

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* TODD BOOKER and GEORG DOMENIG

---

Appeal 2008-1810  
Application 10/844,888  
Technology Center 3600

---

Decided: June 27, 2008

---

Before HUBERT C. LORIN, JENNIFER D. BAHR, and JOHN C. KERINS  
*Administrative Patent Judges.*

BAHR, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Todd Booker et al. (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-5 and 7-10. Claim 6 has been canceled. We have jurisdiction over this appeal under 35 U.S.C. § 6 (2002).

## THE INVENTION

The Appellant's invention is directed towards a device that provides means for releasing a drawer from a drawer slide (Spec. 1, ¶ 2). The device of the Appellants' invention includes a catch insert or means 20 having a plurality of "grooves and rails [*sic*: ridges]" 22 (Spec. 7, ¶ 30 and fig. 2b), a locking lever 30 having a plurality of teeth 32 and mounted to the drawer 2 so as to pivot about screw 38 (Spec. 8, ¶ ¶32, 33 and fig. 2a), and spring means 40 for urging at least one tooth 32 of the locking lever 30 to engage with the grooves 22 of the catch means 20 (Spec. 8, ¶ 35 and fig. 2a). By compressing the spring 40, the rear part of the locking lever 30 pivots and disengages the at least one tooth 32 from the catch means 20, thereby permitting the drawer to be removed from the drawer slide system (Spec. 8, ¶ 37 and fig. 2a).

Claim 1 is representative of the claimed invention and reads as follows:

1. A front locking device for releasably securing a drawer to a drawer slide comprising:

a drawer slide comprising catch means having a plurality of alternating ridges and grooves longitudinally spaced and horizontally aligned in a direction parallel to a sliding direction of the drawer;

a drawer;

a locking lever comprising a plurality of teeth corresponding to the plurality of ridges and grooves of the catch means, said plurality of teeth of the locking lever being longitudinally spaced and horizontally aligned in a direction parallel to the sliding direction of

the drawer, and said locking lever being pivotably mounted to the drawer; and,

spring means urging the plurality of teeth of the locking lever into contact with the plurality of ridges and grooves of the catch means with at least one tooth of the locking lever being engagingly received within a corresponding groove of the catch means.

### THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Vander Ley	US 4,423,914	Jan. 3, 1984
Lautenschläger	US 5,039,181	Aug. 13, 1991
Lautenschläger	US 5,302,016	Apr. 12, 1994
Krivec	US 5,542,759	Aug. 6, 1996

The following rejections are before us for review:

Claims 1, 2, 5, 7, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Vander Ley in view of Lautenschläger (hereafter “Lautenschläger (‘181)”).

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Vander Ley in view of Lautenschläger (‘181) and further in view of Krivec.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Vander Ley in view of Lautenschläger (‘181) and further in view of Lautenschläger (hereafter “Lautenschläger (‘016)”).

The Examiner provides reasoning in support of the rejections in the Answer (mailed May 18, 2007). The Appellants present opposing

arguments in the Appeal Brief (filed January 26, 2007). A Reply Brief has not been filed.

## OPINION

### *The obviousness rejection under Vander Ley in view of Lautenschläger ('181)*

The Appellants argue the rejection of claims 1, 2, 5, 7, and 9 under 35 U.S.C. §103(a) together as a group. Therefore, in accordance with 37 C.F.R. § 41.37(c)(1)(vii), we have selected claim 1 as the representative claim to decide the appeal, with claims 2, 5, 7, and 9 standing or falling with claim 1. In view of the Appellants' arguments claim 10 will be discussed separately.

The issue presented in the instant appeal of the rejection of claim 1 under 35 U.S.C. § 103(a) as unpatentable over Vander Ley and Lautenschläger ('181) is whether the Appellants have demonstrated that the Examiner erred in determining that the subject matter of claim 1 is unpatentable over Vander Ley and Lautenschläger ('181). The issue turns on whether it would have been obvious for one of ordinary skill in the art to provide the interlocking mechanism of Lautenschläger ('181) in the drawer slide assembly of Vander Ley.

Vander Ley discloses a drawer slide assembly 12 having an interlocking mechanism for readily removing a drawer from a cabinet. The drawer slide assembly 12 includes a drawer 10, a cabinet rail 16 attached to the interior of a cabinet, a drawer rail 18, a mounting strip 14 attached to the drawer 10, and a locking lever 24 that is pivotally mounted to the mounting strip 14 (col. 2, ll. 39-44 and 51-52 and fig. 1). The locking lever 24 includes a locking end 26 with a generally x-shaped locking element 64,

made up of a stop surface and projecting tab 68, and a spring end 28 with an integral leaf spring 32 and an actuator arm 70 (col. 3, ll. 45-58 and fig. 3). In an interlocked position, the leaf spring 32 biases the spring end 28 upwardly and the locking end 26 downwardly, such that the projecting tab 68 of the locking lever 24 simultaneously engages a slot 60 in the mounting strip 14 and a slot 31 in the drawer rail 18 (col. 3, l. 68 through col. 4, l. 7 and figs. 1 and 2). The projecting tab 68 (tooth) of the locking lever 24 and the slots 31 and 60 (catch means) form the interlocking mechanism that locks together the mounting strip 14 and the drawer rail 18 (col. 4, ll. 7-10 and fig. 1). Upon depressing the actuator arm 70 the locking lever 24 is disengaged from the slots 31 and 60 and the drawer 10 can be easily removed from the cabinet (col. 5, ll. 17-21).

Lautenschläger ('181) discloses a drawer assembly having an interlocking mechanism for adjusting the position of a drawer within a cabinet due to existing inaccuracies in the manufacture of the cabinet or later distortions caused by humidity and other ambient influences (col. 1, ll. 35-43; col. 5, ll. 36-40; and fig. 1). The interlocking mechanism includes a tongue 20 (locking lever) having detent serrations 26 (plurality of teeth) and a fitting 24 (catch means) having complementary serrations 28 (plurality of ridges and grooves) which engage with the serrations 26 to lock the device at selected positions (col. 5, ll. 41-57 and figs. 2 and 3).

The Appellants argue that the Examiner has failed to identify any motivation, suggestion or teaching of the desirability to combine Vander Ley and Lautenschläger ('181) to arrive at Appellants' invention (Br. 4).

In determining whether the subject matter of a claim is obvious, "neither the particular motivation nor the avowed purpose of the [applicant]

controls. What matters is the objective reach of the claim.” If the claim extends to what is obvious, it is unpatentable under § 103. *KSR Int’l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741-42 (2007). Moreover, while there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness, “the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *Id.* at 1741.

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.

*Id.* at 1740. We must ask whether the improvement is more than the predictable use of prior art elements according to their established functions.

*Id.* In this case, replacement of the locking element of the locking lever 24 of Vander Ley with one having a serrated profile of alternating ridges and grooves and the slot 31 in drawer rail 18 with a catch means having a complementary serrated profile of alternating ridges and grooves as taught by Lautenschläger (‘181), as proposed by the Examiner (Ans. 4), is nothing more than the simple substitution of one known element for another. *See id.* at 1740. Specifically, this would involve merely the substitution of one type of interlocking interface with another known type of interlocking interface.

A person of ordinary skill in the art would readily appreciate that the complementary serrated surfaces taught by Lautenschläger ('181), if substituted for the projecting tab and rail slot arrangement of Vander Ley, would, when engaged with one another, provide an interlocking interface to prevent further relative movement between the drawer and the drawer rail, in much the same manner that they secure the drawer and drawer rail in a selected lateral position in Lautenschläger's system. Moreover, the Appellants have not provided any evidence to show that modification of Vander Ley to provide a plurality of interlocking serrations as taught by Lautenschläger ('181) would have been beyond the technical grasp of a person of ordinary skill in the art. We thus conclude that the substitution would have been obvious to a person of ordinary skill in the art at the time of the Appellants' invention.

The Appellants further argue that Vander Ley does not teach a locking lever having a plurality of teeth and a catch means having a plurality of ridges and grooves and neither Vander Ley nor Lautenschläger ('181) teach a spring means for urging the plurality of teeth of the locking lever into contact with the plurality of ridges and grooves of the catch means (Br. 4-5). While each of these assertions may individually be true, they do not take into account the structure resulting from the combination of the teachings of the references. The rejection is not based on Vander Ley or Lautenschläger ('181) alone, but rather, on the combination of Vander Ley and Lautenschläger ('181). Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *See In re Merck & Co. Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

For the foregoing reasons, Appellants' arguments do not persuade us that the Examiner erred in rejecting claim 1 as unpatentable over Vander Ley in view of Lautenschläger ('181). The rejection of claim 1, and claims 2, 5, 7, and 9, standing or falling with claim 1, is sustained.

With regard to claim 10, the Appellants' arguments (Br. 5-7) simply rely on the arguments asserted as to claim 1 and are thus unpersuasive for the reasons discussed above with respect to claim 1. We therefore affirm the rejection of claim 10 as well for the reasons discussed above with respect to claim 1. The rejection is sustained.

*The obviousness rejection under Vander Ley in view of  
Lautenschläger ('181) and further in view of Krivec*

The Appellants argue that Krivec does not teach a locking lever having a plurality of teeth, a catch means having a plurality of ridges and grooves, and a spring means for urging the plurality of teeth of the locking lever into contact with the plurality of ridges and grooves of the catch means (Br. 7-8). While this may be true, the rejection is not based on Krivec alone, but rather, on the combination of Vander Ley, Lautenschläger ('181), and Krivec. Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *Merck*, 800 F.2d at 1097. It appears that the Appellants' arguments in favor of patentability of claims 3 and 4 over Vander Ley in view of Lautenschläger ('181) and further in view of Krivec simply rely on the arguments asserted as to claim 1, from which claims 3 and 4 depend, and are thus unpersuasive for the reasons discussed above with respect to claim

1. We therefore affirm the rejection of claims 3 and 4 as well for the reasons discussed above with respect to claim 1. The rejection is sustained.

*The obviousness rejection under Vander Ley in view of  
Lautenschläger ('181) and further in view of Lautenschläger ('016)*

The Appellants argue that Lautenschläger ('016) does not teach a locking lever having a plurality of teeth, a catch means having a plurality of ridges and grooves, and a spring means for urging the plurality of teeth of the locking lever into contact with the plurality of ridges and grooves of the catch means (Br. 9). While this may be true, the rejection is not based on Lautenschläger ('016) alone, but rather, on the combination of Vander Ley, Lautenschläger ('181), and Lautenschläger ('016). Nonobviousness cannot be established by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. *Merck*, 800 F.2d at 1097. It appears that the Appellants' arguments in favor of patentability of claim 8 over Vander Ley in view of Lautenschläger ('181) and further in view of Lautenschläger ('016) simply rely on the arguments asserted as to claim 1, from which claim 8 depends, and are thus unpersuasive for the reasons discussed above with respect to claim 1. We therefore affirm the rejection of claim 8 as well for the reasons discussed above with respect to claim 1. The rejection is sustained.

DECISION

The decision of the Examiner to reject claims 1, 2, 5, 7, 9, and 10 under 35 U.S.C. § 103(a) as unpatentable over Vander Ley in view of Lautenschläger ('181) is affirmed.

The decision of the Examiner to reject claims 3 and 4 under 35 U.S.C. § 103(a) as unpatentable over Vander Ley in view of Lautenschläger ('181) and further in view of Krivec is affirmed.

The decision of the Examiner to reject claim 8 under 35 U.S.C. § 103(a) as unpatentable over Vander Ley in view of Lautenschläger ('181) and further in view of Lautenschläger ('016) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

vsh

JOHN M. HARRINGTON  
KILPATRICK STOCKTON LLP  
1001 WEST FOURTH STREET  
WINSTON-SALEM, NC 27101