

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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 GAYLORD E. TOHILL, JR. and STEVE E. HENSCHEL

Appeal No. 98-0459
Application 08/658,719¹

ON BRIEF

Before CALVERT, COHEN and PATE, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 5, all of the claims in the application.

Appellants' invention pertains to a contact lens storage compartment. An understanding of the invention can be derived from a reading of exemplary claim 1, a copy of which appears in the APPENDIX to the brief (Paper No. 8).

¹Application for patent filed June 5, 1996.

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As evidence of obviousness, the examiner has applied the documents listed below:

Nathan	3,768,633	Oct. 30, 1973
Artz	4,044,933	Aug. 30, 1977
Cuppari	4,909,382	Mar. 20, 1990
Jessen	4,925,017	May 15, 1990

The following rejections are before us for review.

Claims 1 through 3, and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jessen in view of Cuppari and Nathan.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jessen in view of Cuppari and Nathan, applied above, further in view of Artz.

The full text of the examiner's rejections and response to the argument presented by appellants appears in the answer (Paper No. 9), while the complete statement of appellants' argument can be found in the brief (Paper No. 8).

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OPINION

In reaching our conclusion on the obviousness issues raised in this appeal, this panel of the board has carefully considered appellants' specification and claims, the applied patents²; and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determinations which follow.

We reverse each of the examiner's rejections of appellants' claims under 35 U.S.C. 103(a).

The contact lens storage compartment of Claim 1 comprises, *inter alia*, a main storage body compartment having a hinged top cover, and at least one additional lens storage compartment "exterior" to the main storage compartment.

Reading the language of claim 1 in light of the underlying disclosure, it is clear to this panel of the board that the claim

² In our evaluation of the applied patents, 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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addresses a contact lens storage compartment as a structural entity which comprises at least one additional storage compartment exterior or outside of its main storage body compartment, which main storage body compartment is coverable by the hinged top cover. This claimed contact lens storage compartment is, of course, clearly not simply two physically separate and distinct structural entities, one a storage body compartment and another a distinct additional storage compartment.³

We turn now to the teachings of Jessen, Cuppari, and Nathan, applied to claim 1.

Cuppari teaches two pairs of contact lens carriers or storage compartments 36, 38, 40, and 42, but these contact lens storage compartments are all interior of the main storage body compartment under the hinged and mirrored lid or cover 18.

Jessen teaches a temporary storage contact lens cleaning kit that includes one pair of contact lens storage cups 20 and caps

³ As an example, Cuppari and Nathan respectively evidence two separate and distinct storage compartment entities, not a contact lens storage compartment comprising a main storage body compartment and at least one additional lens storage compartment exterior to the main storage compartment, as set forth in claim 1.

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22 along with one or more bottles 18 of contact lens solutions (Figs. 1, 3, and 4) on a base 14. The base with the aforementioned components is stored within a storage box. Accordingly, Jessen reveals to us an absence of at least one additional lens storage compartment exterior of the storage box (main storage compartment), as now claimed.

Nathan (Fig. 10) is fairly viewed as simply teaching an arrangement of one pair of externally mounted lens cases.

Collectively assessed, it is at once apparent to us that the references described, supra, simply do not address and would not have been suggestive of the now claimed contact lens storage compartment having at least one additional lens storage compartment "exterior" to the covered main storage compartment. As to the disclosure of the Artz patent, it clearly does not overcome the deficiencies of the Jessen, Cuppari, and Nathan patents. Since the evidence of obviousness before us lacks a suggestion for the claimed invention, the rejections of appellants' claims are appropriately reversed.

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In summary, this panel of the board has:

reversed the rejection of claims 1 through 3, and 5 under 35 U.S.C. § 103(a) as being unpatentable over Jessen in view of Cuppari and Nathan; and

reversed the rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Jessen in view of Cuppari, Nathan, and Artz.

The decision of the examiner is reversed.

REVERSED

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IAN A. CALVERT)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
IRWIN CHARLES COHEN)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
WILLIAM F. PATE, III)	
Administrative Patent Judge)	

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