

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 10

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MOISES B. LORENZANA
and VANCE A. LORENZANA

Appeal No. 97-4042
Application 08/578,248¹

ON BRIEF

Before McCANDLISH, Senior Administrative Patent Judge, and
COHEN and MEISTER, Administrative Patent Judges.

MEISTER, Administrative Patent Judge.

DECISION ON APPEAL

Moises B. Lorenzana and Vance A. Lorenzana (the appellants) appeal from the final rejection of claims 1-20, the only claims present in the application.

We AFFIRM-IN-PART.

¹ Application for patent filed December 26, 1995.

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The appellants' invention pertains to a lap tray for serving food and beverage items. Independent claim 1 is further

illustrative of the appealed subject matter and a copy thereof may be found in the appendix to the appellants' brief.

The references relied on by the examiner are:

Hintze	2,652,702	Sep. 22, 1953
Mackey	3,244,125	Apr. 5, 1966
Gregg	3,804,233	Apr. 16, 1974
Mazzotti	5,421,459	Jun. 6, 1995
Anderson	Des. 316,359	Apr. 23, 1991

Claims 1, 2, 3, 9 and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Mackey.

Claims 4, 5, 10, 12 and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Mackey.

Claims 2 and 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Mackey in view of Anderson.

Claim 14 stands rejected under 35 U.S.C. § 103 as being unpatentable over Mackey in view of Mazzotti.

Claims 6-8, 11 and 15 stand rejected under 35 U.S.C. §

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103 as being unpatentable over Mackey in view of Gregg.

Claims 18-20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Mackey in view of Hintze.

The examiner's rejections are explained on pages 3-6 of the answer. The arguments of the appellants and examiner in support of their respective positions may be found on pages 7-24 of the brief and pages 6-9 of the answer.

OPINION

We have carefully reviewed the appellants' invention as described in the specification, the appealed claims, the prior art applied by the examiner and the respective positions advanced by the appellants in the brief and by the examiner in the answer. As a consequence of this review, we will (1) affirm the rejection of claims 1 and 9 under 35 U.S.C. § 102(b), (2) reverse the rejection of claims 2, 3 and 13 under 35 U.S.C. § 102(b), (3) affirm the rejections of claims 6-8, 11, 12, 16 and 18-20 under 35 U.S.C. § 103 and (4) reverse the rejections of claims 2, 4, 5, 10, 14, 15 and 17 under 35 U.S.C. § 103. Additionally, pursuant to our authority under

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the provisions of 37 CFR § 1.196(b), we will enter new rejections of claims 13, 15 and 17 under 35 U.S.C. § 103. Our reasons for these determinations follow.

Considering first the rejection of claims 1 and 9 under 35 U.S.C. § 102(b), we initially note that the terminology in a pending application's claims is to be given its broadest reasonable interpretation (*In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)) and limitations from a pending application's specification will not be read into the claims (*Sjolund v. Musland*, 847 F.2d 1573, 1581-82, 6 USPQ2d 2020, 2027 (Fed. Cir. 1988)). Moreover, anticipation by a prior art reference does not require either the inventive concept of the claimed subject matter or the recognition of inherent properties that may be possessed by the prior art reference. *See Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 633, 2 USPQ2d 1051, 1054 (Fed. Cir. 1987), **cert. denied**, 484 U.S. 827 (1987). A prior art reference anticipates the subject matter of a claim when that reference discloses every feature of the claimed invention, either explicitly or inherently (*Hazani v. Int'l Trade Comm'n*, 126

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F.3d 1473, 1477, 44 USPQ2d 1358, 1361 (Fed. Cir. 1997)) and **RCA Corp. v. Applied Digital Data Systems, Inc.**, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984)); however, the law of anticipation does not require that the reference teach what the appellants are claiming, but only that the claims on appeal "read on" something disclosed in the reference (**Kalman v. Kimberly-Clark Corp.**, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), **cert. denied**, 465 U.S. 1026 (1984)).

Here, the examiner has taken the position that the tray of Mackey discloses all the structure set forth in independent claim 1 and is "inherently capable of use in the intended manner depending upon the size of the user's legs" (answer, page 3). The appellants disagree, contending that "Mackey had no contemplation or suggestion that his tray might be adapted for use as a lap tray" (brief, page 11). We must point out, however, it is well settled that if a prior art device inherently possesses the capability of functioning in the manner claimed, anticipation exists regardless of whether there was a recognition that it could be used to perform the claimed function. **See, e.g., In re Schreiber**, 128 F.3d 1473,

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1477, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). **See also**
LaBounty Mfg., Inc. v. Int'l Trade Comm'n, 958 F.2d 1066,
1075, 22 USPQ2d 1025, 1032 (Fed. Cir. 1992) (in quoting with
approval from **Dwight & Lloyd Sintering Co. v. Greenawalt**, 27
F.2d 823, 828 (2d Cir. N.Y. 1928)):

The use for which the [anticipatory]
apparatus was intended is irrelevant, if it
could be employed without change for the
purposes of the patent; the statute
authorizes the patenting of machines, not
of their uses. So far as we can see, the
disclosed apparatus could be used for
"sintering" without any change whatever,
except to reverse the fans, a matter of
operation.

Mackey discloses a tray for serving food and beverage
items
to a user in an automobile including an elongated body portion
(i.e., the entire lateral extent of the tray as depicted in
Figs. 1 and 2), food receiving recesses 25, 26 disposed along
a lengthwise extending center line, a first downwardly
extending projection (the frusto-conical depression 16
depicted on the right in Fig. 1), and a second downwardly
extending projection (the frusto-conical depression 16

depicted on the left in Fig. 1). The side **edges** of Mackey's tray are clearly symmetrical with respect to the center line (see Fig. 1). Particularly in view of the size of Mackey's tray relative to a car seat as depicted Fig. 2, we share the examiner's view that there is a sound basis to conclude that Mackey's tray is inherently capable of being used as a lap tray with the elongated body portion thereof spanning the upper portion of the legs² of a user and the projections 16 extending downwardly "beyond" the outermost portion of the upper portion of the user's legs in the claimed manner.

Whether Mackey's tray actually is or might be used in such a manner depends upon the performance or non-performance of a future act of use, rather than upon a structural distinction in the claims. Stated differently, the tray of Mackey would not undergo a metamorphosis to a new tray simply because it was used as a lap tray in the claimed manner. **See In re Pearson**, 494 F.2d 1399,

1403, 181 USPQ 641, 644 (CCPA 1974) and **Ex parte Masham**, 2

² As used throughout the claims, we interpret "upper legs" to be --upper portion of the legs--.

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USPQ2d 1647, 1648 (Bd. Pat. App. & Int. 1987).

Page 8 of the brief also states that:

If one decided to use the Mackey tray as a lap tray in spite of its being designed for seat support and its being provided a number of food and beverage pockets and compartments for two individuals, the tray might be positioned with the frusto-conical depressions 15, 16 and 17 along the outside of the legs if it were suitably sized with respect to the person using it. As so positioned, the users legs would have to extend down the narrow passage between the tissue box or compartment and the frusto-conical depressions. Considering that the passageway is about the same width as the tissue box, the users leg would have to be so small that the length that the leg 14 would engage the seat and prevent the tray from lying flat or horizontal across the legs. If the legs were in the horizontal position as shown in Fig. 2, leg 13 might not have any effect while leg 14 would apparently raise the right side of the tray with respect to the legs and limit amount that the right hand frusto-conical depressions would extend downwardly along the outside of the upper leg.

These contentions are unpersuasive. As to the appellants' contention that a user's legs would have to extend down the narrow passage between the "tissue box" and the frusto-conical depressions 16, we must point out that (1) the

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"tissue box" does not form a part of Mackey's tray (any more than the large beverage container depicted by the appellants in Fig. 2 forms a part of their tray) and (2) Mackey's tray clearly has the capability of being used without the tissue box. Moreover, even if Mackey's tray was used in conjunction with a tissue box, it still has the capability of being used by a person having small legs (such as a child). As to the appellants' contention concerning the leg 14 engaging the seat when it is in the extended position, Mackey's tray clearly has the capability of being used in the claimed manner by a person sitting on seat which did not extend laterally as far as the leg 14. As to the appellants' contention concerning the legs 13 and 14 being in the horizontal position, even if the "right side" were raised a slight amount as the appellants contend, there is no reasonable basis for concluding that this would prevent Mackey's tray from being used in the claimed manner. In any event, as we have noted above, Mackey's tray still has the capability of being used in the claimed manner with the legs extended.

It is also the appellants' contention that the body of the tray of Mackey cannot be considered to be elongated. This

view, however, appears to be bottomed upon the appellants' belief that only the portion of Mackey's tray which is bounded flange 18 can be considered to be the body portion. We do not agree. As we have noted above, it is our view that the entire lateral extent of the Mackey's tray as depicted in Figs. 1 and 2 can be considered to form the body portion as broadly set forth. When viewed in this context, it is readily apparent that this body portion is "elongated."

The appellants in the paragraph bridging pages 15 and 16 of the brief appear to be contending that the wall of Mackey's projections cannot be considered to be "substantially vertical" since they are somewhat tapered. However, the appellants have used this term to describe their own walls, which likewise have a significant taper. This being the case, we are of the opinion that the wall defining each of Mackey's projections can be considered to be "substantially vertical" as claimed.

On page 16 of the brief, the appellants argue that under the sixth paragraph of § 112 the functional limitations in the claims must "be construed as covering corresponding structure described in the specification." We are at a complete loss to

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understand such a contention inasmuch as the claims under consideration are not drafted in means or step plus function format.

In view of the foregoing, we will sustain the rejection of claims 1 and 9 under 35 U.S.C. § 102(b) as being anticipated by Mackey.

Turning to the rejections of claim 2 under 35 U.S.C. § 102(b) as being anticipated by Mackey and under 35 U.S.C. § 103 as being unpatentable over Mackey in view of Anderson, claim 2 expressly requires that the **body portion** be **symmetrical** about a lengthwise extending center line. Viewing Figs. 1 of Mackey and Anderson, it is readily apparent that neither of these references either teach or suggest such an arrangement. This being the case, we will not sustain the rejections of claim 2 under 35 U.S.C. § 102(b) and 35 U.S.C. § 103.

Considering next the rejections of claim 3 under 35 U.S.C.

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§ 102(b) as being anticipated by Mackey and claims 4 and 5 under 35 U.S.C. § 103 as being unpatentable over Mackey, claim 3 (and claims 4 and 5 by virtue of their dependency thereon) expressly requires "lengthwise extending edges which are **concave** to conform to the contour of the person's torso . . ." (emphasis ours). In Mackey, however, the edges are **straight** rather than "concave" as claimed. Accordingly, we will not sustain the rejections of claim 3 under 35 U.S.C. § 102(b) and claims 4 and 5 under 35 U.S.C. § 103.

We now turn to the rejections under 35 U.S.C. § 103 of claims 6-8 and 11 as being unpatentable over Mackey in view of Gregg and claim 12 as being unpatentable over Mackey alone. With respect to claims 6-8 and 11, the examiner has taken the position that it would have been obvious to provide the tray of Mackey with a central well in view of the teachings in Gregg. The examiner also is of the opinion that the particular configuration of the central well (claim 7) and the parameters set forth in claims 8 and 12 would have been obvious.

The appellants disagree, contending that "it is difficult

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to see any relevance in the Gregg patent" (brief, page 21).
As to the particular configuration and parameters of the well,
the appellants contend there is no express teachings of these
limitations in the prior art applied by the examiner.

We are unpersuaded by the appellants' arguments. While
the obviousness of an invention cannot be established by
combining the teachings of the prior art absent some teaching,
suggestion or incentive supporting the combination (**see ACS
Hospital Systems, Inc. v. Montefiore Hospital**, 732 F.2d 1572,
1577, 221 USPQ 929, 933 (Fed. Cir. 1984)), this does not mean
that the cited references or prior art must specifically
suggest making the combination (**B.F. Goodrich Co. v. Aircraft
Braking Systems Corp.**, 72 F.3d 1577, 1582, 37 USPQ2d 1314,
1318 (Fed. Cir. 1996) and **In re Nilssen**, 851 F.2d 1401, 1403,
7 USPQ2d 1500, 1502 (Fed. Cir. 1988)). Rather, the test for
obviousness is what the combined teachings of the references
would have suggested to those of ordinary skill in the art.
In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed.
Cir. 1991) and **In re Keller**, 642 F.2d 413, 425, 208 USPQ 871,
881 (CCPA 1981). Moreover, in evaluating such references it

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is proper to take into account not only the specific teachings of the references but also the inferences which one skilled in the art would reasonably be expected to draw therefrom (*In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968)), and all of the disclosures in a reference must be evaluated for what they fairly teach one having ordinary skill in the art (*In re Boe*, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966)).

Here, Mackey teaches a tray having various recesses and beverage receiving wells including a food receiving recess 24 which is "centrally disposed" with respect to the lateral edges of the tray. Gregg teaches a tray having various recesses and beverage receiving wells including a beverage receiving well 15 which is "centrally disposed" with respect to the lateral edges of the tray. Taken together, Mackey and Gregg establish that it is known in the art to vary the location of recesses and beverage receiving wells on a tray as desired. In our view, a combined consideration of Mackey and Gregg would have fairly suggested to the artisan to replace the centrally disposed food receiving recess 24 of Mackey with a centrally disposed beverage receiving

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well, if for no other reason, than to achieve the self-evident advantage of accommodating additional beverage containers.

As to (1) the shoulder set forth in claim 7, (2) the particular degree of taper set forth in claim 8 and (3) the particular length of the downward projection (i.e., the particular depth of the beverage receiving well) set forth in claim 12, we observe that Mackey expressly states that the beverage receiving wells may "hold different sized cups or tumblers" (column 1, line 45). Noting that artisans must be presumed to know something about the art apart from what the references disclose (*In re Jacoby*, 309 F.2d 513, 516, 135 USPQ 317, 319 (CCPA 1962)) and the conclusion of obviousness may be made from "common knowledge and common sense" of the person of ordinary skill in the art (*In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969)), we are of the opinion that one of ordinary skill in this art would have found it obvious to provide the centrally beverage receiving well in the tray of Mackey, as modified by Gregg, with a shoulder in order to accommodate a beverage container having a complementary stepped shoulder and to vary the depth and taper of the

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beverage receiving recess in order to accommodate various sized commonly used beverage containers (including a large size container such as depicted by the appellants on the right-hand side of the tray in Fig. 2).

As to the particular distance between the downward projections set forth in claim 12, in comparing the size of Mackey's tray relative to the car seat as depicted in Fig. 2, it appears that the distance between the downward projections 16 is in fact "on the order of 14 inches" as claimed. In any event, the artisan as a matter of "common sense" (*In re Bozek, supra*) would have found it obvious to vary the size of Mackey's tray as desired.

In view of the foregoing, we will sustain the rejections of 6-8, 11 and 12 under 35 U.S.C. § 103.

Turning next to the rejection of claim 10 under 35 U.S.C. § 103 as being over Mackey, the examiner has taken the position that the provision of "roughened surfaces" on the walls Mackey's projections 16 would have been obvious. However, there appears to be neither reason nor need for such surfaces in Mackey, and the examiner has not provided any

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evidence which would support a conclusion of obviousness. This being the case, we will not sustain the rejection of claim 10 under 35 U.S.C. § 103.

Considering the rejections of (1) claim 13 under 35 U.S.C. § 102(b) as being anticipated by Mackey, (2) claim 14 under 35 U.S.C. § 103 as being unpatentable over Mackey in view of Mazzotti, (3) claim 15 under 35 U.S.C. § 103 as being unpatentable over Mackey in view of Gregg, and (4) claim 17 under 35 U.S.C. § 103 as being unpatentable Mackey, each of these rejections is based on the examiner's view that Mackey teaches first and second pockets which are "of different size and shape" as set forth in claim 13. We cannot agree. While the pockets 15, 16 and 17 of Mackey are of different size, they are of the **same** shape, rather than of a "different" shape as claimed. For this reason, we will not sustain the rejection of claim 13 under 35 U.S.C. § 102(b) and the rejections of claims 14, 15 and 17 under 35 U.S.C. § 103.

Considering now the rejection of claim 16 as being unpatentable over Mackey in view of Anderson under 35 U.S.C.

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§ 103, the examiner is of the opinion that it would have been obvious to make the first pocket of Mackey (i.e., the right-hand beverage receiving recess 16 as depicted in Fig. 1) of oval cross-section (thus providing a different "shape" as set forth in parent claim 13) in view of the teachings of Anderson. In argument, the appellant on page 20 of the brief notes the deficiencies of the references individually and contends that "the only teachings for such modifications comes from applicants' specification." As to the appellants' criticisms of the references individually, nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. **See *In re Merck & Co. Inc.***, 800 F.2d 1091, 1097, 231 USPQ 375, 380 (Fed. Cir. 1986). As to the examiner's combination of the references, Anderson clearly teaches an "oval" shaped pocket along one edge of the tray for the self-evident purpose of accommodating elongated articles. Applying the test for obviousness³ as set forth in ***In re***

³ The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested

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Keller at 642 F.2d 425, 208 USPQ 881, we are of the opinion that one of ordinary skill in this art would have found it obvious to make the first pocket of Mackey oval in shape in order to achieve Anderson's self-evident advantage of

accommodating elongated articles. Therefore, we will sustain the rejection of claim 16 under 35 U.S.C. § 103.

Turning last the rejection of claims 18-20 under 35 U.S.C.

§ 103 as being unpatentable over Mackey in view of Hintze, the examiner is of the opinion that it would have been obvious to provide the body portion of Mackey with first and second flat members surrounded by peripheral rims to define shallow food receiving recesses in view of the teachings of Hintze. The appellants, however, contend that ?there is no hint or suggestion in either of the references as [to] how the teaching of Hintze might be combined with Mackey to meet the elements of the claimed combination.? We are unpersuaded by the appellants' arguments. Mackey teaches providing food

to those of ordinary skill in the art.

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receiving recesses by providing a flat bottom and thin ridges which project upwardly from the flat bottom. Anderson teaches providing food recesses by providing a flat top portion which define "peripheral rims" and shallow food receiving recesses projecting downwardly therefrom. Taken as a whole, these references establish that the structure utilized by each of these references for providing for food receiving recesses are art-recognized alternatives which are well known, and the respective advantages and disadvantages of each would have been apparent to one of ordinary skill in the art. **See In re Heinrich**, 268 F.2d 753, 756, 122 USPQ 388, 390 (CCPA 1959). With respect to claim 20, Hintze at 10 clearly teaches a cup-shaped well "between" the recesses.

In view of the above, we will sustain the rejection of claims 18-20 under 35 U.S.C. § 103.

Under the provisions of 37 CFR § 1.196(b) we make the following new rejections.

Claims 13 and 17 are rejected under 35 U.S.C. § 103 as being unpatentable over Mackey in view of Anderson. As we have noted above with respect to the rejection of claim 16,

Anderson clearly teaches an "oval" shaped pocket along one edge of the tray for the self-evident purpose of accommodating elongated articles. One of ordinary skill in this art would have found it obvious to make the first pocket of Mackey (i.e., the right-hand beverage receiving recess 16 as depicted in Fig. 1) oval or "different" in shape in order to achieve Anderson's self-evident advantage of accommodating elongated articles. With respect to claim 17, Mackey expressly states that the beverage receiving wells may "hold different sized cups or tumblers" (column 1, line 45). Particularly in view of this teaching, one of ordinary skill in this art would have found it obvious to vary the depth of the beverage receiving recesses as desired (e.g., to between 3 and 3½ inches) in order to accommodate various sized commonly used beverage containers (including a large size container such as depicted by the appellants on the right-hand side of the tray in Fig. 2). As to the particular distance between the downward projections, in comparing the size of Mackey's tray relative to the car seat as depicted in Fig. 2, it appears that the distance between the downward projections 16 is in fact "on the order of 14 inches" as claimed. In any event,

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the artisan as a matter of "common sense" (*In re Bozek, supra*) to vary the size of Mackey's tray as desired.

Claim 15 is rejected under 35 U.S.C. § 103 as being unpatentable over Mackey in view of Anderson as applied in the rejection of claim 13 above, and in further view of Gregg. Mackey teaches a tray having various recesses and beverage receiving wells including a food receiving recess 24 which is "centrally disposed" with respect to the lateral edges of the tray. Gregg teaches a tray having various recesses and beverage receiving wells including a beverage receiving well 15 which is "centrally disposed" with respect to the lateral edges of the tray. Taken together, Mackey and Gregg establish that it is known in the art to vary the location of recesses and beverage receiving wells on a tray as desired. In our view, one of ordinary skill in this art would have found it obvious to replace the centrally disposed food receiving recess 24 in the tray of Mackey, as modified by Anderson, with a centrally disposed beverage receiving well, if for no other reason, than to achieve the self-evident advantage of accommodating additional beverage containers.

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In summary:

The rejection of claims 1 and 9 under 35 U.S.C. § 102(b) is affirmed.

The rejection of claims 2, 3 and 13 under 35 U.S.C. § 102(b) is reversed.

The rejections of claims 6-8, 11, 12, 16 and 18-20 under 35 U.S.C. § 103 are affirmed.

The rejections of claims 2, 4, 5, 10, 14, 15 and 17 under 35 U.S.C. § 103 are reversed.

New rejections of claims 13, 15 and 17 under 35 U.S.C. § 103 have been made.

In addition to affirming the examiner's rejection of one or more claims, this decision contains a new ground of rejection pursuant to 37 CFR § 1.196(b) (amended effective Dec. 1, 1997, by final rule notice, 62 Fed. Reg. 53,131, 53,197 (Oct. 10, 1997), 1203 Off. Gaz. Pat. & Trademark Office 63, 122 (Oct. 21, 1997)). 37 CFR § 1.196(b) provides, "A new ground of rejection shall not be considered final for purposes of judicial review."

Regarding any affirmed rejection, 37 CFR § 1.197(b) provides:

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(b) Appellant may file a single request for rehearing within two months from the date of the original decision

37 CFR § 1.196(b) also provides that the appellants, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of proceedings (37 CFR § 1.197(c)) as to the rejected claims:

(1) Submit an appropriate amendment of the claims so rejected or a showing of facts relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the application will be remanded to the examiner. . . .

(2) Request that the application be reheard under § 1.197(b) by the Board of Patent Appeals and Interferences upon the same record. . . .

Should the appellants elect to prosecute further before the Primary Examiner pursuant to 37 CFR § 1.196(b)(1), in order to preserve the right to seek review under 35 U.S.C. §§ 141 or 145 with respect to the affirmed rejection, the effective date of the affirmance is deferred until conclusion of the prosecution before the examiner unless, as a mere incident to the limited prosecution, the affirmed rejection is

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overcome.

If the appellants elect prosecution before the examiner and this does not result in allowance of the application, abandonment or a second appeal, this case should be returned to the Board of Patent Appeals and Interferences for final action on the affirmed rejection, including any timely request for rehearing thereof.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART
37 CFR § 1.196(b)

)
HARRISON E. McCANDLISH, Senior))
Administrative Patent Judge))
))
))
) BOARD OF PATENT)
IRWIN CHARLES COHEN))
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