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15/251,117	08/30/2016	Kirk Duffee	Duffee 0100	1481
27981	7590	03/13/2020	EXAMINER	
WENDY W. KOB PO BOX 556 SPRINGTOWN, PA 18081			SKUBINNA, CHRISTINE J	
			ART UNIT	PAPER NUMBER
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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* KIRK DUFFEE and KEVIN GENEVRO

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Appeal 2019-005112  
Application 15/251,117  
Technology Center 3700

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Before CHARLES N. GREENHUT, ANNETTE R. REIMERS, and  
WILLIAM A. CAPP, *Administrative Patent Judges*.

GREENHUT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant appeals from the Examiner's decision to reject claims 1, 4–8, and 11–14.<sup>1</sup> *See* Final Act. 1. 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 PaPa Squat Port A Pot LLC as the real party in interest. Appeal Br. 1.

### CLAIMED SUBJECT MATTER

The claims are directed to a seat for portable toilet with tank-blocking shutter. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1 A portable toilet shutter apparatus comprising:

a flange assembly for mounting the shutter apparatus in place within an opening of a portable toilet;

an inverted-V shaped shutter suspended underneath the flange assembly so as to block a view of an underlying tank;  
and

a shutter support assembly connected between the flange assembly and the inverted-V shaped shutter for supporting the inverted-V shaped shutter in its suspended position underneath the opening of the portable toilet, wherein the inverted-V shaped shutter is connected to the shutter support assembly in a manner where the shutter remains free to swing while attached to the support assembly.

### REFERENCE

The prior art relied upon by the Examiner is:

Name	Reference	Date
Carlson et al. ("Carlson")	US 3,566,418	May 2, 1971
Lagstrom	US 3,599,582	Aug. 17, 1971
Rassbach et al. ("Rassbach")	US 3,837,012	Sept. 24, 1974

### REJECTION

Claims 1, 4–8, and 11–14 are rejected under 35 U.S.C. § 103 as being unpatentable over Carlson, Rassbach, and Lagstrom. Final Act. 2.

OPINION

*Claim 1: obviousness*

Regarding independent claim 1, the Examiner determined Carlson taught the flange assembly and the support assembly, but failed to teach the inverted-V shaped shutter and the shutter remains free to swing while attached to the support assembly. Final Act. 2–3. The Examiner determined a person of ordinary skill in the art would have modified Carlson to include the inverted-V shaped shutter of Rassbach “for the purpose of having a shutter that will automatically rotate as waste is deposited on the shutter,” and to include the free swing shutter feature of Lagstrom “for the purpose of simplifying the structure, making the device cheaper to manufacture.” Final Act. 3–4.

As Appellant points out, however, Lagstrom requires a shield 38 to be pulled out to allow the hinged plate 36 to drop and swing. App. Br. 8. This feature of Lagstrom is in contrast to the inverted-V shaped shutter that “remains free to swing while attached to the support assembly” of Appellant’s invention. App. Br. 8. The Examiner explains that “the swing requires a force acting on the shutter. When the shield is withdrawn, the force of gravity acts on the hinged plate 36, dropping the plate and then the plate is free to swing back.” Ans. 4. However, the Examiner’s reasoning is not persuasive. The shutter does not remain free to swing while “attached to the support assembly” if a shield is required to be withdrawn to activate the swing. Spec. ¶ 7. The shutter’s freedom is constrained by the shield 38 of Lagstrom. Hence, the shutter is not free. Therefore, Lagstrom does not teach a shutter that “remains free to swing while attached to the support assembly.” App. Br. 8.

Accordingly, the Examiner's obviousness rejections cannot be sustained on the record before us.

CONCLUSION

The Examiner's rejections are reversed.

DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1, 4-8, 11-14	103	Carlson, Rassbach, Lagstrom		1, 4-8, 11-14

REVERSED