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STINSON LLP			LUGO, CARLOS	
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JOHN STALLBAUMER

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Appeal 2018-007072  
Application 14/097,345  
Technology Center 3600

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Before MICHAEL L. HOELTER, BRANDON J. WARNER, and  
BRENT M. DOUGAL, *Administrative Patent Judges*.

DOUGAL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant<sup>1</sup> appeals under 35 U.S.C. § 134 from a final rejection of claims 1–8, 11–20, and 22–25. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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<sup>1</sup> We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as PTMW, Inc. Appeal Br. 3.

### CLAIMED SUBJECT MATTER

The claims are directed to a lock assembly with locking handle. Claims 1, 15, and 20 are independent. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A lock assembly, comprising:
  - an actuator moveable between first, second, and third positions, wherein the actuator moves from the first position to the second position in a first direction, and the actuator moves from the first position to the third position in a second direction that is opposite the first direction;
  - a locking structure coupled to the actuator and comprising a receptacle positioned to receive at least a portion of a lock when the actuator is in the first position to prevent movement of the actuator; and
  - a latch assembly coupled to the actuator, wherein the latch assembly comprises at least one latch that is moveable by the actuator between an engaged position and a disengaged position.

### REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Caldwell	US 1,046,438	Dec. 10, 1912
Linder	US 5,088,786	Feb. 18, 1992
Altkirch <sup>2</sup>	FR 674427	Jan. 28, 1930
Baur	CH 172,655	Oct. 31, 1934

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<sup>2</sup> All citations herein are to the English translation that is of record in this application.

## REJECTIONS

Claims 1–8, 11, 12, 15, 16, 18, and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Altkirch in view of Baur.

Claims 13, 17, 20, and 22–25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Altkirch, Baur, and Linder.

Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Altkirch, Baur, and Caldwell.

## OPINION

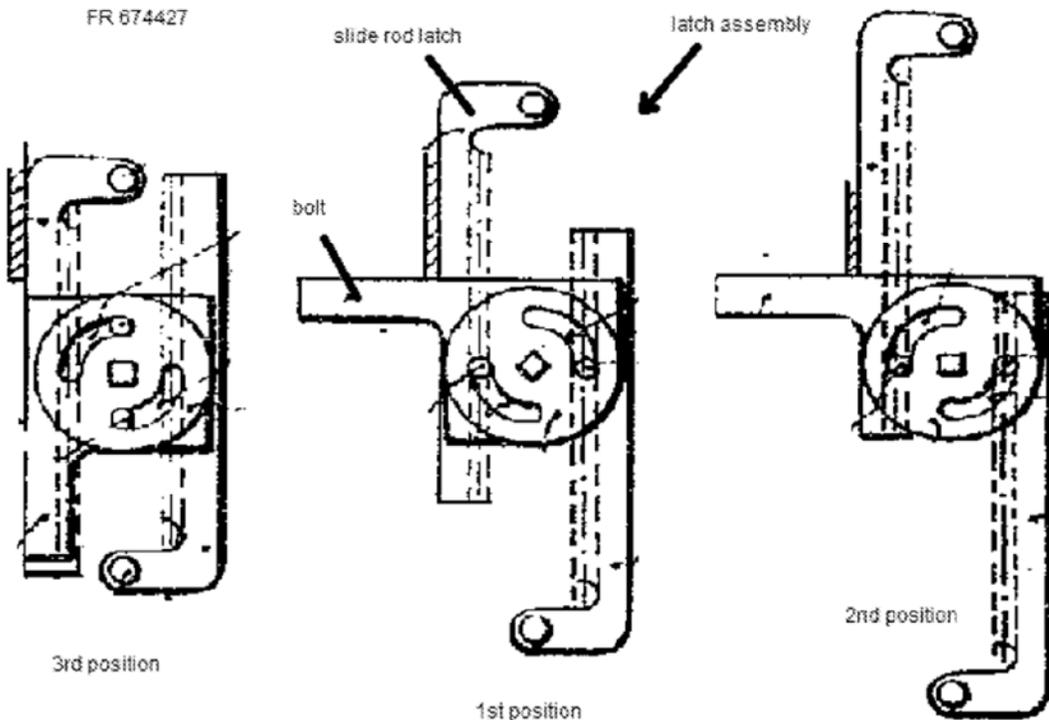
Independent claim 1 requires, *inter alia*, “an actuator” with three positions, “wherein the actuator moves from the first position to the second position in a first direction” and between the first and third positions “in a second direction that is opposite the first direction;” and “a locking structure” configured “to prevent movement of the actuator” “when the actuator is in the first position.” Independent claims 15 and 20 include similar limitations.

The Examiner finds that Altkirch teaches all of the features of claim 1, except that it “fails to disclose that the assembly comprises a lock that engages a lock structure coupled to the actuator.” Final Act. 3. The Examiner finds that Baur teaches this feature and that it would have been obvious to modify Altkirch to include the lock “in order to be capable of locking the assembly in place.” *Id.* at 4.

Appellant argues that modifying Altkirch in the manner proposed by the Examiner is based on hindsight reasoning and that a proper reason to combine is not provided. Appeal Br. 16. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there

must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

As noted by Appellant (*id.* at 15–16), and then acknowledged by the Examiner, the Examiner proposes modifying Altkirch so that the deadbolt-type lock is added to the system in the non-final locked position (Ans. 3). In the Examiner’s words, “[i]n figure 5, the 1st position of the assembly, the rods (8) are not in a locked position. However, the panels **are still locked** since **‘at least one’ bolt (10) is in the locked position.**” *Id.* at 4. The Examiner’s annotated version of Altkirch Figures 4, 5, and 6 is reproduced below.



Altkirch Figures 4, 5, and 6, as annotated by the Examiner, shows the three positions of the latch assembly, i.e., open, bolt engaged, and locked.

The system of Altkirch is used to lock two panel doors together. Altkirch, 1. As per the Examiner's rejection, in the third position of the handle the doors are free to open (Final Act. 3; Altkirch, 4), in the first position the panels are latched together, but they are not locked to the surrounding frame because the rods 8 are not fully extended (Altkirch, 4-5; *see also* Ans. 3). In the second position of the handle, the rods 8 are fully extended and the panel doors are locked to the surrounding frame. *Id.* at 5. Altkirch teaches that it "is necessary for good locking" for the rods 8 to be fully extended. *Id.* at 2.

The Examiner's reasoning as to why one of skill in the art would be motivated to include a deadbolt-type lock at the first non-final locking position of the handle in the system Altkirch is "in order to be capable of locking the assembly in place." Final Act. 4. As noted above, the system of Altkirch is already capable of locking the assembly in place when the handle is in the second position. This provides "good locking" as the panels are secured to the frame. Altkirch, 2.

The Examiner later also states that one of skill in the art would be motivated to modify Altkirch "in order to provide an extra way to lock the device or prevent actuation of the device or prevent unauthorized entry." Ans. 6. However, the Examiner does not address *why* one of skill in the art would be motivated to modify Altkirch to lock the latch assembly in the non-final locking position, rather than the final locking position. Thus, the Examiner's reason to combine appears to be based on hindsight reasoning and lacks rational underpinnings. For this reason, we do not sustain the Examiner's rejections.

DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>References</b>	<b>Affirmed</b>	<b>Reversed</b>
1–8, 11, 12, 15, 16, 18, 19	103(a)	Altkirch, Baur		1–8, 11, 12, 15, 16, 18, 19
13, 17, 20, 22–25	103(a)	Altkirch, Baur, Linder		13, 17, 20, 22–25
14	103(a)	Altkirch, Baur, Caldwell		14
<b>Overall Outcome</b>				1–8, 11–20, 22–25

REVERSED