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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JAMES FREDERICK KRIER and ROBERT EDWARD BELKE

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Appeal 2018-008785  
Application 14/689,515  
Technology Center 1700

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Before JEFFREY T. SMITH, MICHAEL P. COLAIANNI, and  
MERRELL C. CASHION, JR., *Administrative Patent Judges*.

CASHION, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–6 and 17–20. Appeal Br. 2. 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. Appellant identifies the real party in interest as Visteon Global Technologies, Inc. Appeal Br. 2.

The invention relates to a lens assembly for an electronic display.

Spec. ¶ 13. Claim 1 illustrates the subject matter claimed and is reproduced below:

1. A lens assembly for an electronic display, comprising:

a first frame piece with a first edge on a direction in which a viewer of the electronic display would face, the first edge forming a first angle with a second edge;

a second frame piece with a third edge on the direction in which a viewer of the electronic display would face, the third edge forming a second angle with a fourth edge;

a lens with a first lens edge facing the viewer, a second lens edge and third lens edge connected to the first lens edge and forming a first and second lens angle, respectively;

a first adhesive layer placed between the second edge and the second lens edge to attach the first frame piece to the lens; and

a second adhesive layer placed between the fourth edge and the third lens edge to attach the second frame piece to the lens,

wherein a shape of the lens is a trapezoidal prism, and the first and second adhesive layers are placed on the non-parallel sides of the trapezoidal prism.

Appellant requests review of the following rejections from the Examiner's Final Office Action:

I. Claims 1–4 and 17–20 are rejected under 35 U.S.C. § 103 as unpatentable over Uken (US 2006/0255960 A1, published November 16, 2006) and Lo (US 2005/0117234 A1, published June 2, 2005).

II. Claim 5 is rejected under 35 U.S.C. § 103 as unpatentable over Uken, Lo, and Sudoh (US 2011/0065051, published March 17, 2011).

III. Claim 6 is rejected under 35 U.S.C. § 103 as unpatentable over Uken, Lo, and Ace (US 4,679,918, issued July 14, 1987).

### OPINION<sup>2</sup>

After review of the respective positions that Appellant and the Examiner present, we REVERSE the Examiner's prior art rejections of claims 1–6 and 17–20 under 35 U.S.C. § 103 for the reasons the Appellant provides in the Appeal and Reply Briefs. We add the following for emphasis.

Independent claim 1 is directed to a lens assembly for an electronic display requiring a shaped lens adhered to frame pieces.

The Examiner finds Uken discloses a lens assembly that differs from the claimed invention in that Uken does not teach the claimed shaped lens. Final Act. 3–4. To address the missing feature, the Examiner finds that (1) a change of shape is a matter of choice which a person of ordinary skill in the art would have found obvious to make absent persuasive evidence and, alternatively, (2) Lo discloses a rear view mirror which contains a large trapezoidal reflective surface. Final Act. 4–5. The Examiner determines that it would have been obvious to one of ordinary skill in the art to shape Uken's lens as claimed, based on the above findings, to achieve an image that is undistorted in the vertical direction, as taught by Lo. Final Act. 5.

Appellant argues that (1) the shape of the lens is not merely an arbitrary design choice because the difference is not only one of shape but also a difference of adhesive location (Appeal Br. 5) and (2) Lo discloses a

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<sup>2</sup> We limit our discussion to independent claim 1.

rear view mirror that contains a large trapezoidal reflective surface (Appeal Br. 6; Lo ¶ 7). Appellant contends that the Examiner does not explain how a trapezoidal shape can be considered the shape of a “prism,” within the broadest reasonable interpretation of the term, as it appears to refer only to the shape of the front surface of the mirror. Appeal Br. 6–7.

We agree with Appellant that there is reversible error in the Examiner’s determination of obviousness. “[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.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006), quoted with approval in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

The Examiner contends that modifying Uken’s prismatic lens to be trapezoidal in shape results in benefits and the placement of the adhesive would naturally flow from the shape of the lens. Ans. 12. However, the Examiner has not directed us to any portion of the prior art that supports adequately the Examiner’s contention that one skilled in the art would modify Uken’s lens to be shaped as claimed. In fact, Lo discloses providing a trapezoidal section defined by imaginary boundary lines as part of the reflective surface formed on the lens. Lo ¶¶ 21, 24. The Examiner has not explained adequately why one skilled in the art would shape a lens based on a trapezoidal portion of a reflective layer to arrive at the claimed lens from the teachings of the prior art. In addition, the Examiner does not explain why Lo’s trapezoidal shape would be suitable for Uken’s lens. Thus, the Examiner does not provide the requisite rational underpinning explaining

why a person of ordinary skill in the art would have arrived at the claimed invention from the teachings of the cited art.

Accordingly, we REVERSE the Examiner's prior art rejections of claims 1-6 and 17-20 under 35 U.S.C. § 103 for the reasons the Appellant presents and we give above.

### CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1-4 and 17-20	103	Uken, Lo		1-4 and 17-20
5	103	Uken, Lo, Sudoh		5
6	103	Uken, Lo, Ace		6
<b>Overall Outcome</b>				<b>1-6, 17-20</b>

REVERSED