

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JACQUELINE DRECKSEL

Appeal No. 2005-1069
Application No. 10/061,137

ON BRIEF

Before KIMLIN, WARREN and OWENS, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-4 and 6-20, all the claims remaining in the present application. Claim 1 is illustrative:

1. An educational system, comprising:
 - a simulated collection area comprising an area configured to simulate a geographic locale where an item of interest naturally occurs;
 - a bulk collection material placed into said simulated collection area, said bulk collection material comprising a number of items of interest and a bulk material from which said items of interest may be extracted; and
 - a simulated preparation facility, said simulated preparation facility comprising an area configured to simulate a facility where said items of interest are prepared for use.

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The examiner relies upon the following references as evidence of obviousness:

Deaton	3,509,645	May 5, 1970
Smith (French patent application)	2,683,068	Apr. 30, 1993
Serge	5,941,712	Aug. 24, 1999

Appellant's claimed invention is directed to an educational system for simulating the discovery and preparation of fossils. The system comprises a simulated collection area that simulates a geographic locale containing an item of interest, e.g., a fossil, a bulk collection material comprising the item of interest that is placed into the simulated collection area, and a simulated preparation facility for preparing the item of interest for use.

Appealed claims 1-4, 6-10 and 12-16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Deaton in view of Serge. Claims 11 and 17-20 stand rejected under 35 U.S.C. § 103 as being unpatentable over the stated combination of references further in view of Smith.

Appellant submits at page 6 of the Brief that the following groups of claims stand or fall together: (I) claims 1-4 and 6; (II) claims 7-14; and (III) claims 15-20.

We have thoroughly reviewed each of appellant's arguments for patentability. However, we are in complete agreement with the examiner that the claimed subject matter would have been

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obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejections for the reasons set forth in the Answer, which we incorporate herein, and we add the following primarily for emphasis.

Deaton and Serge, like appellant, disclose a system comprising a simulated collection area for fossils for teaching the proper removal and preparation of the fossils. As explained by the examiner, the system of Deaton does not comprise the realistic background area of Serge which represents an archeological dig or geographic locale. However, like the examiner, we are convinced that it would have been obvious for one of ordinary skill in the art to incorporate the decorative features of Serge in the system of Deaton to enhance the realism of the teaching experience.

Appellant points out that Serge uses reconstituted soil that is capable of disassembly and reassembly, in contrast to Deaton who teaches the removal and mounting of the fossil-like material. Appellant contends, therefore, that modifying the multi-use reconstituted soil of Serge with the single-use Deaton article results in "changing the principle of operation of the system [of Serge]" (page 19 of Brief, penultimate sentence). However, we

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agree with the examiner that appellant's argument fails to address the thrust of the examiner's rejection. The examiner's rejection is based on the modification of Deaton such that it "is surrounded with a structure/area with a realistic look of an authentic stratigraphical section, as taught by Serge" (page 5 of Answer, first paragraph). The examiner explains that:

[I]t is not the Serge reference that is being modified but rather the Deaton reference and the addition of the features taught by Serge in no way effects [sic, affects] the functionality of Deaton but rather adds to the effect of Deaton by providing a more realistic, educational and interesting device [id.].

The other arguments presented by appellant have been adequately refuted by the examiner in the Answer.

Also, we find little, if any, meaningful distinction between the system of Deaton and the system within the scope of claim 1 on appeal. In our view, the figures of Deaton clearly depict a simulated collection area that simulates a geographic locale comprising fossils, while the matrix 20 of Deaton comprising the fossils 16 meets the claimed "bulk collection material" comprising the items of interest. As acknowledged by appellant, Deaton discloses removing or extracting the items of interest from the matrix, and the reference further teaches how the system allows for the student to "gently scrape the matrix material away therefrom to avoid damage to the fossil specimens 16" (column 2,

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lines 45-46). Wherever the student prepares the fossils qualifies as the broadly claimed "simulated preparation facility." We also note that Deaton expressly discloses that "[a] further object of this invention is to provide a paleontological and archeological educational article, which aids in the teaching of preparation techniques of fossils" (column 1, lines 30-32, emphasis added). As a point of emphasis, our conclusion that Deaton describes the educational system of appealed claim 1 is based on the fact that the recited "simulated collection area," "geographic locale," "bulk collection material," and "simulated preparation facility" are broadly defined with no specific structure or characteristics assigned thereto. Appellant has not explained any substantive distinction between the aforementioned recited terms and the components of the Deaton system.

As for separately rejected claims 11 and 17-20 over Deaton in view of Serge and Smith, appellant relies only upon the arguments advanced for the claims upon which claims 11 and 17-20 depend. Hence, appellant has not set forth a separate substantive argument for the features of claims 11 and 17-20.

As a final point, we note that appellant bases no argument upon objective evidence of nonobviousness, such as unexpected

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results, which would serve to rebut the inference of obviousness established by the prior art cited by the examiner.

In conclusion, based on the foregoing and the reasons well-stated by the examiner, the examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (effective Sep. 13, 2004; 69 Fed. Reg. 49960 (Aug. 12, 2004); 1286 Off. Gaz. Pat. Office 21 (Sep. 7, 2004)).

AFFIRMED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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CHARLES F. WARREN)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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