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3 UNITED STATES PATENT AND TRADEMARK OFFICE  
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6 BEFORE THE BOARD OF PATENT APPEALS  
7 AND INTERFERENCES  
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10 *Ex parte* ALBERT WEISS  
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13 Appeal No. 2007-0872  
14 Application No. 10/159,762  
15 Technology Center 3600  
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18 Decided: November 6, 2007  
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22 Before WILLIAM. F. PATE, III, HUBERT C. LORIN, and LINDA E. HORNER,  
23 *Administrative Patent Judges.*

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25 PATE, III, *Administrative Patent Judge.*  
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27

28 DECISION ON APPEAL  
29

30 This is an appeal from the final rejection of claims 21, 24-29, and 31-40.  
31 These are the only claims remaining in the application. We have jurisdiction under  
32 35 U.S.C. §§ 134 and 6.

33 The claimed invention is directed to a roller blind and a roller blind web.  
34 The web is woven with a plurality of tubular pockets integrally formed therein.  
35 The pockets can be used at the edge of the web in place of a hem to accept guide

1 rods that guide the edges of the web when opening and closing the roller blind.

2 Claim 21, reproduced below, is further illustrative of the claimed subject matter.

3 21. A roller blind for alternately covering and uncovering an area, the  
4 roller blind comprising a woven or knitted web, the woven or knitted web  
5 defining a single layer of fabric having a first plurality of tubular pockets  
6 woven or knitted into the fabric, each of said tubular pockets extending in a  
7 warp direction, each of said tubular pockets adapted for receiving a guide  
8 member for guiding movement of said web when alternately covering and  
9 uncovering the area.

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11 The references of record relied upon by the Examiner as evidence of  
12 obviousness are:

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14	Swanson	US 4,531,562	Jul. 30, 1985
15	Schaap	US 5,651,406	Jul. 29, 1997
16	Fernandez Lopez	US 5,791,392	Aug. 11, 1998
17	Gottschalk	US 6,286,579 B1	Sep. 11, 2001
18			

19  
20 Claims 21 and 24-28 stand rejected under 35 U.S.C. § 103 as unpatentable  
21 over Schaap in view of Fernandez Lopez.

22 Claims 29, 31, 32, and 37-40 stand rejected under 35 U.S.C. § 103 as  
23 unpatentable over Gottschalk in view of Fernandez Lopez.

24 Claims 33-36 stand rejected under 35 U.S.C. § 103 as unpatentable over  
25 Gottschalk in view of Fernandez Lopez and Swanson.

26  
27 **ISSUE**

28 The sole issue presented in this appeal is whether the Appellant has  
29 established that the Examiner erred in rejecting the claimed invention on the  
30 ground of obviousness.

FINDINGS OF FACT

1  
2 We agree with Appellant (Brief 6) that Schaap discloses a screen 1 that has  
3 one end attached to a roller mechanism in the usual manner and that is mounted  
4 within a housing 2 situated above the opening. The opposite end of the screen 1 is  
5 attached to a pull beam 3. The screen 1 is wound around the roller mechanism and  
6 is lowered from the housing 2 to cover the opening by being unwound from the  
7 roller mechanism. Alternatively, the screen 1 is raised to cover the opening by  
8 being wound onto the roller mechanism and retracted into the housing 2. Thus, the  
9 Schaap screen 1 alternatively is wound around the roller mechanism and is  
10 unwound from the roller mechanism.

11 We further agree with Appellant (Brief 6) that the Schaap device has a side  
12 guide 4 disposed to each side of the screen 1, which extends through a slot 7 in the  
13 side guide 4. The pull-beam 3 is guided in these side guides 4 in the usual manner.  
14 A guiding rod 5 is provided to extend axially in each side guide 4. Each side guide  
15 of the screen 1 is provided with a hem that engages one of the guide rods and slides  
16 along the guide rod 5 in the usual manner as the screen 1 is raised or lowered.

17 Likewise, we agree with the Appellant (Brief 7) that Fernandez Lopez  
18 discloses a shade for a roller blind that includes a woven fabric 1 having at regular  
19 intervals, and in crosswise or transverse direction, a series of bands 2 obtained  
20 during the weaving of the fabric 1. Each band 2 comprises two plies 3 and 4,  
21 defining between them a pocket 5 for housing a corresponding rod which a roller  
22 blind typically carries at regular intervals and wherein each of the pockets 5 is  
23 defined by a different band 2.

24 Fernandez Lopez further includes a “lower hem which is similarly obtained  
25 during the actual process of weaving of the fabric, since similarly to the bands or  
26 strips for housing the rods, said lower hem also forms a woven band, of greater



1 35 U.S.C. § 103(a) (2000); *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727 (2007);  
2 *Graham v. John Deere Co.*, 383 U.S. 1, 13-14 (1966).

3 In *Graham*, the Court held that that the obviousness analysis is bottomed on  
4 several basic factual inquiries: “[(1)] the scope and content of the prior art are to be  
5 determined; [(2)] differences between the prior art and the claims at issue are to be  
6 ascertained; and [(3)] the level of ordinary skill in the pertinent art resolved.” 383  
7 U.S. at 17. See also *KSR Int'l v. Teleflex Inc.*, 127 S.Ct. at 1734. “The  
8 combination of familiar elements according to known methods is likely to be  
9 obvious when it does no more than yield predictable results.” *KSR*, at 1739.

10 “When a work is available in one field of endeavor, design incentives and  
11 other market forces can prompt variations of it, either in the same field or [in] a  
12 different one. If a person of ordinary skill [in the art] can implement a predictable  
13 variation, § 103 likely bars its patentability.” *Id.* at 1740.

14 “For the same reason, if a technique has been used to improve one device,  
15 and a person of ordinary skill in the art would recognize that it would improve  
16 similar devices in the same way, using the technique is obvious unless its actual  
17 application is beyond his or her skill.” *Id.*

18 “Under the correct analysis, any need or problem known in the field of  
19 endeavor at the time of invention and addressed by the patent can provide a reason  
20 for combining the elements in the manner claimed.” *Id.* at 1742.

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## ANALYSIS

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We will affirm the obviousness rejection of claims 21 and 25-28 as unpatentable over Schaap in view of Fernandez Lopez. As noted above in our findings of fact, Schaap discloses that the web of a roller blind is provided with a

1 side hem for reception of guide rods. On the other hand, Fernandez Lopez shows  
2 that a hem at the margin of the roller blind web can be woven directly in the  
3 material of the web. This is hem 10 of Fernandez Lopez designed for the reception  
4 of the flat bar weight. Thus, Fernandez Lopez is suggestive of weaving a pocket  
5 into a fabric and using the pocket for receipt of a rod or member that is to be  
6 placed at the margin or edge of the fabric web. Accordingly, it is seen that to  
7 replace the sewn hems of Schaap with a pocket woven directly into the fabric is a  
8 simple substitution of one known element for another to obtain predictable results.  
9 *See KSR* at 1740. Appellant's argument regarding lack of motivation to combine is  
10 unavailing in face of the Supreme Court's decision in *KSR*. Furthermore, it is not  
11 seen that whether all the woven pockets extend in a warp direction or in a weft  
12 direction is a feature of patentable significance. Therefore, Appellant's argument  
13 directed to whether a hem is formed integrally on the bottom or side of the roller  
14 shade is not convincing.

15 With respect to the rejection of claim 24, however, we do not find the  
16 disclosure in any of the cited prior art involving woven or knitted webs which have  
17 pockets that extend in both the web weft and web warp directions simultaneously.  
18 Accordingly, we do not affirm the rejection of claim 24.

19 Similarly, with respect to the rejections of claims 29, 32, and 37-39, we will  
20 affirm the rejection of these claims. Fernandez Lopez is a recognition in the art  
21 that pockets for the receipt of reinforcing rods, weights, or the like can be woven  
22 into the fabric rather than stitched therein. Accordingly, it is our view that the  
23 provision of pockets in Gottschalk that are woven directly into the fabric is simply  
24 combining prior art elements according to known methods to yield predictable  
25 results. *Id.* We do not agree with Appellant's contention that the fabric of  
26 Gottschalk has already been guided before the pipes are received in the pockets.

1 With reference to Figure 6, the web 36 has been pulled out laterally from the  
2 window for insertion of guides or rods 72. Therefore, it can not be said to have  
3 been guided across the window opening at this stage of Gottschalk's assembly. The  
4 argument that Gottschalk teaches away from the weaving or knitting of pockets  
5 directly into the fabric because sewn pockets would make the web thicker and  
6 therefore more protective is conjecture on the part of the Appellant.

7 In the Reply, Appellant argues that the rods of Gottschalk do not provide a  
8 guiding function. We disagree. After the rods 72 are inserted in pockets 70 and as  
9 the ends of the rods are placed over raised members 50, the fabric is guided into its  
10 precise desired position protecting the window opening.

11 With respect to claim 31, here again we do not find in the prior art tubular  
12 pockets that extend in two perpendicular directions and cross in the fabric and thus  
13 we will reverse the rejection as to this claim.

14 With respect to claims 33-36 we also affirm the rejection of these claims  
15 based as they are on the additional disclosure of Swanson which shows the feature  
16 of a foil or coating on a roller blind web and Gottschalk's disclosure of a PVC  
17 coating. Using coatings and layers for weather protection (Gottschalk), heat  
18 insulation, light blockage or reflection, and air tightness while permitting  
19 illumination or vision (Swanson) are all features that are known in the prior art and  
20 would have been obvious to use on a roller blind web with predictable results.

21 Finally, turning to a consideration of claim 40, we do not find in the prior art  
22 the specific teaching that the thickness of the tubular pockets is substantially the  
23 same as the thickness of the fabric web between the tubular pockets. As far as we  
24 can determine, the Examiner has not addressed this feature with a convincing  
25 argument. Accordingly, the rejection of claim 40 is also reversed.

1 CONCLUSION AND ORDER

2 The obviousness rejections of claims 21, 25-29, and 32-39 have been  
3 affirmed. The obviousness rejections of claims 24, 31, and 40 are reversed. The  
4 decision of the Examiner is affirmed-in-part.

5 No time period for taking any subsequent action in connection with this  
6 appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2006).

7 AFFIRMED-IN-PART

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