 101-103, 105 and 106 are:

Wilkins	3,295,279	Jan. 3, 1967
Blodee et al. (Blodee)	4,338,990	Jul. 13, 1982

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Rosling (Denmark) <sup>1</sup>	61,314	Sep. 13, 1943
Kennedy (Great Britain)	1,279,405	Jun. 28, 1972

The following rejections are before us for review.

Claims 1, 3-12, 14-16, 18-21, 23-25, 89, 90, 92-95, 97 and 98 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Blodee and Rosling in further view of Wilkins.

Claims 55-58, 60-88, 99, 101-103, 105 and 106 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Blodee in view of Kennedy and Rosling.

Claim 59 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Blodee, Kennedy and Rosling as applied to claim 55 above and further in view of Wilkins.

Rather than attempt to reiterate the examiner's full statement with regard to the above-noted rejections and conflicting viewpoints advanced by the examiner and appellants

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<sup>1</sup> With regard to the Denmark patent No. 61,314, we have relied on the translation provided by appellants in Paper No. 21, filed September 13, 1996.

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regarding the rejections, we make reference to the examiner's answer (Paper No. 40, mailed April 27, 1999) for the reasoning in support of the rejections, and to appellants' supplemental brief (Paper No. 39, filed January 25, 1999) and reply brief (Paper No. 42, filed July 1, 1999) for the arguments thereagainst.

#### OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims,<sup>2</sup> to the applied prior art references, and to the respective positions as set forth by the appellants and the examiner. As a consequence of our review, we have made the determination that none of the examiner's rejections will be sustained. Our reasoning in support of this determination follows.

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<sup>2</sup> We note that claims 7 and 8 appear to raise issues under 37 CFR § 1.175(b), since these claims seem to be identical. Also, we note that the drawings do not show the "pattern of apertures . . . having . . . no two abutting apertures of adjacent columns form a horizontal row," as recited in claims 1, 14, 55 and 70. 37 CFR § 1.83(a) requires that the drawings must show every feature of the invention specified in the claims. During any further prosecution of this application before the examiner, these issues should be resolved.

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With regard to the 35 U.S.C. § 103(a) rejection of claims 1, 3-12, 14-16, 18-21, 23-25, 89, 90, 92-95, 97 and 98 as being unpatentable over Blodee and Rosling in further view of Wilkins, the examiner asserts that "[i]t would have been obvious to have provided strengthening elements as taught by [Rosling] in the walls of Blodee because doing so provides the known advantage of stronger walls" (answer page 5) and that it "would have been obvious to have provided spaced apart strengthening elements as taught by [Rosling] of paper honeycomb material as taught by Wilkins in column 1, lines 46-50 because doing so would have provided the advantage of a lighter weight yet strong wall while reducing the amount of material needed to strengthen the wall and avoid costs of more expensive strengthening elements" (answer page 6). Appellants urge that "Wilkins does not provide any suggestion that one of ordinary skill would look to the wooden door structure of [Rosling] to alter the structure of [Blodee's] metal vertical support assembly 131" (brief, page 14) and that "one of ordinary skill in the art would not look to Wilkins to replace [Rosling's] braces 6 with a honeycomb material." After consideration of the collective teachings of the applied references, we must agree with appellants that there is no teaching, suggestion or motivation in Blodee, Rosling or Wilkins

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for making the combination asserted by the examiner. Like appellants, it is our view that the examiner is using the hindsight benefit of appellants' own disclosure to combine the strengthening elements of Rosling's door with the cabinet wall panels of Blodee, and further, to modify the added strengthening elements to have a honeycomb structure like that taught by Wilkins. We note that in Wilkins, the honeycomb matrix apparently fills the entire cavity in the container walls and we do not consider that one of ordinary skill in the art would have been motivated by the applied references, absent hindsight, to provide separate strengthening elements having a honeycomb matrix, and to include a "volume of space" (e.g., claim 1, lines 19 and 20) therebetween as in appellants' claimed cabinet. We note that independent claim 14 defines the same cabinet structure as in claim 1 in slightly different terms.

Accordingly, we will not sustain the examiner's rejection of claims 1, 3-12, 14-16, 18-21, 23-25, 89, 90, 92-95, 97 and 98 under 35 U.S.C. § 103(a) as being unpatentable over Blodee and Rosling in further view of Wilkins.

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With regard to the 35 U.S.C. § 103(a) rejection of claims 55-58, 60-88, 99, 101-103, 105 and 106 as being unpatentable over Blodee in view of Kennedy and Rosling, the examiner asserts that "[i]t would have been obvious to have provided the strengthening element of [Kennedy] in the hollow lateral walls shown in figure 25 of Blodee because doing so would have provided the advantage of stronger walls" and that

[i]t further would have been obvious to have provided the strengthening elements of a size and to fill a proportion of the hollow wall of Blodee as taught by [Rosling] because doing so would have reduced the amount of material used in strengthening while still providing additional strength to Blodee's walls (answer, page 8).

Appellants urge that "one of ordinary skill in the art would not be motivated to add [Rosling's] braces 6 and 7 or [Kennedy's ] honeycomb material 8 to [Blodee's] vertical support assembly 131" (brief, page 19). Again, we must agree with appellants that there is no teaching, suggestion or motivation in Blodee, Kennedy or Rosling for making the combination asserted by the examiner. Like appellants, it is our view that the examiner is again using the hindsight benefit of appellants' own disclosure to combine the honeycomb material of the weatherproof door of Kennedy with the cabinet walls of Blodee, and further, to modify the honeycomb

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material of that reinforcement to fill only part of the hollow wall of Blodee. We note that in Kennedy, like Wilkins, the honeycomb matrix apparently fills the entire cavity between the door panels and we do not consider that one of ordinary skill in the art would have been motivated by the applied references, absent hindsight, to provide a wall having a volume of space, wherein the "volume of space is greater than the combined volume of said strengthening element and said apertures" as recited in claims 55 and 70 on appeal.

Moreover, we note that claim 55 recites walls each having a plurality of edges, "a cavity having a boundary defined by said plurality of edges" (line 9, emphasis added), "a strengthening element" (line 11), and that "a volume of space exclusive of said strengthening element and said apertures, is defined, where the cavity consists essentially of said volume of space, said strengthening element and said apertures" (lines 17-19). We do not find this teaching in the references applied and note that Rosling discloses multiple strengthening elements and, thus, does not teach a cavity that "consists essentially of" said volume of space, a strengthening element and said apertures, as recited in claim 55 on appeal.

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Accordingly, we will not sustain the examiner's rejection of claims 55-58, 60-88, 99, 101-103, 105 and 106 under 35 U.S.C. § 103(a) as being unpatentable over Blodee in view of Kennedy and Rosling.

With regard to the rejection of claim 59 under 35 U.S.C. § 103(a) as being unpatentable over Blodee, Kennedy and Rosling as applied to claim 55 and further in view of Wilkins, we note that claim 59 depends from claim 55 and adds the limitation that the reinforcing or strengthening element comprises paper. While Wilkins teaches honeycomb material formed of paper (col. 1, lines 46-50), we find nothing in Wilkins which overcomes the failings of the basic combination of Blodee, Kennedy and Rosling as we pointed out above. Thus, we will not sustain the examiner's rejection of this claim for at least the reasons discussed above with regard to claim 55.

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CONCLUSION

To summarize, none of the examiner's rejections is sustained. The decision of the examiner is reversed.

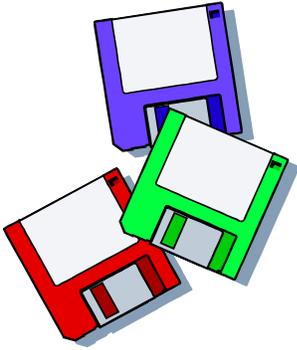
REVERSED

CHARLES E. FRANKFORT	)	
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	)	
Administrative Patent Judge	)	

CEF/LBG

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WILLIAM, BRINKS, HOFER, GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610



## ***Lesley***

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APJ FRANKFORT

APJ MCQUADE

APJ NASE

DECISION: REVERSED

Prepared: September 12, 2003

Draft            Final

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PALM / ACTS 2 / BOOK

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