

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* JAMES W. GIBSON

---

Appeal 2006-2397  
Application 10/299,645  
Technology Center 3600

---

Decided: December 28, 2006

---

Before CHARLES E. FRANKFORT, MURRIEL E. CRAWFORD  
and LINDA E. HORNER, *Administrative Patent Judges*.  
HORNER, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 USC § 134(a) from the examiner's final rejection of claims 1-21, 24-32, and 35. Claim 33 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 22, 23, 34, and 36-38 have been canceled.

We REVERSE.

## BACKGROUND

The appellant's invention relates to a fishing lure. Claim 1, reproduced below, is representative of the subject matter on appeal. A copy of all of the claims can be found in the appendix to the appellant's brief.

1. A fishing lure comprising:
  - a spoon-shaped body having a forward end and a rear end;
  - the spoon-shaped body having a convex upper surface;
  - a hook extending rearwardly from the rear end of the spoon-shaped body; the hook being rigidly and non-pivotably connected to the spoon-shaped body; and
  - a shank extending loosely through the spoon-shaped body; the shank having a longitudinal axis; the shank having an upper end and a lower end; the spoon-shaped body being disposed between the upper and lower ends of the shank with the upper end of the shank being disposed above the convex upper surface of the body and the lower end of the shank being disposed below the spoon-shaped body such that the spoon-shaped body nutates with respect to the longitudinal axis of the shank when the spoon-shaped body is pulled through the water by the upper end of the shank.

The examiner relies upon the following as evidence of unpatentability:

Toepper	1,888,641	Nov. 22, 1932
Wright	1,978,875	Oct. 30, 1934
Farley	2,589,932	Mar. 18, 1952
Gibbs	2,700,240	Jan. 25, 1955
Rabideau	3,918,192	Nov. 11, 1975

Appeal 2006-2397  
Application 10/299,645

Bleam	4,962,610	Oct. 16, 1990
Firmin	5,058,309	Oct. 22, 1991
McGahee	5,070,640	Dec. 10, 1991
Johnson	6,266,914	Jul. 31, 2001
Bailey	6,374,535	Apr. 23, 2002

The following rejections are before us for review.

1. Claims 1, 4, 5, 11, and 35 stand rejected under 35 USC § 102(b) as being anticipated by Gibbs.
2. Claims 24, 26, and 27 stand rejected under 35 USC § 102(b) as being anticipated by McGahee.
3. Claims 2, 3, 10, 12, and 13 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Toepper.
4. Claim 6 stands rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Farley.
5. Claims 7 and 8 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Johnson.
6. Claim 9 stands rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Firmin or Bailey.
7. Claims 14 and 15 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Wright and Bleam.
8. Claims 16-21 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of McGahee.
9. Claim 25 stands rejected under 35 USC § 103(a) as being unpatentable over McGahee in view of Gibbs.

Appeal 2006-2397  
Application 10/299,645

10. Claims 28 and 29 stand rejected under 35 USC § 103(a) as being unpatentable over McGahee in view of Rabideau.
11. Claims 30-32 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Wright, Rabideau and McGahee.

Rather than reiterate in detail the conflicting viewpoints advanced by the examiner and the appellant regarding this appeal, we make reference to the examiner's answer (mailed March 16, 2006) for the examiner's complete reasoning in support of the rejections and to the appellant's brief (filed January 26, 2006)<sup>1</sup> and reply brief (filed August 25, 2005) for the appellant's arguments.

#### OPINION

In reaching our decision in this appeal, we have carefully considered the appellant's specification and claims, the applied prior art, and the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations that follow.

---

<sup>1</sup> The appellants filed an Appeal Brief on September 13, 2004, and subsequently, the examiner reopened prosecution. *See* Non-Final Office Action, mailed November 2, 2004. The appellant elected to reopen prosecution and filed another Appeal Brief on April 7, 2005; however, the Board found the brief to be defective, returned the application to the examiner, and ordered the appellant to file a Substitute Appeal Brief in compliance with 37 C.F.R. § 41.37. *See* Order Returning Undocketed Appeal to Examiner, mailed November 4, 2005. The appellants filed a Supplemental Appeal Brief on January 26, 2006. We refer to this Supplemental Appeal Brief throughout this opinion as the appellant's brief.

CLAIMS 1, 4, 5, 11 AND 35

Claims 1, 4, 5, 11, and 35 stand rejected under 35 USC § 102(b) as being anticipated by Gibbs.

With regard to independent claims 1, 5, and 11, the appellant argues, *inter alia*, that the Gibbs weed guard does not extend loosely through the spoon-shaped body such that the body nutates with respect to the longitudinal axis of the shank (Brief, pp. 15, 17).

The examiner responds by noting that because the shank (20) of Gibbs is a long resilient wire, even though the portion of the wire secured to the spoon-shaped body by the screw (27) is not capable of movement, this does not mean that the free end (23) of the shank and the intermediate portion (22), which extends through an opening (4) in the spoon-shaped body, are not capable of movement with respect to the spoon-shaped body. Answer, p. 18.

With regard to claims 1, 5, and 11, we agree with the appellant's position that the Gibbs weed guard does not extend loosely through the spoon-shaped body such that the body nutates with respect to the longitudinal axis of the shank. Gibbs discloses that the second arm (24) of the weed guard (20) is conformed to and overlies the convex surface of the head (1) and terminates in a loop (26) which is secured in place by a screw (27) into the body portion (6) of the plug. Gibbs, col. 2, lines 32–37. As such, although the twisted portion (22) of the weed guard (2) is described as passing loosely through and being engaged in the aperture (4) formed in the actuator head (1) (col. 2, lines 25-29), we do not see how the body (6) would be capable of nutating – moving in an oscillatory manner – with respect to a

Appeal 2006-2397  
Application 10/299,645

longitudinal axis of the weed guard (20) as the lure of Gibbs is pulled through the water. Rather, Gibbs describes that the arm (23) has its free end in alignment with and normally juxtaposed to the barb or tip (13) of the fish hook (12) to serve as a weed guard. Gibbs, col. 2, lines 29-32. The disclosure thus implies that the body (6), to which the fish hook (12) is attached, does not nutate with respect to the free end or longitudinal axis of arm (23) of the weed guard (20) of Gibbs.

Further, with regard to claim 5, the appellant also argues that the Gibbs thread (17) that is used to attach the feather (16) to the hook shaft (14) does not have an exposed tip that is adapted to retain artificial bait and is not disposed “alongside” a portion of the hook, as required in claim 5. Brief, p. 29. The examiner responds that the wire (17) has its entire portion exposed to air or water depending on whether it is being used, that it secures artificial bait (16) to the spoon-shaped body, and that it is alongside or adjacent to the hook because it is wrapped about the hook. Answer, p. 19.

We find that the thread (17) of Gibbs is not a retaining wire with an exposed tip that is adapted to retain artificial bait. Rather, the thread (17) of Gibbs appears to be wrapped around hook shaft (14) to attach a feather (16) to the shaft. Gibbs, Figure 1 and col. 2, lines 19-22. The feather (16) is not retained on the hook shaft (14) by any exposed tip of a retaining wire.

Accordingly, we do not sustain the examiner’s rejection of claims 1, 4, 5, 11, and 35 under 35 USC § 102(b) as being anticipated by Gibbs.

CLAIMS 24, 26, AND 27

Claims 24, 26, and 27 stand rejected under 35 USC § 102(b) as being anticipated by McGahee.

With respect to independent claim 24, the appellant argues that the shank (3) of the McGahee hook cannot meet the limitation of a “loose shank” and also have the hook “fixed” as required by the claim, and the McGahee body is not tilted immediately in front of or behind any opening in the body and does not have a concave depression formed immediately in front of the opening in the body. Brief, p. 19.

The examiner admits in the answer that “after the hook is secured to the lure body it does not move or pivot with respect to the lure body during use given the tight fit of the shank portion in the front and rear holes of the lure body – at 8 as seen in figure 14.” Answer, p. 21. Given this admission that the shank portion of the hook is tightly fitted to the lure body, we fail to see how the shank (3) of the hook of McGahee can extend “loosely through the spoon-shaped body” as required by claim 24. As such, we find that this element is not found in the lure of McGahee.

We further find that the body of McGahee is not “tilted upward immediately behind the opening” and “tilted downward immediately in front of the opening to form a concave depression immediately in front of the opening such that the curve of the body is non-continuous at the opening,” as required by claim 24. First, we find that the front of the body (8) of McGahee is located at the bent up portion (4). As such, the bent up portion (4) of the body of McGahee tilts upwardly, rather than

Appeal 2006-2397  
Application 10/299,645

downwardly as claimed, immediately in front of the opening. Second, the curve of the spoon body (8) of McGahee appears to be continuous, rather than non-continuous, at the opening. McGahee, Figure 1. As such, we find that the recitation relating to the tilted, non-continuous body portion about the opening is not found in the lure of McGahee. Accordingly, we do not sustain the examiner's rejection of independent claim 24, or its dependent claims 26 and 27, under 35 USC § 102(b) as being anticipated by McGahee.

#### CLAIMS 2, 3, 10, 12, AND 13

Claims 2, 3, 10, 12, and 13 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Toepper. These claims all depend directly or indirectly from claim 1.

The appellant argues that the combination of Gibbs and Toepper does not include all of the claims limitations required for establishing a prima facie case of obviousness. Brief, p. 20. The appellant points to the deficiencies in Gibbs highlighted in his treatment of claim 1 and states that the examiner relies on Toepper to teach only the elements recited in the dependent claims. Brief, p. 20.

We find that Toepper does not cure the deficiencies of Gibbs. The lure of Toepper, as with the lure of Gibbs, does not have a shank "extending loosely" through the spoon-shaped body such that "the spoon-shaped body nutates with respect to the longitudinal axis of the shank" when the body is pulled through the water, as required by claim 1. Rather, Toepper has a weed guard (12) that is secured to the underside of a forwardly extending inclined portion (3) of the spoon

Appeal 2006-2397  
Application 10/299,645

(1) by means of an eyelet (4). Toepper, page 1, lines 81-86. As with Gibbs, because one end of the weed guard (12) of Toepper is fixedly attached to the spoon body (1), the spoon body (1) will not be capable of nutating with respect to the longitudinal axis of the weed guard (12) as the lure is pulled through the water. Because the combination of the teachings of Gibbs and Toepper does not render claim 1 obvious, dependent claims 2, 3, 10, 12, and 13 are also patentable. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) (If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim dependent therefrom is nonobvious).

#### CLAIM 6

Claim 6 stands rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Farley. Claim 6 depends from claim 5 and further recites that the retaining wire has an upwardly disposed tip.

The appellant argues that the combination of Gibbs and Farley does not include all of the claims limitations required for establishing a prima facie case of obviousness. Brief, p. 21. The appellant points to the deficiencies in Gibbs highlighted in his treatment of claim 5 and states that the examiner relies on Farley to teach only the elements recited in dependent claim 6. Brief, p. 21.

We find that Farley does not cure the deficiencies of Gibbs. Rather, the lure of Farley, as with the lure of Gibbs, does not have a shank “extending loosely” through the spoon-shaped body such that the body is capable of nutating “with respect to the longitudinal axis of the shank” when the body is pulled through the

Appeal 2006-2397  
Application 10/299,645

water, as required by claim 5. Farley discloses a lure having a body (1) with a slot (10) provided about midway along its length and width and a guard member (11) extending through the slot (10). Farley, col. 3, lines 11-15. The guard member (11) is retained over the eye (8) of the fish hook and its attaching hook (7) to prevent accidental detachment of the eye and hook. Farley, col. 3, lines 21-27. The guard member (11) is locked in place by locking hook (15) over the bait body in its normal operative position to prevent longitudinal movement of the member (11) relative to the bait body. Farley, col. 3, lines 43-55. It is only when the user is changing the hook when the lure is removed from the water that the guard member (11) is allowed to be unhooked and pivoted relative to the body (1) to allow for removal and replacement of the hook. Farley, col. 3, lines 55-65. Because the combination of the teachings of Gibbs and Farley does not render claim 5 obvious, dependent claim 6 is also patentable. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596. Accordingly, we do not sustain the examiner's rejection of claim 6 under 35 USC § 103(a) as being unpatentable over Gibbs in view of Farley.

#### CLAIMS 7 AND 8

Claims 7 and 8 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Johnson. Claims 7 and 8 depend directly and indirectly from claim 1.

The appellant argues that the combination of Gibbs and Johnson does not include all of the claims limitations required for establishing a prima facie case of

obviousness. Brief, pp. 21-22. The appellant points to the deficiencies in Gibbs highlighted in his treatment of claim 1 and states that the examiner relies on Johnson to teach only the elements recited in dependent claims 7 and 8. Brief, pp. 21-22.

We find that Johnson does not cure the deficiencies of Gibbs. The examiner found that the spinner (32A of Figure 2 or 62 of Figure 4) of Johnson is the spoon-shaped body. We disagree. Claim 1 recites that a hook extends rearwardly from the rear end of, and is rigidly and non-pivotably connected to, the spoon-shaped body. In Johnson, the hook is not rigidly and non-pivotably connected to the spinner (32A or 62). Rather, the hook (20, 68) of Johnson extends rearwardly from the body (18A, 58). Johnson, col. 6, line 1. As such, the examiner's shank (16A, 54) does not extend "loosely" through the body (18A, 58), and thus the lure of Johnson is not capable of allowing a spoon-shaped body to nutate "with respect to the longitudinal axis of the shank" when the body is pulled through the water, as required by claim 1. Because the combination of the teachings of Gibbs and Johnson does not render claim 1 obvious, dependent claims 7 and 8 are also patentable. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596. Accordingly, we do not sustain the examiner's rejection of claims 7 and 8 under 35 USC § 103(a) as unpatentable over Gibbs in view of Johnson.

#### CLAIM 9

Claim 9 stands rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Firmin or Bailey. Claim 9 depends from 1 and further recites a

Appeal 2006-2397  
Application 10/299,645

conical bead disposed between the lower end of the shank and the spoon-shaped body.

The appellant argues that the combination of Gibbs and Firmin or Bailey does not include all of the claims limitations required for establishing a prima facie case of obviousness. Brief, p. 22. The appellant points to the deficiencies in Gibbs highlighted in his treatment of claim 1 and states that the examiner relies on Firmin and Bailey to teach only the elements recited in dependent claim 9. Brief, p. 22.

We find that neither Firmin nor Bailey cure the deficiencies of Gibbs. Rather, the lures of Firmin and Bailey, as with the lure of Gibbs, do not have a shank “extending loosely” through the spoon-shaped body, and thus neither are capable of allowing a spoon-shaped body to nutate “with respect to the longitudinal axis of the shank” when the body is pulled through the water, as required by claim 1. Firmin discloses a steerable fishing lure (1) having a rudder mechanism (16). Firmin does not disclose any shank loosely extending through the rudder mechanism (16) that allows the rudder mechanism (16) to nutate with respect to the shank. Similarly, Bailey discloses a solid body member (1) with a rear tail hook (102) and a spinner blade (201) attached. The body member (1) of Bailey, however, does not include a shank loosely extending through the body. Because the combination of the teachings of Gibbs and Firmin or Bailey does not render claim 1 obvious, dependent claim 9 is also patentable. *See In re Fine*, 837 F.2d 1071, 5 USQP2d 1596.

CLAIMS 14 AND 15

Claims 14 and 15 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Wright and Bleam. Independent claim 14, similar to claim 1, recites a fishing lure comprising, *inter alia*, “a shank extending loosely through the spoon-shaped body” and “the body nutating about the longitudinal axis of the shank when the lure is pulled through the water by the upper end of the shank.”

With regard to claim 14, the appellant reiterates the differences between the claimed structure and the Gibbs hook, body, and shank, as argued with respect to claim 1. Brief, p. 23. The appellant further argues that Wright does not cure the deficiencies of Gibbs and that there would have been no motivation to combine the teachings of Gibbs and Bleam as suggested by the examiner, because the “shank” of Gibbs is a weed guard, and were that shank modified using the straight shank of Bleam, the modified shank would pull itself through the body and thus not act as a weed guard. Brief, p. 25.

For the same reasons provided *supra* with regard to claim 1, we find that Gibbs does not teach or suggest a shank extending loosely through the spoon-shaped body such that the body nutates about the longitudinal axis of the shank when the lure is pulled through the water. We further find that neither Wright nor Bleam cure the deficiencies of Gibbs. Wright teaches a fishing lure (10) having a body (11) with a cup-shaped head (12) (page 1, line 35-40). The body (11) has a tail (15) and a hook (17), which is attached to an eye (16) on the underside of the body (11) (page 1, lines 46-50). A hollow fin (19) is secured to the upper side of

the body (10) (page 1, lines 51-53), and a tail member (22) is attached to the fin (19) (page 1, lines 59-64). Wright does not disclose any shank loosely extending through the body (11) that allows the body (11) to nutate with respect to the shank.

Bleam discloses a body (12) with a short wire (36) that projects through a slot on the body (22). At one end of the short wire (36) is a metal clapper (44) and at the other end of the wire (36) is a bent wire (30) that is used to attach the fish hook (28) to the body (12). We see no motivation, teaching, or suggestion, from the combined teachings of Gibbs, Wright, and Bleam that would have led one of ordinary skill in the art to have modified the weed guard of Gibbs to make it a straight wire freely extending through a slot in the body, as taught by Bleam. The straight wire (36) of Bleam is used to connect the metal clapper (44) on one side of the body (12) and a hook (28) on the other side of the body (12). Bleam, col. 3, lines 1-11. There is no teaching or suggestion in Bleam that this wire (36) could be used as a weed guard, and, as argued by the appellant, if the wire (36) were used in place of the weed guard (20) of Gibbs, it would slide through the opening (4) in the body (6) of Gibbs and would not protect the hook portion (13) from engagement with weeds. We find no motivation to replace the weed guard (20) of Gibbs with the short wire (36) of Bleam absent the appellant's own specification as a guide. As such, we find that the combination of the teachings of Gibbs and Wright and Bleam does not render claim 14, or its dependent claim 15, obvious. Accordingly, we do not sustain the examiner's rejection of claims 14 and 15 under 35 USC § 103(a) as unpatentable over Gibbs in view of Wright and Bleam.

CLAIMS 16-21

Claims 16-21 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of McGahee. The examiner found that Gibbs discloses every element of independent claim 16 except for: (1) the rear end of the spoon-shaped body being disposed between the jig hook eye and the hook shank; and (2) the hook eye defining an opening that is accessible to the user for attaching a line such that the lure may be fished in a vertical jigging manner. Answer, p. 12. The examiner relied on McGahee for the teaching of these claim elements and found that it would have been obvious to one of ordinary skill in the art to take the device of Gibbs and add the rear end of the body being disposed between the hook eye and the hook shank, as taught by McGahee, so as to allow for the hook to be securely held to the lure body. Answer, p. 12.

With respect to claim 16, the appellant argues, *inter alia*, that it is the front end, and not the rear end, of the body of McGahee that is disposed between the hook eye and the hook shank. Brief, p. 28. We agree. As discussed *supra* in our treatment of claim 24, we find that the front of the body (8) of McGahee is located at the bent up portion (4). As such, it is the front end of body (8) of McGahee that is disposed between the hook eye (2) and the hook shank (3).

Thus, neither McGahee nor Gibbs teach or suggest having a rear end of a spoon-shaped body disposed between a hook eye and a hook shank, as recited in claim 16. As such, the combined teachings of these references would not have led one having ordinary skill in the art at the time of the invention to the lure as recited in claim 16. Accordingly, we do not sustain the examiner's rejection of claim 16,

Appeal 2006-2397  
Application 10/299,645

and dependent claims 17-21, under 35 USC § 103(a) as unpatentable over Gibbs in view of McGahee.

#### CLAIM 25

Claim 25 stands rejected under 35 USC § 103(a) as being unpatentable over McGahee in view of Gibbs. The appellant relies on the arguments presented for claim 24, from which claim 25 depends, and further argues that the addition of Gibbs does not render claim 25 obvious. Brief, p. 29. We have found, as explained *supra*, that McGahee does not teach or suggest “the body being tilted upwardly immediately behind the opening and the body being tilted downward immediately in front of the opening to form a concave depression immediately in front of the opening such that the curve of the body is non-continuous at the opening” as recited in claim 24. Gibbs does not cure this deficiency, because the curve of the actuator head (1) of Gibbs at the opening (4) is continuous, and there is no concave depression formed immediately in front of the opening. See Gibbs, Figure 2. As such, the combined teachings of Gibbs and McGahee would not have led one of ordinary skill in the art to the invention as recited in claim 24. Accordingly, we find that claim 25, which depends from claim 24, is patentable over the combination of these two references, and thus, we do not sustain the examiner’s rejection of claim 25 under 35 USC § 103(a) as unpatentable over McGahee in view of Gibbs.

CLAIMS 28 AND 29

Claims 28 and 29 stand rejected under 35 USC § 103(a) as being unpatentable over McGahee in view of Rabideau.

With respect to claim 28, which depends from claim 24, the appellants argue that the addition of Rabideau to McGahee does not cure the deficiencies of McGahee, as noted in the appellant's arguments as to claim 24. Brief, p. 29. Specifically, the appellant argues that neither McGahee nor Rabideau disclose, teach, or suggest a spoon-shaped body having the loose shank with the tilted body portions disposed on opposite sides of the shank openings. Brief, p. 30.

We agree with the appellants that Rabideau does not cure the deficiencies of McGahee. Specifically, we found *supra* with respect to claim 24 that McGahee does not disclose a shank extending loosely through the spoon-shaped body and does not disclose the body being tilted as claimed such that the curve of the body is non-continuous at the shank opening. We find that Rabideau also does not disclose the claimed shank or tilted, non-continuous body portion. Rather, Rabideau discloses a fishing lure made of a bead chain with a spinner mounted thereon and a double-hooked weighted body portion with a streamer. Rabideau, abstract. The double-hooked weighted body portion (36) does not have an opening with a shank extending loosely through it. As such, neither McGahee nor Rabideau, teach or suggest a lure as recited in claim 24. Accordingly, we find that one having ordinary skill in the art at the time of the invention, possessed with the teachings of McGahee and Rabideau, would not have been led to the invention of claim 24, or its dependent claim 28.

Appeal 2006-2397  
Application 10/299,645

With regard to independent claim 29, we note that this claim recites the same limitations as claim 24 of “a shank extending loosely through the spoon-shaped body” and a body having an opening that receives the shank and that is non-continuous at the opening. For the same reasons provided for in our treatment of claims 24 and 28, we find that the combination of the teachings of McGahee and Rabideau would not have taught or suggested the invention of claim 29 to one having ordinary skill in the art at the time the invention was made.

Accordingly, we do not sustain the examiner’s rejection of claims 28 and 29 under 35 USC § 103(a) as unpatentable over McGahee in view of the Rabideau.

#### CLAIMS 30-32

Claims 30-32 stand rejected under 35 USC § 103(a) as being unpatentable over Gibbs in view of Wright, Rabideau and McGahee.

With regard to independent claim 30, the appellant incorporates by reference the arguments made as to the differences between Gibbs and the claimed body and shank limitations, and the differences between the combined Gibbs and McGahee teachings and the recited hook structure as argued with respect to claim 16. Brief, p. 32. The appellant contends that the combination of references does not include the claim limitations recited in claim 30.

Claim 30, as with claims 1, 5, 11, 14, and 24, recites “a shank extending loosely through the spoon-shaped body” such that the spoon-shaped body is able to nutate with respect to the longitudinal axis of the shank. As we have found *supra*, neither Gibbs nor McGahee nor Rabideau nor Wright teach or suggest the claimed

Appeal 2006-2397  
Application 10/299,645

shank. As such, we find that one having ordinary skill in the art, possessed with the combined teachings of Gibbs, McGahee, Wright, and Rabideau, would not have been led to the invention of claim 30 of a fishing lure having a shank extending loosely through the spoon-shaped body such that the body nutates with respect to the shank. Accordingly, we do not sustain the examiner's rejection of claims 30-32 under 35 USC § 103(a).

CONCLUSION

To summarize, the examiner's rejections of claims 1-21, 24-32, and 35 are not sustained.

REVERSED.

	)	
CHARLES E. FRANKFORT	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
MURRIEL E. CRAWFORD	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
LINDA E. HORNER	)	
Administrative Patent Judge	)	

Appeal 2006-2397  
Application 10/299,645

Fred Zollinger, III  
P.O. Box 2368  
North Canton, OH 44720