

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte WILLIAM L. AYERS

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Appeal No. 98-0054  
Application No. 08/438,888<sup>1</sup>

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ON BRIEF

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Before McCANDLISH, Senior Administrative Patent Judges, COHEN  
and ABRAMS, Administrative Patent Judges.

McCANDLISH, Senior Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the examiner's final rejection of claims 1 through 3, 7 and 8 under 35 U.S.C. § 103. No other claims are pending in the application.

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<sup>1</sup> Application for patent filed May 10, 1995.

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Appellant's invention relates to a unitary mattress (claims 1-3) and to a method of constructing a mattress (claims 7 and 8). As recited in the appealed claims, the mattress comprises a plurality of strings (34) of pocketed coil springs (30) defining a unitary and hence undivided core (20). According to appellant's invention, the coil springs on one side of an imaginary line (50) medially intersecting the mattress have one compressive strength or stiffness, and the coil springs on the other side of the imaginary line have a different compressive strength or stiffness, thereby providing two sectors (46, 50) of different degrees of firmness in a single unitary core. The independent claims on appeal, namely claims 1 and 7, both expressly recite that the strings of coil springs on opposite sides of the imaginary dividing line are connected directly together along the imaginary line without a discontinuity to further establish the unitary aspect of the core.

A copy of the appealed claims is appended to appellant's brief.

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The following references are relied upon by the examiner as evidence of obviousness in support of his rejections under 35 U.S.C. § 103:

Korney 1953	2,629,111	Feb. 24,
Forwood 1953	2,651,788	Sept. 15,
Stumpf ('984) 1980	4,234,984	Nov. 25,
Stumpf ('977) 1984	4,439,977	Apr. 3,

The grounds of rejection are as follows:

1. Claims 1 and 2 stand rejected under 35 U.S.C. § 103 as being unpatentable over Stumpf '984 in view of Forwood.

2. Claim 3 stands rejected under 35 U.S.C. § 103 as being unpatentable over Stumpf '984 in view of Forwood and Korney.

3. Claims 7 and 8 stand rejected under 35 U.S.C. § 103 as being unpatentable over Stumpf '977 in view of Forwood and Stumpf '984.

Reference is made to the examiner's answer for details of these rejections.

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The examiner's § 103 rejections of the appealed claims are untenable. It is well settled that there must be some teaching, suggestion or inference in the prior art that would have led one of ordinary skill in the art to combine the relevant reference teachings in a manner to arrive at the claimed invention. See Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 297, 227 USPQ 657, 667 (Fed. Cir. 1985).

In the present case, Stumpf '984 discloses a unitary mattress having a plurality of strings of pocketed coil springs arranged to define a unitary mattress core. This reference, however, lacks a teaching of providing the coil springs in the same unitary core with different compressive strengths.

The Forwood reference, on the other hand, does recognize the desirability of providing coil springs in a mattress assembly with different degrees of stiffness on opposite sides of an imaginary line medially intersecting the mattress assembly. In order to achieve this objective, however, Forwood teaches the art to employ two separate mattress cores, each having a different

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firmness. Thus, neither Stumpf '984 nor Forwood suggests the concept of providing a single unitary core with coil springs of different compressive strengths. The other cited references also lack a teaching or suggestion of this feature.

Absent a suggestion of providing coil springs of different compressive strengths in the same unitary mattress core, the only way the examiner could have arrived at his conclusion of obviousness with regard to the appealed claims is through hindsight based on appellant's teachings. Hindsight analysis, however, is clearly improper. In re Deminski, 796 F.2d 436, 443, 230 USPQ 313, 316 (Fed. Cir. 1986). See also In re Imperato, 486 F.2d 585, 587, 179 USPQ 730, 732 (CCPA 1973) ("However, the mere fact that those disclosures can be combined does not make the combination obvious unless the art also contains something to suggest the desirability of the combination.").

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The examiner's decision rejecting the appealed  
claims is reversed.

REVERSED

HARRISON E. McCANDLISH	)	
Senior Administrative Patent Judge	)	
)	)	
	)	
	)	
	)	BOARD OF PATENT
IRWIN CHARLES COHEN	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
NEAL E. ABRAMS	)	
Administrative Patent Judge	)	

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