

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALBERT A. ANSALDO

Appeal No. 2005-2316
Application No. 10/685,151

ON BRIEF

Before GARRIS, TIMM, and JEFFREY T. SMITH, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal which involves claims 4, 5, and 7-18.

The subject matter on appeal relates to a game feeder. With reference to the appellant's drawing, the game feeder 10 comprises a collapsible feed storage container 20 (having an outlet 26) formed from a plurality of panels that can be disassembled from one another, a feed dispenser 40 attachable at the outlet of the feed storage container and a support structure 30 detachably supporting the feed storage container above the ground and having a foot

Appeal No. 2005-2316
Application No. 10/685,151

platform 33 and detachable legs. This appealed subject matter is adequately represented by independent claims 7 and 10 which read as follows:

7. A game feeder comprising:
a collapsible feed storage container having an outlet, formed from a plurality of panels that can be disassembled from one another;
a feed dispenser attachable at the outlet of the feed storage container; and
a support structure detachably supporting the feed storage container above the ground and having;
(a) a foot platform; and
(b) detachable legs.

10. A game feeder comprising:
a feed storage container having an outlet;
a feed dispenser attachable at the outlet of the feed storage container; and
a support structure detachably supporting the feed storage container above the ground and having;
(a) feeder brackets removably attachable to the feed storage container;
(b) a foot platform;
(c) a ladder extension removably attachable to the feeder brackets, supporting the foot platform and feed storage container; and
(d) at least one leg removably attachable to the feeder brackets and supporting the feed storage container.

The references set forth below are relied upon by the Examiner as evidence of obviousness:

Lehman et al. (Lehman)	3,195,508	July 20, 1965
Stonestreet et al. (Stonestreet)	4,324,202	Apr. 13, 1982
Tousignant et al. (Tousignant)	4,997,284	Mar. 5, 1991

Appeal No. 2005-2316
Application No. 10/685,151

Claims 4, 5, and 7-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lehman in view of Stonestreet and Tousignant.

Claims 10, 12-15 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lehman in view of Tousignant, and claims 11, 16 and 18 are correspondingly rejected over these references in further in view of Stonestreet.

As indicated on page 4 of the brief, the appealed claims have been grouped by the appellant in accordance with their claim groupings in the above noted rejections. Therefore, the claims in each of these respective groupings will stand or fall together.

We refer to the brief and to the answer (as well as the final Office action mailed August 25, 2004 which is referred to on page 3 of the answer) for a complete exposition of the contrary viewpoints expressed by the appellant and by the Examiner concerning these rejections.

OPINION

For the reasons expressed by the Examiner and below, we will sustain each of the rejections before us on this appeal.

As an initial matter, we note that the appellant makes the unembellished statement "Tousignant ... is drawn from a different field of art" (Brief, page 6). It is questionable whether this

Appeal No. 2005-2316
Application No. 10/685,151

statement qualifies as an argument due to its lack of specificity. In any event, if the appellant's statement is meant to assert that the Tousignant reference is from a nonanalogous art, we cannot agree.

This prior art reference is analogous at least because it is reasonably pertinent to the particular problem (i.e., mounting and accessing a container structure at a height substantially above ground level) with which the appellant/inventor was involved. See In re Clay, 966 F.2d 656, 658-59, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

As for the rejections formulated by the Examiner, the appellant does not dispute with any reasonable specificity the Examiner's determination as to the manner in which the appealed claims distinguish from the Lehman reference. Rather, it is the appellant's basic argument that each of the Examiner's rejections is improper because the applied references contain no teaching or suggestion for combining the reference disclosures in the manner proposed by the Examiner. We cannot agree.

On pages 3-6 of the answer, the Examiner has presented a detailed exposition of the teachings, suggestions and motivations which would have led an artisan to combine the applied references in such a manner as to yield the appellant's claimed subject

Appeal No. 2005-2316
Application No. 10/685,151

matter. We perceive convincing merit in this exposition. For example, as correctly indicated by the Examiner, an artisan would have been motivated to form Lehman's feed storage container from a plurality of panels that can be disassembled from one another so as to render the container collapsible in view of Stonestreet's teachings of a feed container having these features and the advantages associated therewith (e.g., see lines 36-44 in column 3 of Stonestreet). Similarly, the artisan would have been motivated to provide Lehman's support structure with a ladder extension and foot platform in order to render the feed container easily and safely accessible in accordance with the teachings of Tousignant (e.g., see lines 54-61 in column 3 and lines 37-50 in column 5).

In light of the foregoing and for the reasons expressed in the answer as well as the final Office action, it is our ultimate determination that the reference evidence adduced by the Examiner establishes a prima facie case of obviousness which the appellant has failed to successfully rebut with argument or evidence of nonobviousness. We hereby sustain, therefore, the Examiner's § 103 rejections of claims 4, 5, and 7-9 as being unpatentable over Lehman in view of Stonestreet and Tousignant, of claims 10, 12-15 and 17 as being unpatentable over Lehman in view of Tousignant,

Appeal No. 2005-2316
Application No. 10/685,151

and of claims 11, 16 and 18 as being unpatentable over Lehman, Tousignant and Stonestreet. See In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

The decision of the Examiner is affirmed.

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

BRADLEY R. GARRIS)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
CATHERINE TIMM)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
JEFFREY T. SMITH)	
Administrative Patent Judge)	

BRG/jrg

Appeal No. 2005-2316
Application No. 10/685,151

Thomas S. Birney, Esq.
Dorr, Carson, Sloan & Birney, P.C.
3010 East 6th Avenue
Denver, CO 80206