

The opinion in support of the decision being entered today
is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GREGORY MICHAEL BIRD

Appeal 2007-1109
Application 10/274,758
Technology Center 3700

Decided: July 31, 2007

Before RICHARD E. SCHAFER, JAMESON LEE, and SALLY C. MEDLEY,
Administrative Patent Judges.

SCHAFFER, *Administrative Patent Judge*.

DECISION ON APPEAL

- 1 Applicant appeals from the final rejection of Claim 5. 35 U.S.C. § 134(a).
- 2 We have jurisdiction. 35 U.S.C. § 6(b).
- 3 An Examiner rejected Claim 5 under 35 U.S.C. § 103(a) as unpatentable
- 4 over the combination of Matsunaga¹ and Fujita.²

¹ U.S. Patent 6,299,409.

² U.S. Patent 5,964,576.

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Upon consideration of the record, we affirm for the reasons stated on Pages 2-4 of the Final Rejection entered July 19, 2005, and Pages 3-4 of the Examiner's Answer entered December 23, 2005. We also note applicant's assertion that

[i]t is believed that the configuration of the vane, which includes this taper, increases the efficiency of the fan. It is believed this increase in efficiency is due to the vane acting as a foil, as a result of this unique configuration.

8 Brief, p. 4. This assertion is unsupported by evidence. It is mere attorney
9 argument and not entitled to any weight. Arguments of counsel can not take the
10 place of evidence. *Estee Lauder Inc. v. L'Oreal S.A.*, 129 F.3d 588, 595, 44
11 USPQ2d 1610, 1615 (Fed. Cir. 1997).

DECISION

The rejection of Claim 5 is affirmed.

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

AFFIRMED

sd

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By First Class Mail

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