

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

Ex parte BRENDON G. NUNES

---

Appeal No. 97-2718  
Application 08/529,228<sup>1</sup>

---

ON BRIEF

---

Before McCANDLISH, Senior Administrative Patent Judge, and STAAB and McQUADE, 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 16 and 21 through 24 under 35 U.S.C. § 103. No other claims are pending in the application.

Appellant's invention relates to a craft package having a pair of package portions 11 and 14 which form a container. At

---

<sup>1</sup> Application for patent filed September 15, 1995.

Appeal No. 97-2718  
Application 08/529,228

least one of the package portions is a mold having a mold cavity or interior 12, as it is called in the claims, for receiving a moldable material. According to claim 1, a package of the moldable material is disposed in the interior of container. According to claim 9, the only other independent claim on appeal, the moldable material is of the activatable type and is disposed in the container in its non-activated form. In use, the craft package is opened to access the moldable material in the container. The moldable material is then dispensed into the mold cavity to mold a three-dimensional object. According to claim 1, the object is an instrument face (e.g., a clock face 13).

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

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

Graber	3,029,936	Apr. 17, 1962
Siefert	4,720,820	Jan. 19, 1988
Grupe	5,121,835	Jun. 16, 1992
Dietterich et al. (Dietterich)	5,413,472	May 9, 1995

Appeal No. 97-2718  
Application 08/529,228

Claims 1 through 6, 8 through 10 and 12 through 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Dietterich in view of Siefert, claims 7 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Dietterich in view of Siefert and Graber and claims 21 through 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Dietterich in view of Siefert and Grupe. Reference is made to the examiner's answer for details of these rejections.

In support of his rejection of claims 1 through 6, 8 through 10 and 12 through 16, the examiner relies on the Siefert patent merely for a teaching of a molded clock face. In light of this teaching, he concludes in substance that it would have been obvious to configure Dietterich's molding cavities to mold three-dimensional instrument faces.

We have carefully considered the issues raised in this appeal together with the examiner's remarks and appellant's arguments. As a result, we conclude that the rejections of the appealed claims cannot be sustained.

Appeal No. 97-2718  
Application 08/529,228

Even if it is assumed arguendo that Dietterich's mold holders 12 and 14 together with their associated mold inserts 22 and 24 form some sort of container in the closed condition shown in Figure 1 of the patent drawings, the examiner has made no finding that Dietterich discloses (a) the concept of disposing a package of the moldable material in such a container to meet the limitations of claim 1 or (b) the concept of disposing an activatable moldable material in its non-activated form in such a container to meet the limitations of claim 9. Based on our review of the cited references, we fail to find any teaching or suggestion of these features in Dietterich or in any of the other cited references. As a result, the examiner has failed to provide the necessary factual basis to support his rejections. See In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967).

Appeal No. 97-2718  
Application 08/529,228

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

**REVERSED**

HARRISON E. McCANDLISH, Senior )  
Administrative Patent Judge )  
)  
)  
) BOARD OF PATENT  
Lawrence J. STAAB )  
Administrative Patent Judge ) APPEALS AND  
)  
) INTERFERENCES  
)  
JOHN P. McQUADE )  
Administrative Patent Judge )

Appeal No. 97-2718  
Application 08/529,228

NIXON & VANDERHYE  
1100 North Glebe Road  
8th Floor  
Arlington, VA 22201-4714