

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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*Ex parte* JOSEPH M. FASOLA

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Appeal 2007-4529  
Application 10/636,891  
Technology Center 1600

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Decided: May 30, 2008

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Before, DONALD E. ADAMS, DEMETRA J. MILLS, and  
LORA M. GREEN, *Administrative Patent Judges*.

MILLS, *Administrative Patent Judge*.

**DECISION ON APPEAL**

This is an appeal under 35 U.S.C. § 134. The Examiner has rejected the claims for obviousness. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Claim 6 is representative.

6. A fishing rod holder comprising:

a substantially hollow housing including a top surface having a front edge; said housing further including a pair of opposing sidewalls, a front wall and a rear wall depending from said top surface; said rear wall inwardly and obliquely depending from said top surface such that said housing has a substantially triangular cross-sectional configuration;

an elongated, substantially U-shaped lip secured to the top surface of said housing and longitudinally positioned along the front edge thereof for suspending said housing from a support surface;

a plurality of tubular fishing rod holders received within said housing and depending from the top surface thereof, said rod holders being parallel to said rear wall to suspend a rod at a predetermined angle relative to a vertical plane.

*Cited References*

Kaempf	US 1,263,323	Apr. 16, 1918
Hermanson	US 3,659,369	May 2, 1972
Stoudt	US 4,865,287	Sept. 12, 1989

*Grounds of Rejection*

Claims 6-11 stand rejected under 35 U.S.C. § 103(a) as obvious over Kaempf in view of Stoudt and Hermanson.

DISCUSSION

*Background*

This invention concerns a fishing rod holder designed particularly for mounting within a pickup truck bed to conveniently transport a plurality of fishing rods. (Spec.1.)

The Examiner finds that

[t]he patents to Kaempf and Stoudt shows pole holders. Kaempf shows a hollow housing having a top surface 3 having a front edge and means 5-6 for securing the housing to a support surface. Means 5 can be considered as a front wall. Kaempf shows a rear wall 1. Kaempf shows holes 7-8 for securing rods within the housing. Surface 3 can be considered as the top surface by turning Fig. 2 90 degrees to the left. The patent to Stoudt shows a pole holder 10 having a plurality of tubular rod holders 20, 22, 24 received within the housing 50 and extending to the top surface thereof. The patent to Hermanson shows a pole holder having a housing 24, 34, 24a, 34a, and a U-shaped lip 26, 27, 26a, 27a secured to the top of the housing to secure to housing to a support surface 17-18.

(Final Rejection 2-3.)

The Examiner concludes that

it would have been obvious to provide Kaempf with a plurality of pole holders as shown by Stoudt to guide the poles all the way into the housing as shown by Stoudt. . . . [I]t would have been further obvious to provide Kaempf with a U-shaped lip as shown by Hermanson to secure the housing to a support surface with a top edge wall since merely one support is being substituted for another and the function is the same.

(Final Rejection 3.)

In contrast, Appellant argues that

[i]n determining that Kaempf also discloses or anticipates the front wall of the housing, the examiner noted that “[M]eans 5 can be considered as a front wall.” Element 5 refers to a pair of outwardly extending ears that obliquely extend from the ends of the device to fasten it to a support surface.

(Br. 4-5.)

Appellant further argues that, “[t]he element [5] in no way relates to a front wall of a triangular-shaped housing with fishing rod holders as claimed.” (Br. 5.)

When determining whether a claim is obvious, an Examiner must make “a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art.” *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, “obviousness requires a suggestion of all limitations in a claim.” *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Moreover, as the Supreme Court recently stated, “*there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.*” *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added)).

We agree with Appellant and find that Kaempff fails to disclose a fishing rod holder having a top surface, front wall, rear wall and sidewalls, as claimed, and thus also fails to disclose a housing that has a substantially triangular cross-sectional configuration, as claimed. We further find that Stoudt and Hermanson fail to overcome this deficiency of Kaempff.

In view of the above, the obviousness rejection is reversed.

#### SUMMARY

The obviousness rejection is reversed.

REVERSED

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