

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte ALI IBRAHIM FATTOM,
RAMESH K SOOD, and SARA E. SHEPHERD

Appeal No. 2002-1545
Application No. 08/949,757

ON BRIEF

Before ADAMS, MILLS, and GREEN, Administrative Patent Judges.

GREEN, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-6, 27, 31-39 and 42.¹ Claims 1 and 36 are representative of the subject matter on appeal, and read as follows:

1. An isolated Enterococcus faecalis antigen comprising 2-acetamido-2-deoxy-glucose, rhamnose, glucose and 2-acetamido-2-deoxy-

¹ Note that the claims were subject to an election of species, and the claims were examined to the extent they read on the species drawn to an Enterococcus faecalis antigen comprising rhamnose and acetamido-deoxyglucose in a 1:2 molar ratio. See Paper No. 13. Thus, this opinion reaches only the elected species.

galactose wherein 2-acetamido-2-deoxy-glucose and rhamnose are in a 1:2 molar ratio.

36. An isolated Enterococcus antigen selected from the group consisting of an E. faecalis antigen comprising 2-acetamido-2-deoxy-glucose, rhamnose, glucose and 2-acetamido-2-deoxy-galactose, wherein 2-acetamido-2-deoxy-glucose and rhamnose are in a 1:2 molar ratio, an E. faecalis antigen comprising a trisaccharide repeat which comprises a 6-deoxy sugar, and an E. faecium antigen comprising 2-acetamido-2-deoxy-galactose and galactose.

The examiner relies upon the following references:

Foster et al. (Foster)	4,444,879	Apr. 24, 1984
Hawke et al. (Hawke)	5,641,390	Jun. 24, 1997
Blake et al. (Blake)	5,866,135	Feb. 2, 1999

Wessman, "Chemical Composition and Immunological Specificity of Cell Wall Polysaccharide Group Antigens of Streptococcal Groups P and U," Infection and Immunity, Vol. 12, No.1, pp. 156-161 (1975)

Pritchard et al. (Pritchard), "Carbohydrate Fingerprints of Streptococcal Cells," Journal of Clinical Microbiology, Vol. 13, No. 1, pp.89-92 (1981)

Aluyi et al. (Aluyi), "Trimethylsilyl-sugar profiles of Streptococcus milleri and Streptococcus mitis," Journal of Applied Bacteriology, Vol. 54, pp. 391-397 (1983)

Moreau et al. (Moreau), "Application of high-resolution N.M.R. spectroscopy to the elucidation of the structure of the specific capsular polysaccharide of Streptococcus pneumoniae Type 7F," Carbohydrate Research, Vol. 182, pp. 79-99 (1988)

Dick, Jr., et al. (Dick), "Glycoconjugates of Bacterial Carbohydrate Antigens," Conjugate Vaccines, Vol. 10, pp. 48-114 (1989)

Kitada et al. (Kitada), "Immunochemical characterization of the carbohydrate antigens of serotype c/Lancefield group C 'Streptococcus milleri,'" Oral Microbiol Immunol., Vol. 8, pp.161-166 (1993)

Naso et al. (Naso), "Polysaccharide conjugate vaccines for the prevention of gram-positive bacterial infections," Adv. Exp. Med. Biol., Vol. 397, pp. 133-140 (1996)

Claims 1-6, 27, 31-39 and 42 stand rejected under 35 U.S.C. § 112, first paragraph, on the grounds that the specification fails to enable one to make and or use the invention commensurate in scope with the claims, and on the grounds that the specification fails to provide an adequate written description of the claimed subject matter.

Claims 1, 4, 27 and 35-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Wessman; as being anticipated by Moreau; as being anticipated by Prichard; and as being anticipated by Aluyi. In addition, claims 1, 4, 27 and 33-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kitada.

Claims 1-6 and 39 stand rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Kitada and Blake or Dick or Naso. Claims 1-6 and 39 also stand rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Aluyi or Pritchard or Moreau or Wessman and Blake or Dick or Naso. Finally, claims 31, 32 and 42 stand rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Aluyi or Pritchard or Moreau or Wessman or Kitada as combined with Blake, Hawke and Foster.

After careful review of the record and consideration of the issues before us, we reverse all of the rejections of record.

DISCUSSION

Rejections under 35 U.S.C. § 112 First Paragraph

Claims 1-6, 27, 31-39 and 42 stand rejected under 35 U.S.C. § 112, first paragraph, on two grounds: 1) that the specification fails to enable the full scope of the claimed subject matter; and 2) that the specification fails to provide adequate written description for the claimed invention.

We would like to initially note that the examiner addressed these two grounds of rejection together. They are, however, different and separate rejections, see Vas-Cath Inc. v. Mahurkar, 935 F.2d 1555, 1563-64, 19 USPQ2d 1111, 1116-17 (Fed. Cir. 1991), and require separate and different analyses. In the future, we recommend that if both rejections are appropriate based on the record, that they be made and analyzed separately. But given our disposition of the appeal, we do not find it necessary to remand the application to the examiner to perform that separate analysis.

According to the rejection:

Claims 1-6, 27, 31-32, 33-39 and 42 are rejected under 35 U.S.C. 112, first paragraph (scope), because the specification, while being enabling for the antigen produced by ATCC 202013, does not reasonably provide enablement for any antigen comprising the recited four sugars, having any type of chemical bonds, any orientation one to the other . [sic] The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

The specification fails to provide adequate written description for the claimed genus of carbohydrates from *Enterococcus* because it does not disclose representative species

described by structure, physical or chemical characteristics, function correlated with structure or a combination of these sufficient to establish that the applicant had possession of the claimed antigens. See the Interim Guidelines on Written Description, (Fed Reg , June 15, 1998, Volume 63, Number 114, pages 32639-32645).

Examiner's Answer, page 5.

The rejection acknowledges that the EFS1 was prepared from specific strains as set forth in the specification, but goes on to assert that the structure of the antigen is not taught, and thus the specification is not enabling for all the species of the four recited sugars in any antigenic configuration. The rejection notes that

[a] representative number of species have not been described by sufficient relevant identifying characteristics, such as function correlated with structural characteristics. Only a NMR spectra for the entire carbohydrate is provided and the specific bonds and orientation of the sugars one to another is not ascertainable from this information. The specification also teaches the presence of phosphates and other components but how the whole structure is put together is not disclosed therefore the specification does not provide written description of epitope components of the whole carbohydrate.

Id. at 6.

While the specification discloses three different antigens that are characteristic of different Enterococcal antigens, the rejection asserts that the carbohydrates appear to be distinct and not fragments of one another, and thus "significantly different corresponding proteins . . . work together for the

expression of significantly different carbohydrate antigens.” Id. The rejection concludes:

The specification does not describe all of the many combinations of sugars which comprise rhamnose, glucose, 2-acetamido-2-deoxy glucose and 2-acetamido-2-deoxy galactose, nor does it provide how these sugars are related one to another. The structural arrangement of the components of claimed carbohydrate antigen is not disclosed. The specification lacks any teaching with the [sic] respect to the manner in which the various sugars are compiled to define the surface antigen of Enterococcus. It is clear that the claimed carbohydrate antigen would react with the polyclonal antibodies which were induced to the deposited stain [sic] (whole cell antigen which comprised both protein and carbohydrate antigens) but it is not clear what the structural orientation of components are which make up the claimed carbohydrate and afford Enterococcus its unique carbohydrate characteristics. It is clear that the molar ratios of the various sugars of the carbohydrate antigens are taught by the instant invention, but how many, which sugars, the conformational changes would or could be changed to afford and produce the many claimed carbohydrate antigens is not clearly described and no guidance is provided as to how the various components are inter-related. The specification describes polyclonal antibodies which bind whole cell antigen of which the carbohydrate antigen is a part but not with which specific fragments they bind or with which conformational epitopes they bind are not taught. Further, the polyclonal antibodies are not a standardized reagent and therefore are not a recognized standard for defining the corresponding antigen. Therefore, the written description requirement [is] not satisfied over the full scope of the claims.

Id. at 6-7.

Turning first to the rejection under 35 U.S.C. § 112, first paragraph, scope of enablement, “[e]nablement requires that the specification teach those in the art to make and use the invention without ‘undue experimentation.’ That some experimentation may be required is not fatal; the issue is whether the amount of

experimentation required is not 'undue.'" In re Vaeck, 947 F.2d 488, 495, 20 USPQ2d 1438, 1444 (Fed. Cir. 1991) (citation omitted, emphasis in original). "Whether undue experimentation is needed is not a single, simple factual determination, but rather is a conclusion reached by weighing many factual considerations." In re Wands, 858 F.2d 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988). The factual considerations discussed in Wands are: (1) the quantity of experimentation necessary to practice the invention, (2) the amount of direction or guidance presented, (3) the presence or absence of working examples, (4) the nature of the invention, (5) the state of the prior art, (6) the relative skill of those in the art, (7) the predictability or unpredictability of the art, and (8) the breadth of the claims. Id.

At best, the examiner has focused upon one factor, the amount of direction or guidance presented, to the exclusion of the others. Thus, the examiner has failed to set forth a prima facie case that the specification fails to enable the full scope of the claims. Moreover, as noted by appellants:

The present specification provides the ATCC number for a deposited strain (ATCC 202013) which carries an antigen as claimed in present claim 1. The specification further provides, on page 17, details of cell fermentation, and on pages 18-20, a detailed description of how the fermented and harvested cells of this strain can be treated in order to extract the recited antigen. The specification then sets forth details of the steps used to isolate and purify the antigen. On pages 20 and 21, applicants provide the sugar composition of the isolated antigen, including the identity and molar ratio of four sugars contained in the antigen, and biochemical and H¹-NMR analyses of the antigen.

Revised Brief on Appeal, pages 8-9. The rejection, however, does not specifically address this guidance provided by the specification and why it fails to enable the antigen as claimed in claim 1. Therefore, the rejection under 35 U.S.C. § 112, first paragraph, on the grounds that the specification fails to enable the full scope of the claims, is reversed.

Turning next to the rejection under 35 U.S.C. § 112, first paragraph, lack of adequate written description, because the examiner failed to separate the rejection from the enablement rejection, it is unclear exactly what the position of the examiner is. To the best of our understanding, however, the examiner is concerned that the specification does not describe the structure of the claimed antigen.

In Enzo Biochem, Inc. v. Gen-Probe Inc., 296 F.3d 1316, 63 USPQ2d 1602 (Fed. Cir. 2002), the court adopted a portion of the Guidelines proffered by the United States Patent and Trademark Office (USPTO). The court stated that:

The written description requirement can be met by “showing that an invention is complete by disclosure of sufficiently detailed, relevant identifying characteristics . . . i.e., complete or partial structure, other physical and/or chemical properties, functional characteristics when coupled with a known or disclosed correlation between function and structure, or some combination of characteristics.

Enzo Biochem, 296 F.3d at 1324, 63 USPQ2d at 1613 (citations omitted).

In this case, as set forth above with respect to the enablement rejection, the specification provides, inter alia, the ATCC Number for the deposited strain, the method of isolating the antigen, the sugar composition of the isolated

antigen, including the identity and molar ratio of four sugars contained in the antigen, and biochemical and H¹-NMR analyses of the antigen. The examiner has not addressed why the partial structure combined with the deposited strain, method of isolation and the H¹-NMR analyses of the antigen is not sufficient to demonstrate that appellants were in possession of the claimed antigen. See Purdue Pharma L.P. v. Faulding Pharmaceutical Co., 230 F.3d 1320, 1323, 56 USPQ2d 1481, 1483 (Fed. Cir. 2000) (noting that the disclosure should convey to one skilled in the art that the inventor was had possession of the invention at the time of filing). Therefore, the rejection under 35 U.S.C. § 112, first paragraph, lack of written description, is also reversed.

Rejections under 35 U.S.C. § 102(b)

Claims 1, 4, 27 and 35-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Wessman.

According to the rejection, the claimed antigen is claimed as having a 2:1 molar ratio of rhamnose/N-acetylglucosamine isolated from Enterococcus asserting that the N-acetylglucosamine is analogous to 2-acetamido-2-deoxy glucose. The rejection contends that Enterococcus was formerly known as Streptococcus, and then states that:

Wessman discloses a Streptococcus strain which upon purification of the surface antigen resulted in a composition which contains rhamnose/N-acetylglucosamine (analogous to 2-acetamido-2-deoxy-glucose) in a 2:1 molar ratio, as well as contained glucose and 2-acetamido-2-deoxy-galactose (also known as galactosamine). Wessman discloses an antigen with the same

components in the same molar ratio, from a Streptococcal bacterium and therefore anticipates the now claimed invention.

Examiner's Answer, page 8.

Appellants acknowledge that Enterococcus was formerly known as Streptococcus, but that only Streptococcus having the group D antigen, i.e., Streptococcus D, were placed in the Enterococcus genus. Appellants cite Ruoff and Deibel to support their contention that Enterococcus differ significantly from the other groups of Streptococcus. See Revised Brief on Appeal, pages 12-13. According to Appellants, "[t]he antigens characterized in Wessman are the group antigens for P and U streptococci, respectively, while the presently claimed antigen is characteristic of a subgroup of clinical isolates of one species of Enterococcus, E. faecalis." Id. at 14 (emphasis in original).

The examiner acknowledges that Streptococcus and Enterococcus significantly differ, but contends that they are similar in sharing cross-reactive antigenic determinants. See Examiner's Answer, page 24. The examiner asserts that "[a]ny antigen that contains these sugars in the claimed amounts would read on the claimed antigen. The presence of cross reactive carbohydrate epitopes, despite genetic divergence between genera, defined shared carbohydrate antigens between different genera of bacteris." Id. at 25. The examiner also asserts that "[n]o side by side comparison has been provided. No evidence has been made of record to show that the antigen of the prior art does not induce

antibodies immunoreactive with EFS1 or does not react with antibodies induced to ATCC 202013.” Id. at 28.

We agree that the examiner has not established a prima facie case that Wessman describes every limitation of the claimed invention. See In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997) (stating that in order for a prior art reference to serve as an anticipatory reference, it must disclose every limitation of the claimed invention, either explicitly or inherently). The examiner acknowledges that Streptococcus and Enterococcus significantly differ, but contends that they are similar in sharing cross-reactive antigenic determinants. The rejection, however, provides no evidence to support that conclusory statement. See In re Lee, 277 F.3d 1338, 1343-44, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002) (in reviewing an obviousness rejection, the court noted that “conclusory statements” as to teaching, suggestion or motivation to arrive at the claimed invention “do not adequately address the issue.”).

In addition, we do not agree that the claims read on “any antigen that contains the sugars in the claimed amounts.” The claims are drawn to an isolated Enterococcus faecalis antigen, and in addition to containing the sugars in the claimed amounts, the antigen must be cross-reactive with antibodies raised to the antigen isolated from the deposited strain, as well as being

consistent with the H¹-NMR analyses of the antigen provided by the specification.

Therefore, the rejection of claims 1, 4, 27 and 35-38 under 35 U.S.C. § 102(b) as being anticipated by Wessman is reversed.

Claims 1, 4, 27 and 35-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Moreau.

According to the rejection:

The claims of the instant Application identify the antigen by a 2:1 molar ratio of rhamnose/N-acetylglucosamine (analogous to 2-acetamido-2-deoxy-glucose), the source of the claimed antigen is Enterococcus (formerly known as Streptococcus), and Moreau [] discloses a Streptococcus strain which upon purification of the surface antigen resulted in a composition which contains rhamnose/N-acetylglucosamine (analogous to 2-acetamido-2-deoxy-glucose in a 2:1 molar ratio, as well as comprised glucose and 2-acetamido-2-deoxy-galactose (also known as galactosamine). Moreau [] discloses an antigen with the same components in the same molar ratio, from a Streptococcal bacterium and therefore anticipates the now claimed invention.

Examiner's Answer, pages 8-9.

In addition to the arguments made with respect to the rejection over Wessman, Appellants argue that Moreau discloses an antigen obtained from Streptococcus pneumoniae type 7F, which is not a group D streptococcus. Appellants cite Hardie to demonstrate that S. pneumoniae is a viridans streptococcus, which is distinct from enterococci. Appellants also argue that Moreau does not disclose an antigen having an NMR spectrum as shown in Figure 1, as required by claim 37. See Revised Brief on Appeal, pages 13-14.

The examiner responds by arguing that “the claimed antigen is not required to be a Group D streptococcal antigen,” and that “[t]he claimed invention is not drawn to a lipoteichoic acid antigen but to a carbohydrate antigen.” Examiner’s Answer, page 28. The examiner concludes that “[a] side by side comparison has not been made of record to show that the antigen of the prior art does not induce antibodies immunoreactive with EFS1 or does not react with antibodies induced to ATCC 202013 (definitions of the claimed invention).” Id. at 29.

The rejection of claims 1, 4, 27 and 35-38 under 35 U.S.C. § 102(b) as being anticipated by Moreau is reversed for the same reasons set forth supra with respect to the rejection over Moreau. Moreover, because the examiner has not met the burden of establishing a prima facie case that the antigen of the prior art appears to be the same as the claimed antigen, appellants do not need to come forward with a side by side comparison to establish that the antigens are different. See In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

Claims 1, 4, 27 and 35-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Pritchard.

According to the rejection:

Pritchard [] discloses Streptococcus strains which upon purification of the surface antigen resulted in a composition which contains rhamnose/N-acetylglucosamine (analogous to 2-acetamido-2-deoxy-glucose) in a 2:1 molar ratio, as well as comprised glucose

and 2-acetamido-2-deoxy-galactose (also known as galactosamine). Pritchard [] discloses an antigen with the same components in the same molar ratio, from a Streptococcal bacterium and therefore anticipates the now claimed invention.

Examiner's Answer, pages 9-10.

Appellants argue that Pritchard disclose carbohydrate fingerprints of whole cells of Group A, B, C, D, F and G streptococci, which includes the group antigen and all the other carbohydrate type antigens. As such, appellants contend that Pritchard does not disclose an isolated antigen, and thus cannot anticipate the claimed invention, which requires an isolated invention. Revised Brief on Appeal, pages 15-16. We agree.

The examiner asserts that Pritchard "did isolate the carbohydrate prior to analysis of the antigen to determine the presence of the carbohydrate constituents present in each type of bacteria." Examiner's Answer, page 31. The examiner asserts further that "Pritchard anticipates the now claimed invention as no specific process steps, deposited strain, structural relationship between the components of the recited carbohydrate are incorporated into the claim," and that "Pritchard anticipates the claimed antigen, because the antigen of Pritchard is made up of the recited carbohydrates." Id. The examiner also contends that the claims do not exclude whole bacteria that comprise the recited antigen.

While the examiner asserts that Pritchard isolated the carbohydrate prior to analysis, we do not find that the reference supports that assertion. Pritchard

describes the analysis of the carbohydrates of whole cells of group A, B, C, D, F and G streptococci. See Pritchard, abstract. In the method described by the reference, the bacteria are grown on agar, a portion of which is transferred to a capillary tube and subject to centrifugation. Methanolic HCl is added to the tubes, which are then heated for 25 hours at 80°C. The sugars were derivatized and then analyzed using gas chromatography. See id. at 89-90. Table I reports the results of the gas chromatographic analysis. Thus, the cells are broken down to release the individual sugars, which can then be detected using gas chromatography, and there was no isolation of antigens comprising more than a single sugar.

We also do not agree with the examiners contention that the claims do not exclude whole bacteria that comprise the recited antigen. To read the claims in that manner would completely render completely moot the preamble of the claim, which recites “[a]n isolated Enterococcus faecalis antigen.” See In re Paulson, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994) (“[T]erms appearing in a preamble may be deemed limitations of a claim when they “give meaning to the claim and properly define the invention.””).

Claims 1, 4, 27 and 35-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Aluyi.

Aluyi, according to the rejection, describes the isolation of an antigen from *Streptococcus milleri*, wherein the antigen comprises a 1:2 ratio of 2-acetanido-

2-deoxy-glucose and rhamnose, and also comprises glucose and 2-acetamido-2-deoxy-glucose (galactosamine).

Appellants argue that Aluyi describes the chromatographic analysis of total sugar content for seventy strains of viridans streptococci, and thus do not describe an isolated antigen. Appellants argue further that Aluyi describes strains of viridans-group streptococci, which does not include the enterococci. See Appeal Brief, page 16. We agree.

The examiner responds by arguing that “the instantly claimed invention recites open language and would permit the presence of other sources of carbohydrate antigen.” Examiner’s Answer, page 32. The examiner asserts further that “[t]he antigen of Aluyi [] has the claimed sugars in the recited ratio and would inherently anticipate the claimed antigen.” Id.

Again, we do not agree with the examiner’s interpretation that the claim reads on the presence of other sources of carbohydrate antigen for the reasons set forth supra with respect to the rejection over Pritchard. In addition, as we stated with respect to the rejection over Wessman, the claims are drawn to an isolated Enterococcus faecalis antigen, and in addition to containing the sugars in the claimed amounts, the antigen must be cross-reactive with antibodies raised to the antigen isolated from the deposited strain, as well as being consistent with the H¹-NMR analyses of the antigen provided by the specification.

Finally, claims 1, 4, 27 and 33-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kitada.

According to the rejection, Kitada describes the isolation of an antigen from Group C streptococci, wherein the antigen comprises a 1:2 ratio of 2-acetanido-2-deoxy-glucose and rhamnose, and also comprises glucose and 2-acetamido-2-deoxy-glucose (galactosamine). The rejection concludes that “Yakushii [Kitada] [] discloses an antigen with the same components in the same molar ratio, from a Streptococcal bacterium and therefore anticipates the now claimed invention.” Examiner’s Answer, page 11.

Appellants reiterate their arguments with respect to Wessman, and the rejection of claims 1, 4, 27 and 33-38 under 35 U.S.C. § 102(b) as being anticipated by Kitada is reversed for reasons set forth supra with respect to that rejection.

Rejections, under 35 U.S.C. § 103(a)

Claims 1-6 and 39 stand rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Kitada and Blake or Dick or Naso.

Kitada is relied upon as above. As Blake and Dick and Naso are relied upon for teaching the conjugation of an antigen to a carrier, they fail to remedy the deficiencies of Kitada, and the rejection is reversed.

Claims 1-6 and 39 stand rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Aluyi or Pritchard or Moreau or Wessman as combined with Blake or Dick or Naso.

Again, Aluyi and Pritchard and Moreau and Wessman are relied upon as above, and Blake and Dick and Naso are relied upon for teaching the conjugation of an antigen to a carrier. Thus, again Blake and Dick and Naso fail to remedy the deficiencies of Aluyi and Pritchard and Moreau and Wessman, and the rejection is reversed.

Claims 31, 32 and 42 stand rejected under 35 U.S.C. § 103(a) as being obvious over the combination of Aluyi or Pritchard or Moreau or Wessman or Kitada as combined with Blake and Hawke and Foster.

Aluyi, Pritchard, Moreau, Wessman, Kitada and Blake are relied upon as set forth above. As Hawke and Foster are relied upon labeling an antigen and for immobilization of an antigen on a solid matrix, they fail to remedy the deficiencies of Aluyi, Pritchard, Moreau, Wessman, Kitada and Blake, and the rejection is reversed.

CONCLUSION

Because each of the rejections set forth in the Examiner's Answer fail to set forth a prima facie case of unpatentability, all of the rejections of record are reversed.

REVERSED

Donald E. Adams)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
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Administrative Patent Judge)	APPEALS AND
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