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KAUFHOLD DIX PATENT LAW P. O. BOX 89626 SIOUX FALLS, SD 57109			STEVENS, ALLAN D	
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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* DESIRÉE MCGEE-GREENE

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Appeal 2019-004498  
Application 15/286,240  
Technology Center 3700

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Before MURRIEL E. CRAWFORD, PHILIP J. HOFFMANN, and  
BRADLEY B. BAYAT, *Administrative Patent Judges*.

HOFFMANN, *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, 4–6, and 8. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

According to Appellant, the disclosure relates “to a new storage device for organizing items in an elementary educational environment.”

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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 the Appellant, Desiree McGee-Greene. Appeal Br. 1.

Spec. 2, ll. 1–3. Claims 1 and 8 are the independent claims under appeal.

Below, we reproduce claim 1 as illustrative of the claimed subject matter:

1. A school supplies storage system comprising:

a plurality of writing utensils;

a plurality of books;

a storage unit being selectively positioned between a folded position and an unfolded position, said storage unit forming a book case when said storage unit is in said folded position, each of said books being positioned in said book case such that each of said books is vertically oriented having a binding of each of said books being exposed wherein said plurality of books is configured to be identified by title, said storage unit having a plurality of pockets, each of said writing utensils being positioned in selected ones of said pockets wherein each of said writing utensils is configured to be accessible for writing, said storage unit including a name plate wherein said name plate is configured to identify a user of said storage unit;

wherein said storage unit comprises a panel having a first surface, a second surface and a peripheral edge extending therebetween, said peripheral edge having a top side and a bottom side, said panel having a plurality of first bends thereon, each of said first bends extending between said top side and said bottom side, said first bends being spaced apart from each other and being distributed on said panel, said first bends defining a plurality of upper portions of said panel wherein each of said upper portions is configured to be manipulated between said folded position and said unfolded position, said plurality of upper portions includes a back portion, a first side portion, a second side portion, a front portion and a tab portion, each of said first side portion and said second side portion having a distal edge with respect to said back portion; and

wherein said plurality of pockets includes a set of outer pockets and a set of inner pockets, each of said outer pockets being positioned on said second surface of an associated one of said first side portion and said back portion, each of said inner

pockets being positioned on said first surface of an associated one of said first side portion and said front portion.

### REJECTIONS<sup>2</sup> AND PRIOR ART

The Examiner rejects the claims as follows:

- I. Claim 1 under 35 U.S.C. § 103 as unpatentable based on Su (US 2009/0255881 A1, pub. Oct. 15, 2009), Benn (US 2005/0098509 A1, pub. May 12, 2005), White (US 8,567,799 B2, iss. Oct. 29, 2013), and Ong (US 6,945,399 B1, iss. Sept. 20, 2005);
- II. Claim 4 under 35 U.S.C. § 103 as unpatentable based on Su, Benn, White, Ong, and Schade (US 3,592,344, iss. July 13, 1971);
- III. Claim 5 under 35 U.S.C. § 103 as unpatentable based on Su, Benn, White, Ong, and Mengistu et al. (US 2008/0067221 A1, pub. Mar. 20, 2008) (“Mengistu”);
- IV. Claim 6 under 35 U.S.C. § 103 as unpatentable based on Su, Benn, White, Ong, and Hamilton (US 2008/0237288 A1, pub. Oct. 2, 2008);  
and

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<sup>2</sup> Appellant argues that the Examiner errs by failing to withdraw drawing objections, and by refusing to enter amendments to the Specification and claims to overcome objections to each. *See* Appeal Br. 7–8 (Arguments I–III). However, these issues are reviewable, if at all, by filing a petition for the Director’s review. *See In re Berger*, 279 F.3d 975, 984 (Fed. Cir. 2002) (citing *In re Hengehold*, 440 F.2d 1395, 1403–04 (CCPA 1971) (stating that there are many kinds of decisions made by examiners that are not appealable to the Board when such decisions are not directly connected with the merits of issues involving rejections of claims, and holding that “the kind of adverse decisions of examiners which are reviewable by the [B]oard must be those which relate, at least indirectly, to matters involving the rejection of claims”)); *see* MPEP §§ 706.01, 1002.02(c)(4), 1201 (the Board will not ordinarily hear a question that is reviewable by petition).

- V. Claim 8 under 35 U.S.C. § 103 as unpatentable based on Su, Benn, White, Hamilton, Mengistu, Ong, and Schade.

## OPINION

### Rejections I–V—Obviousness rejections of independent claims 1 and 8, and dependent claims 4–6

To support independent claim 1’s rejection, the Examiner finds that Su discloses certain elements of the claimed storage system, but does not disclose the claimed “inner pockets.” Answer 2–3. Instead, the Examiner finds that Ong discloses the inner pockets, as claimed. *Id.* at 4. According to the Examiner,

[i]t would have been obvious . . . to have provided . . . [certain] panel[s] . . . of Su with hanging pockets . . . as taught by Ong, in order to safely carry and transport digital copies of the held books . . . with the physical copies[,] . . . as Appellant provided no criticality to the location of the inner pockets.

*Id.* Appellant argues that the Examiner errs because “the rejection merely finds a reference[, Ong,] which arguably has inner pockets[,] and fails to adequately explain why a person . . . would have motivation, based on evidence, to make a modification or combination to include inner pockets meeting the specific limitations of the claims.” Appeal Br. 9.

We are not persuaded by Appellant’s argument. It is well known that “rejections 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), cited with approval in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Here, the Examiner provides a motivation to combine Ong’s inner pockets with Su’s storage system—i.e.,

“in order to safely carry and transport digital copies of the held books . . . with the physical copies.” Answer 4. Therefore, the Examiner provides an articulated reasoning with some rational underpinning sufficient to support the rejection.

Further, the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results. *KSR*, 550 U.S. at 416. Still further, “if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.” *Id.* at 417. Thus, when considering obviousness of a combination of known elements, the operative question is “whether the improvement is more than the predictable use of prior-art elements according to their established functions.” *Id.* Here, adding an inner pocket to a storage system would not be beyond the skill of the ordinary artisan, and would operate the same way after combination as before, with predictable results. Thus, Appellant does not persuade us that the Examiner errs.

To the extent that Appellant is arguing that claim 1’s rejection is in error because the references themselves do not provide any motivation to combine the references as the Examiner proposes, we are not persuaded of error. *See* Appeal Br. 9 (“The cited references . . . do not provide the required evidence[;] i.e.,] motivation as evidenced or linked to any specific teaching of the references.”). For the reasons discussed above, the Examiner provides an articulated reasoning with some rational underpinning, which is sufficient to support the rejection. *See KSR*, 550 U.S. at 419. Thus, the

Examiner need not find a motivation to combine the references, such as in the references themselves.

Appellant further argues that the Examiner errs based on the Examiner's determination that although Ong's inner pocket is "on a longitudinal side of the tote box," it would have been obvious to place it on both a front and side portion or wall of Su's storage system. Answer 4. Specifically, Appellant argues that "the claim specifies the inner pockets are positioned specifically on other claimed elements defining a positional relationship not shown, suggested, or contemplated in the cited references," and that the Examiner's reasoning why it would be advantageous to position Ong's pockets as claimed is "speculative." Appeal Br. 9–10. In response, the Examiner finds that although Ong shows the inner pocket against a "back wall," Ong describes this wall as a "longitudinal wall," and Su's side wall is also a longitudinal wall. Answer 16. Further, we agree with the Examiner that Appellant indicates "no criticality to the location of the inner pockets" on the side and front walls. Answer 4. Based on our review of the record, the Examiner adequately supports that it would have been obvious to use Ong's inner pockets on Su's front and side walls, consistent with claim 1's recitations.

For the reasons discussed above, we sustain the Examiner's obviousness rejection of independent claim 1. We also sustain the obviousness rejections of claims 4–6 that depend from claim 1, and independent claim 8, which Appellant argues are in error for the same reasons as claim 1. Appeal Br. 10.

CONCLUSION

We AFFIRM the Examiner's obviousness rejections of claims 1, 4-6, and 8.

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1	103	Su, Benn, White, Ong,	1	
4	103	Su, Benn, White, Ong, Schade	4	
5	103	Su, Benn, White, Ong, Mengistu	5	
6	103	Su, Benn, White, Ong, Hamilton	6	
8	103	Su, Benn, White, Hamilton, Mengistu, Ong, Schade	8	
<b>Overall Outcome:</b>			1, 4-6, 8	

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED