

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(2) is not binding precedent of the Board.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. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FREDERICK A. HAUBER

Appeal No. 96-4117
Application 08/077,380¹

REHEARING

Before MEISTER, ABRAMS, PATE, III, Administrative Patent
Judges.

ABRAMS, Administrative Patent Judge.

ON REQUEST FOR REHEARING

This case comes before us on request for rehearing of our
decision of March 31, 1998. It is the appellant's contention
that we erred in sustaining the examiner's rejection of claims

¹Application for patent filed June 17, 1993.

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8, 11, 13 and 14 as being anticipated by Cohen,² After careful consideration of the arguments presented by the appellant in the request, we have concluded that our decision is sound, and we shall not modify it.

The appellant's first argument is that the lens system disclosed in Figure 7 of Cohen requires two lenses to achieve correction of chromatic aberration, whereas the claimed invention requires only one. The appellant bases this conclusion upon Cohen's "detailed explanation (columns 1, 2 and 3)" (Request, page 2). However, the appellant has not pointed out where in these three columns of text the basis for this conclusion is found, and such is not apparent to us. Nor has the appellant directed us to evidence which would support of such a conclusion. As we understand the appellant's second argument, it is that the lens surface having the diffractive pattern in Cohen's Figure 7 "PL" lens, which formed the basis of the rejection, is not "intraocular" because it is not on an exterior surface of the lens (Request, page 3). However, the common definition of intraocular is

²The examiner's rejection of claims 1-7, 9 and 10 was not sustained.

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"within the eyeball,"³ a condition which clearly is met by all of the elements of the Figure 7 lens, whether located on the outer surfaces of the lens or in the interior. Therefore, this argument is more narrow than the language of the claim, and is not persuasive. See *In re Self*, 671 F.2d 1344, 1348, 213 USPQ 1, 5 (CCPA 1982).

The appellant also argues that "the Board's holding...[that] the PL lens alone should cure chromatic aberration" goes against the purpose defined in the Cohen reference (Request, pages 3 and 4). First of all, we made no such "holding" in our decision. Second, the claim requires that the lens have a pattern "correcting" chromatic aberration, and not that it "cure" chromatic aberration. It is our view that the diffractive pattern on the Cohen PL lens accomplishes the specified function to the extent necessary to meet the terms of the claim. No evidence has been brought to our attention which mandates the opposite conclusion.

We therefore have granted the appellant's request to the extent that we have considered our decision in the light of

³See, for example, Webster's Third New International Dictionary, 1971, page 1186.

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the

arguments presented in the request, but it is denied insofar
as altering that decision is concerned.

DENIED

	James M. Meister)	
	Administrative Patent Judge)	
)	
)	
)	
	Neal E. Abrams)	BOARD OF
PATENT	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
	William F. Pate, III)	
	Administrative Patent Judge)	

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James C. Wray
1493 Chain Bridge Road
Suite 300
McLean, VA 22101