

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DOUGLAS J. HERST
and UTKAN SALMAN

Appeal No. 96-3201
Application 08/177,399¹

ON BRIEF

Before URYNOWICZ, PATE and MARTIN, *Administrative Patent Judges*.

PATE, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-13, 18, 20 and 22-26. Claims 14-17, 19 and 21 have been indicated as containing allowable subject matter and stand

¹ Application for patent filed January 4, 1994. According to appellants, this application is a continuation of Application 07/714,145, filed June 11, 1991, now Patent No. 5,276,597 issued January 4, 1994.

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objected to. These are the only claims remaining in the application.

The claimed invention is directed to a lighting system for use with a modular furniture system. Modular furniture systems often are built around various components such as desktop surfaces, floor surfaces, partition walls, shelves and binder bins. The purpose of the invention is to provide changeable fixture heads that can be mounted on a plurality of different height mounting structures. These mounting structures are then attached to the various surfaces of the modular furniture. When the correct mounting structures are used, all the mountable fixtures heads will lie in the same ambient lighting mounting plane.

Reference is made to claim 1, reproduced below, which is further illustrative of appellants' claimed subject matter.

1. A configurable furniture integrated ambient lighting system for a furniture system having different height support surfaces associated therewith, said lighting system comprising

a plurality of mountable fixture heads for indirect lighting, and

a plurality of different positionable mounting structures for mounting said plurality of fixture heads from the different support surfaces associated with said furniture

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system so that said fixture heads are mounted at substantially the same predetermined mounting height, said predetermined mounting height defining an ambient lighting mounting plane,

said fixture heads being detachably mountable to and interchangeable with said mounting structures such that said

fixture heads can interchangeably be positioned and repositioned within said ambient lighting mount plane.²

The references of record relied upon as evidence of obviousness are:

Crider 1956	2,732,487	Jan. 24,
Martin 1980	4,228,489	Oct. 14,
Kao et al. (Kao) 1992	5,091,834	Feb. 25,

Sill Catalog, "Indirektstrahler", April/May 1990 (Translation attached for pages 12-14).³

For purposes of this appeal, appellants have divided the claims into three groups; claims 1-13 will stand or fall with representative claim 1; claims 18, 20 and 22 will stand or

² With respect to line 8 of claim 1, we note that this line requires the fixture heads to be detachably mountable and interchangeable with said mounting structures. In fact, the fixture heads are not interchangeable with the mounting structures, but are interchangeable on said mounting structures. This claim language should be corrected in any further prosecution before the examiner.

³ Our understanding of the Sill Catalog reference is by way of an English language translation, a copy of which is attached to our decision.

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fall with representative claim 22; and claims 23-26 will stand or fall with representative claim 23.

REJECTIONS

The examiner has rejected claims 1-7, 23 and 24 under 35 U.S.C. § 103 as unpatentable over the lighting fixture system disclosed in the Sill catalog.

The examiner has rejected claims 1-10, 12, 13, 23 and 24 under 35 U.S.C. § 103 as unpatentable over Martin.

The examiner has rejected claims 1-13, 23 and 24 under 35 U.S.C. § 103 as unpatentable over Kao.

The examiner has rejected claims 1-13, 18, 20 and 23-26 under 35 U.S.C. § 103 as unpatentable over Crider.

OPINION

We have carefully reviewed the rejections on appeal in light of the arguments of the appellants and the examiner. As a result of this review, we have determined that the applied prior art of references of Sill, Martin and Crider do not establish *prima facie* cases of obviousness with respect to the respective claims rejected thereunder. Therefore, these rejections will be reversed. However, the prior art patent to Kao does establish a *prima facie* case of obviousness with

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respect to claims 1-13, 23 and 24, which *prima facie* case has not been rebutted by additional evidence from the appellants. Therefore the rejection of claims 1-13, 23 and 24 under 35 U.S.C. § 103 will be affirmed.

With respect to the Sill reference, we are in agreement with the appellants that the lighting fixture components of Sill are not disclosed as being interchangeable with the Sill mounting structures. We note that the fixture shown on pages 14 and 15 show different mountable fixture heads on supports of varying lengths that can be used on a table or a floor. However, these fixture heads are not disclosed as interchangeable on the mounts. For this reason, the Sill catalog does not establish a *prima facie* case of obviousness with respect to the claims rejected thereunder.

With respect to the disclosures of Crider and Martin, we agree with the examiner and appellants that one or more lamps can be attached to the structure of Martin at different heights. However, we agree with the appellants that Martin does not disclose interchangeable but different supporting structures that are interchangeably related to a plurality of fixture heads. Accordingly, Martin does not disclose evidence

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that would establish a *prima facie* case of obviousness with respect to the claims rejected thereunder. With respect to Crider, which discloses a task light, there is no disclosure of providing a plurality of fixture heads and a plurality of positionable mounting structures which are fully interchangeable with each other. Crider suffers from the same shortcomings as Martin, and for this reason does not establish a *prima facie* case of obviousness with respect to the claims rejected thereunder.

Turning to the Kao disclosure, we note that Kao discloses a first embodiment in Figure 1 which shows a floor lamp base which can receive fixture mountable head 5 or 5'. Figure 5 of Kao discloses a table lamp base which can receive the very same alternative mounting heads 5 or 5'. Therefore, Kao clearly discloses a plurality of mountable fixture heads with fixture head 5 shown in both Figure 1 and Figure 5 pointed upwardly for indirect lighting. Kao further discloses a plurality of different positionable mounting structures, one for the floor and one for a table in Figures 1 and 5 respectively. Finally, these fixture heads can be detachably mounted and are

interchangeable with respect to the various mounting structures. We further note that the language in the claims directed to a furniture system are fully satisfied by Kao, and the language with respect to "can be interchangeably positioned," as in the penultimate line of claim 1 is a mere use limitation and is not accorded patentable weight.

Appellants argue that Kao requires a separate coupling element not required by the present invention. However, the presence of this coupling element is not precluded by the claims on appeal. Finally, we disagree with appellants' contention that Kao "does not teach to employ a plurality of different fully inter-changeable mounting structures adapted to different mounting environments of a furniture system." In fact, this is

what Kao expressly discloses with his table lamp 5 and his floor lamp 1.⁴

While we note that the appellants and examiner have

⁴ We note that appellants have included the floor as a different height support surface in a furniture system, although technically, the floor is the structural element that the furniture system sits upon.

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agreed that claims 25 and 26 stand or fall with claim 23, we note that claims 25 and 26 have not been rejected under § 103 utilizing the Kao reference as evidence of obviousness. Consequently, we will separate this grouping of claims and hold that claims 25 and 26 will not fall with claim 23.

For the reasons given above, the rejection of claims 1-13, 23 and 24 under 35 U.S.C. § 103 as unpatentable over Kao is affirmed.

SUMMARY

The rejection of claims 1-13 and 23 and 24 as unpatentable over Kao is sustained.

The rejection of claims 18, 20, 22, 25 and 26 is not sustained.

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

AFFIRMED-IN-PART

	STANLEY M. URYNOWICZ, JR.)	
	Administrative Patent Judge)	
)	
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)	
	WILLIAM F. PATE, III)	BOARD OF
PATENT	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
))
	JOHN C. MARTIN)	
	Administrative Patent Judge)	

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