

EXHIBIT 19

DECLARATION OF J. CHRISTOPHER CARRAWAY IN SUPPORT
OF DEFENDANT MICROSOFT'S MOTION TO STAY PROCEEDINGS PENDING
COMPLETION OF THE REEXAMINATION OF THE PATENTS-IN-SUIT



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CONTROL NO.	FILING DATE	PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
95/000065	12/08/2004	6155906	

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EXAMINER

Amy B. Vanatta

ART UNIT	PAPER
3765	

3765

DATE MAILED:

03/15/05

**INTER PARTES REEXAMINATION
 COMMUNICATION**

BELOW/ATTACHED YOU WILL FIND A COMMUNICATION FROM THE UNITED STATES PATENT AND TRADEMARK OFFICE OFFICIAL(S) IN CHARGE OF THE PRESENT REEXAMINATION PROCEEDING.

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this communication.



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**Transmittal of Communication to Third Party Requester
Inter Partes Reexamination**

REEXAMINATION CONTROL NUMBER 95/000,065.

PATENT NUMBER 6,155,906.

TECHNOLOGY CENTER 3700.

ART UNIT 3765.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

**OFFICE ACTION IN INTER PARTES
REEXAMINATION**

Control No.	Patent Under Reexamination	
95/000,065	6155906	
Examiner	Art Unit	
Amy B. Vanatta	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --

Responsive to the communication(s) filed by:

Patent Owner on _____

Third Party(ies) on _____

RESPONSE TIMES ARE SET TO EXPIRE AS FOLLOWS:

For Patent Owner's Response:

2 MONTH(S) from the mailing date of this action. 37 CFR 1.945. EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.956.

For Third Party Requester's Comments on the Patent Owner Response:

30 DAYS from the date of service of any patent owner's response. 37 CFR 1.947. NO EXTENSIONS OF TIME ARE PERMITTED. 35 U.S.C. 314(b)(2).

All correspondence relating to this inter partes reexamination proceeding should be directed to the Central Reexamination Unit at the mail, FAX, or hand-carry addresses given at the end of this Office action.

This action is not an Action Closing Prosecution under 37 CFR 1.949, nor is it a Right of Appeal Notice under 37 CFR 1.953.

PART I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892
2. Information Disclosure Citation, PTO-1449 or PTO/SB/08
3. _____

PART II. SUMMARY OF ACTION:

- 1a. Claims 1-14 are subject to reexamination.
- 1b. Claims _____ are not subject to reexamination.
2. Claims _____ have been canceled.
3. Claims _____ are confirmed. [Unamended patent claims]
4. Claims _____ are patentable. [Amended or new claims]
5. Claims 1-14 are rejected.
6. Claims _____ are objected to.
7. The drawings filed on _____ are acceptable are not acceptable.
8. The drawing correction request filed on _____ is: approved. disapproved.
9. Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d). The certified copy has:
 - been received. not been received. been filed in Application/Control No _____
10. Other _____

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Reexamination

1. This first Office action on the merits is being mailed ~~subsequently~~ to the order granting reexamination. 37 CFR 1.935.

Issues Raised by the Requestor

2. It is requested that the Patent Owner and the Third Party Requestor refer to these Issue numbers in future correspondence.

Issue 1: The requestor submits that claims 1-7, 12, and 14 of the May patent are unpatentable under 35 U.S.C. 102(b) over JP 58-110006.

Issue 2: The requestor submits that claims 8 and 10 of the May patent are unpatentable under 35 U.S.C. 103(a) over JP 58-110006 in view of Woods (US 4,638,513).

Issue 3: The requestor submits that claims 9 and 13 of the May patent are unpatentable under 35 U.S.C. 103(a) over JP 58-110006 in view of Erwin (US 5,772,492).

Issue 4: The requestor submits that claims 11 and 12 of the May patent are unpatentable under 35 U.S.C. 103(a) over JP 58-110006 in view of the Elle reference.

Issue 5: The requestor submits that claim 14 of the May patent is unpatentable under 35 U.S.C. 103(a) over JP 58-110006 in view of Fernandes (US 6,086,451).

Issue 6: The requestor submits that claims 1-7, 11, and 12 of the May patent are unpatentable under 35 U.S.C. 102(b) over the Elle reference.

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Issue 7: The requestor submits that claim 8 of the May patent is unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Woods (US 4,638,513), Fernandes (US 6,086,451), and/or Erwin (US 5,772,492).

Issue 8: The requestor submits that claim 9 of the May patent is unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Woods (US 4,638,513), Fernandes (US 6,086,451), and/or Erwin (US 5,772,492).

Issue 9: The requestor submits that claim 10 of the May patent is unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Woods (US 4,638,513), Fernandes (US 6,086,451), and/or Erwin (US 5,772,492).

Issue 10: The requestor submits that claim 13 of the May patent is unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Woods (US 4,638,513), Fernandes (US 6,086,451), and/or Erwin (US 5,772,492).

Issue 11: The requestor submits that claim 14 of the May patent is unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Woods (US 4,638,513), Fernandes (US 6,086,451), and/or Erwin (US 5,772,492).

Issue 12: The requestor submits that claims 1-7 of the May patent are unpatentable under 35 U.S.C. 102(b) over Fridolph (US 1,544,386).

Issue 13: The requestor submits that claims 1-7 of the May patent are unpatentable under 35 U.S.C. 102(e) over Flaherty (US 6,186,861).

Issue 14: The requestor submits that claim 8 of the May patent is unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

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Issue 15: The requestor submits that claim 9 of the May patent is unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 16: The requestor submits that claim 10 of the May patent is unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 17: The requestor submits that claim 11 of the May patent is unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 18: The requestor submits that claim 12 of the May patent is unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 19: The requestor submits that claim 13 of the May patent is unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 20: The requestor submits that claim 14 of the May patent is unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 21: The requestor submits that claims 1-7 of the May patent are unpatentable under 35 U.S.C. 102(a) over Collins (GB 2,339,139).

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Issue 22: The requestor submits that claim 8 of the May patent is unpatentable under 35 U.S.C. 103(a) over Collins (GB 2,339,139) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 23: The requestor submits that claim 9 of the May patent is unpatentable under 35 U.S.C. 103(a) over Collins (GB 2,339,139) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 24: The requestor submits that claim 10 of the May patent is unpatentable under 35 U.S.C. 103(a) over Collins (GB 2,339,139) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 25: The requestor submits that claim 11 of the May patent is unpatentable under 35 U.S.C. 103(a) over Collins (GB 2,339,139) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 26: The requestor submits that claim 12 of the May patent is unpatentable under 35 U.S.C. 103(a) over Collins (GB 2,339,139) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 27: The requestor submits that claim 13 of the May patent is unpatentable under 35 U.S.C. 103(a) over Collins (GB 2,339,139) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

Issue 28: The requestor submits that claim 14 of the May patent is unpatentable under 35 U.S.C. 103(a) over Collins (GB 2,339,139) in view of the Elle reference, Woods (US 4,638,513), and/or Erwin (US 5,772,492).

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Issue 29: The requestor submits that claims 1, 2, 4-7, 11, and 14 of the May patent are unpatentable under 35 U.S.C. 102(b) over the Wacoal Corporation Product Catalog.

Additional Issues

Issue 30: The examiner has rejected claim 14 of the May patent as being unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of Fernandes (US 6,086,451).

Issue 31: The examiner has rejected claim 14 of the May patent as being unpatentable under 35 U.S.C. 103(a) over Collins (GB 2,339,139) in view of Fernandes (US 6,086,451).

Issue 32: The examiner has rejected claims 8 and 9 of the May patent as being unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861).

Issue 33: The examiner has rejected claim 13 of the May patent as being unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of Murray (US 3,311,112).

Issue 34: The examiner has rejected claims 8 and 9 of the May patent as being unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of LoCascio (US 3,227,185).

Issue 35: The examiner has rejected claim 13 of the May patent as being unpatentable under 35 U.S.C. 103(a) over Flaherty (US 6,186,861) in view of LoCascio in further view of Murray (US 3,311,112).

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Issue 36: The examiner has rejected claims 8 and 9 of the May patent as being unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of LoCascio (US 3,227,185).

Issue 37: The examiner has rejected claim 13 of the May patent as being unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of LoCascio in further view of Murray (US 3,311,112).

Issue 38: The examiner has rejected claims 8 and 9 of the May patent as being unpatentable under 35 U.S.C. 103(a) over Fridolph (US 1,544,386).

Claim Rejections - 35 USC § 102 and 35 USC § 103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Issue 1:

5. Claims 1, 4, and 5 of the May patent are unpatentable under 35 U.S.C. 102(b) as being anticipated by JP 58-110006.

JP 58-110006 discloses an undergarment article of clothing (1) configured to receive and retain at least one strap (3) at a plurality of strap attachment points (2) as in claims 1 and 5. The '006 reference discloses a plurality of strap sets (see Fig. 2), each of the strap sets comprising at least one strap (3). Each of the straps (3) have first and second strap connectors (7) at first and second ends of the straps, which are removably attachable to the strap attachment points (2) on the undergarment. Each of the strap sets comprise a material characteristically distinct from a material of every other strap set; see Fig. 2, which shows three straps, each strap forming a strap set within the meaning of claims 1 and 5, and each strap ("strap set") shown in Fig. 2 differs from the material of the other two straps ("strap sets") as in claims 1 and 5. The straps are interchangeable and provide a distinct exposed portion of the undergarment as in claim 1. Regarding claim 4, the '006 reference discloses that the straps are made of leather, plaited cord, enamel, beads, precious metal, or other materials. As shown in Fig. 2, the characteristically distinct materials comprise distinctions in color, composition, width, and/or texture.

6. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on pages 2-6 of the request, and it is being adopted essentially as proposed in the request regarding claims 1, 4, and 5.

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7. The third party requestor's proposal that claims 2, 3, 6, 7, 12, and 14 are unpatentable under 35 U.S.C. 102(b) over JP 58-110006 is not adopted because the '006 reference does not disclose that each strap set comprises two straps. The '006 reference merely shows individual straps which are distinct from one another, as shown in Fig. 2. There is no disclosure in the English language translation of the document or the figures of the document of there being a pair of straps in each strap set, with the strap sets being distinct from other sets and interchangeable with the other pairs.

Issue 2:

8. The third party requestor's proposal that claims 8 and 10 of the May patent are unpatentable under 35 U.S.C. 103(a) over JP 58-110006 in view of Woods is not adopted because claims 8 and 10 depend from claim 6, and the rejection of claim 6 over JP 58-110006 is not being adopted for the reasons set forth above.

Issue 3:

9. The third party requestor's proposal that claims 9 and 13 of the May patent are unpatentable under 35 U.S.C. 103(a) over JP 58-110006 in view of Erwin is not adopted because claims 9 and 13 depend from claim 6, and the rejection of claim 6 over JP 58-110006 is not being adopted for the reasons set forth above.

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Issue 4:

10. The third party requestor's proposal that claims 11 and 12 of the May patent are unpatentable under 35 U.S.C. 103(a) over JP 58-110006 in view of the Elle reference is not adopted because claims 11 and 12 depend from claim 6, and the rejection of claim 6 over JP 58-110006 is not being adopted for the reasons set forth above.

Issue 5:

11. The third party requestor's proposal that claim 14 of the May patent is unpatentable under 35 U.S.C. 103(a) over JP 58-110006 in view of Fernandes is not adopted because claim 14 depends from claim 6, and the rejection of claim 6 over JP 58-110006 is not being adopted for the reasons set forth above.

Issue 6:

12. Claims 1-7, 11, and 12 of the May patent are unpatentable under 35 U.S.C. 102(b) over the Elle reference.

The Elle reference discloses an undergarment article of clothing in the form of a brassiere which is configured to receive and retain at least one strap at a plurality of strap attachment points as in claims 1 and 5 (see figures and text on page 4 of the Elle reference, text on page 9 of the Elle reference, and figures and text on page 10 of the Elle reference). The Elle reference discloses a plurality of strap sets (see pages 4, 9, and 10 of Elle), each of the strap sets comprising at least one strap as in claims 1 and 5. The strap sets are clearly shown on page 10 of Elle as each comprising two straps

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(see figure in lower left portion of page and three small figures on right side of page), as in claims 2, 3, and 6. Each of the straps have first and second strap connectors at first and second ends of the straps, which are removably attachable to the strap attachment points on the front and back of the undergarment. Each of the strap sets comprise a material characteristically distinct from a material of every other strap set; see page 10, which shows three strap sets in the small photos and four strap sets in the large photo, with each strap set differing from the material of the other strap sets as in claims 1, 5, and 6. The straps are interchangeable and provide a distinct exposed portion of the undergarment when worn in conjunction with an outer garment (see pages 4, 6, and 9 of Elle), as in claims 1 and 6. Regarding claims 4 and 7, the Elle reference discloses on page 10 that the straps are made of transparent material, sparkly material, and two-color material, thus being distinct in color, material composition, and/or texture. Also see the sets shown in the large photo on page 10, which differ in color, material composition, texture and/or strap width, and see strap descriptions of pages 4 and 9, disclosing interchangeable straps made of pearl chains, gold and silver chains, diamond chains, and various different colors. Regarding claim 11, the Elle reference discloses that one of the strap sets has straps comprising transparent material (see pages 4, 9, and 10). On pages 5, 6, and 10, the Elle reference shows a strap set having straps comprising multiple strands of material connected together at first and second ends thereof, as in claim 12.

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13. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on pages 11-13 of the request, and it is being adopted essentially as proposed in the request regarding claims 1-7, 11, and 12.

Issue 7:

14. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Elle reference in view of Woods.

The Elle reference discloses a brassiere with detachable and interchangeable straps, and at least some of the strap sets comprise straps made of flat lengths of fabric as in claim 8. The Elle reference does not specifically disclose a strap width in the range of 0.5 to 1.0 inch, however such a strap width is conventional in the art and provides for a desirable combination of support and wearer comfort. Woods discloses a bra having straps which "preferably are $\frac{3}{4}$ to 1 inch in width" (col. 4, line 6). Such a range meets the limitation of claim 8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least one of the strap sets of the brassiere shown in the Elle reference to have straps of a width of $\frac{3}{4}$ to 1 inch, such as taught by Woods, in order to provide straps that are both comfortable and supportive, and furthermore since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

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15. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on pages 11 and 13-14 of the request, and it is being adopted as proposed in the request regarding claim 8.

16. The third party requestor's proposal that claim 8 is alternatively unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Fernandes and/or Erwin is not adopted because neither Fernandes nor Erwin disclose a strap width in the range of 0.5 to 1 inch.

Issue 8:

17. The third party requestor's proposal that claim 9 is unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Woods, Fernandes, and/or Erwin is not adopted because these references do not disclose a brassiere strap width in the range of 1 to 3 inches. The requestor does not elaborate as to how Woods, Fernandes, and/or Erwin render claim 9 obvious over the Elle reference in view of these references (see pages 13-14 of the request), however the Erwin reference is discussed in the proposed rejection of claim 9 as obvious over JP 58-110006 in view of Erwin (see page 8 of request). Here, the requestor states that Erwin explicitly discloses strap widths of one inch and greater. The examiner notes that Erwin discloses strap widths of about 1 inch to about 13 inches for the straps 34,36 of the undergarment 2 (col. 6, lines 46-48), while the straps 21,23 of the brassiere 1 are shown as much thinner than straps 34,36 (see Fig. 1(c)). Thus, Erwin does not provide a teaching as to brassiere strap widths in the range of 1-3 inches and would not motivate one of ordinary skill in the art to

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construct the straps of the brassiere shown in the Elle reference to be in the range of 1-3 inches.

Issue 9:

18. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Elle reference in view of Woods.

The Elle reference discloses a brassiere with detachable and interchangeable straps, however none of the straps are specifically disclosed as comprising tubular lengths of fabric having a diameter in the range of 0.1 inch to 0.5 inch. Woods discloses a bra having straps comprising tubular lengths of fabric which are formed by folding over the edges of the length of fabric and joining the edges to form a tubular fabric, as shown Figs. 1-3. Woods discloses that the straps may have a width of a ½ inch or greater (col. 4, lines 4-5). One having routine skill in the art would be motivated to choose a strap having a width of ½ inch since straps having such a width are well known, as disclosed by Woods, and since one having ordinary skill in the art would recognize that a narrow ½ inch strap would be more aesthetically pleasing with certain styles of shirts, such as shirts having narrow straps. A strap having a width of ½ inch would meet the limitation of being in the range of 0.1 inch to 0.5 inch, as in claim 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide one of the strap sets of the brassiere shown in the Elle reference to have straps made out of tubular fabric, since straps are conventionally formed out of tubular fabric, such as shown by Woods, in order to provide finished edges which resist

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fraying. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the straps of one of the strap sets of the brassiere shown in the Elle reference out of tubular fabric having a width of ½ inch, such as taught by Woods, in order to provide straps that are aesthetically pleasing when outer garments with thin straps are worn, and furthermore since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

19. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on pages 11 and 13-14 of the request, and it is being adopted as proposed in the request regarding claim 10.

20. The third party requestor's proposal that claim 10 is alternatively unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Fernandes and/or Erwin is not adopted because neither Fernandes nor Erwin disclose a strap width in the range of 0.1 to 0.5 inch.

Issue 10:

21. The third party requestor's proposal that claim 13 is unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Woods, Fernandes, and/or Erwin is not adopted because none of these references disclose strap connectors which each comprise two component connectors adjacent each other on the ends of the straps, and four strap attachment points which each comprise two receptors for receiving the two component connectors.

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Issue 11:

22. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Elle reference in view of Fernandes.

The Elle reference discloses a brassiere with detachable and interchangeable decorative straps, including strap attachment points on the front and back of the brassiere. The strap attachment points of the brassiere disclosed in the Elle reference are designed to secure the hook which is at the end of each strap (see hooks shown on page 10). The Elle reference does not disclose strap attachment points which comprise at least two groups of adjacent attachment points as in claim 14. Fernandes discloses a brassiere having detachable decorative straps which attach to at least two strap attachment points (70 and 69). The strap attachment points comprise at least two groups of adjacent strap attachment points (see the loops shown in Fig. 1 on each side of both the front and back of the brassiere, and see loops 68, 70, and 72 shown in Fig. 5 and loops 69, 71, and 73 as shown in Fig. 6.). These groups of adjacent attachment points allow placement of the straps at offset alternative positions, as in claim 14. Fernandes discloses that this configuration of plural adjacent loops provides a variety of attachment positions at the option of the user, so that the strap positioning is adjustable depending upon the location of the straps in the outer garment and depending upon the preferences of the wearer (col. 2, lines 31-39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide plural groups of adjacent strap attachment points on the brassiere disclosed in the Elle reference in order to permit adjustability of the strap position depending upon the

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location of the straps in the outer garment and depending upon the preferences of the wearer, as taught by Fernandes.

23. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on pages 11 and 13-14 of the request, and it is being adopted as proposed in the request regarding claim 14.

24. The third party requestor's proposal that claim 14 is alternatively unpatentable under 35 U.S.C. 103(a) over the Elle reference in view of Woods and/or Erwin is not adopted because neither Woods nor Erwin disclose at least two groups of strap attachment points allowing placement of the straps at offset alternative positions on the brassiere.

Issue 12:

25. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being unpatentable over Fridolph.

Fridolph discloses an undergarment article of clothing (1) configured to receive and retain at least one strap (2 and 3) at a plurality of strap attachment points (4) as in claims 1 and 5. Fridolph discloses that the undergarment may be a brassiere (p. 1, line 21), and includes at least two strap attachment points (4) as claimed. Fridolph discloses a plurality of strap sets which comprise a pair of straps each, the sets being interchangeable to provide shoulder straps of a color which matches the outer garments (p. 1, lines 28-39). Each of the straps (2,3) have first and second strap connectors (6,7) at first and second ends of the straps, which are removably attachable to the strap

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attachment points (4) on the undergarment. Fridolph discloses that "different colored shoulder straps may be interchanged". These different colored straps form at least two sets of strap pairs, thus meeting the limitation that each of the sets comprises a material distinct from every other strap set. The straps provide a distinct exposed portion of the undergarment as in claim 1. The undergarment has two attachment points (4) on the front and two attachment points (4) on the back, as in claim 3. The strap sets differ in color, as in claims 4 and 7.

26. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 14 of the request, and it is being adopted essentially as proposed in the request for claims 1-7.

Issue 13:

27. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being unpatentable over Flaherty.

Flaherty discloses an undergarment article of clothing in the form of a brassiere (200) having detachable straps (see Fig. 4). The brassiere body (212) is configured to receive and retain at least one strap (214) at a plurality of strap attachment points (220) as in claims 1 and 5. The brassiere includes at least two strap attachment points (220) as recited in claim 6. Flaherty discloses a plurality of strap sets (214, 314, and 414) which comprise a pair of straps each, the sets being interchangeable to provide shoulder straps of a desired design or color (col. 5, line 64 through col. 6, line 5). Each of the straps have first and second strap connectors (hooks 222, 322, and 422) at first

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and second ends of the straps, which are removably attachable to the strap attachment points (loops 220) on the undergarment. The undergarment has two attachment points (220) on the front and two attachment points (220) on the back, as in claim 3. The material of the straps of each strap set is characteristically distinct from a material of every other strap set, as shown in Fig. 4 (see strap sets comprising straps 214, 314, and 414, which differ from one another as illustrated in the figure). Flaherty discloses that the strap sets may differ in color (col. 6, lines 1-14), as in claims 4 and 7. The straps are interchangeable and provide a distinct exposed portion of the undergarment when worn in conjunction with an outer garment (col. 4, lines 25-31) as in claims 1 and 6.

28. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 14 of the request, and it is being adopted essentially as proposed in the request for claims 1-7.

Issue 14:

29. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of Woods.

Flaherty discloses a brassiere with detachable and interchangeable straps, and the straps comprise flat lengths of fabric as in claim 8. Flaherty does not specifically disclose a strap width in the range of 0.5 to 1.0 inch, however such a strap width is conventional in the art and provides for a desirable combination of support and wearer comfort. Woods discloses a bra having straps which "preferably are $\frac{3}{4}$ to 1 inch in

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width" (col. 4, line 6). Such a range meets the limitation of claim 8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least one of the strap sets of the brassiere of Flaherty to have straps of a width of $\frac{3}{4}$ to 1 inch, such as taught by Woods, in order to provide straps that are both comfortable and supportive, and furthermore since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

30. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 14 of the request, and it is being adopted as proposed in the request regarding claim 8.

31. The third party requestor's proposal that claim 8 is alternatively unpatentable under 35 U.S.C. 103(a) over Flaherty in view of the Elle reference and/or Erwin is not adopted because neither the Elle reference nor Erwin specifically disclose a strap width in the range of 0.5 to 1 inch.

Issue 15:

32. The third party requestor's proposal that claim 9 is unpatentable under 35 U.S.C. 103(a) over Flaherty in view of the Elle reference, Woods, and/or Erwin is not adopted because these references do not specifically disclose a brassiere strap width in the range of 1 to 3 inches. The requestor does not elaborate as to how Elle, Woods, and/or Erwin render claim 9 obvious over Flaherty in view of these references (see page 14 of the request), however the Erwin reference is discussed in the proposed rejection of

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claim 9 as obvious over JP 58-110006 in view of Erwin (see page 8 of request). Here, the requestor states that Erwin explicitly discloses strap widths of one inch and greater. The examiner notes that Erwin discloses strap widths of about 1 inch to about 13 inches for the straps 34,36 of the undergarment 2 (col. 6, lines 46-48), while the straps 21,23 of the brassiere 1 are shown as much thinner than straps 34,36 (see Fig. 1(c)). Thus, Erwin does not provide a teaching as to brassiere strap widths in the range of 1-3 inches and would not motivate one of ordinary skill in the art to construct the straps of the brassiere of Flaherty to be in the range of 1-3 inches.

Issue 16:

33. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of Woods.

Flaherty discloses a brassiere with detachable and interchangeable straps, however the straps are not disclosed as tubular lengths of fabric having a diameter in the range of 0.1 inch to 0.5 inch. Woods discloses a bra having straps comprising tubular lengths of fabric which are formed by folding over the edges of the length of fabric and joining the edges to form a tubular fabric, as shown Figs. 1-3. Woods discloses that the straps may have a width of a $\frac{1}{2}$ inch or greater (col. 4, lines 4-5). One having routine skill in the art would be motivated to choose a strap having a width of $\frac{1}{2}$ inch since straps having such a width are well known, as disclosed by Woods, and since one having ordinary skill in the art would recognize that a narrow $\frac{1}{2}$ inch strap would be more aesthetically pleasing with certain styles of shirts, such as shirts having

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narrow straps. A strap having a width of ½ inch would meet the limitation of being in the range of 0.1 inch to 0.5 inch, as in claim 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least one of the strap sets of the brassiere of Flaherty out of tubular fabric, since straps are conventionally formed out of tubular fabric, such as shown by Woods, in order to provide finished edges which resist fraying. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least one of the strap sets of the brassiere of Flaherty to have tubular fabric straps of a width of ½ inch, such as taught by Woods, in order to provide straps that are aesthetically pleasing when outer garments with thin straps are worn, and furthermore since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

34. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 14 of the request, and it is being adopted as proposed in the request regarding claim 10.

35. The third party requestor's proposal that claim 10 is alternatively unpatentable under 35 U.S.C. 103(a) over Flaherty in view of the Elle reference and/or Erwin is not adopted because neither the Elle reference nor Erwin specifically disclose a strap of tubular fabric having a width in the range of 0.1 to 0.5 inch.

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Issue 17:

36. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of the Elle reference.

Flaherty discloses a brassiere with detachable and interchangeable decorative straps, however Flaherty does not disclose straps comprising transparent material. The Elle reference discloses a brassiere having detachable and interchangeable decorative straps, and teaches that one of the strap sets comprises transparent straps (see pages 4, 6, 9, and 10 of the Elle reference). Transparent straps are known in the art in order to minimize the appearance of the brassiere straps when worn. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide straps made of transparent material in one of the strap sets of Flaherty, in order to minimize the appearance of the straps when worn, as shown by Elle.

37. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 14 of the request, and it is being adopted as proposed in the request regarding claim 11.

38. The third party requestor's proposal that claim 11 is alternatively unpatentable under 35 U.S.C. 103(a) over Flaherty in view of Woods and/or Erwin is not adopted because neither Woods nor Erwin discloses a strap made of transparent material.

Issue 18:

39. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of the Elle reference.

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Flaherty discloses a brassiere with detachable and interchangeable decorative straps, however Flaherty does not disclose straps comprising multiple strands of material connected together at first and second ends thereof. The Elle reference discloses a brassiere having detachable and interchangeable decorative straps, and teaches that one of the strap sets consists of straps each comprising multiple strands of material, the strands being shown as connected at their first and second ends (see pages 4-7 and 10 of the Elle reference). Such a strap design provides a pleasing decorative appearance and is known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide straps made of multiple strands of material connected at the ends in one of the strap sets of Flaherty, in order to provide a decorative and aesthetically pleasing appearance, as shown by Elle.

40. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 14 of the request, and it is being adopted as proposed in the request regarding claim 12.

41. The third party requestor's proposal that claim 12 is alternatively unpatentable under 35 U.S.C. 103(a) over Flaherty in view of Woods and/or Erwin is not adopted because neither Woods nor Erwin discloses a strap comprising multiple strands of material.

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Issue 19:

42. The third party requestor's proposal that claim 13 is unpatentable under 35 U.S.C. 103(a) over Flaherty in view of the Elle reference, Woods, and/or Erwin is not adopted because none of these references disclose strap connectors which each comprise two component connectors adjacent each other on the ends of the straps, and four strap attachment points which each comprise two receptors for receiving the two component connectors.

Issue 20:

43. The third party requestor's proposal that claim 14 is unpatentable under 35 U.S.C. 103(a) over Flaherty in view of the Elle reference, Woods, and/or Erwin is not adopted because none of these references disclose at least two groups of strap attachment points allowing placement of the straps at offset alternative positions on the brassiere.

Issue 21:

44. Claims 1-7 are rejected under 35 U.S.C. 102(a) as being unpatentable over Collins.

Collins discloses an undergarment article of clothing (see Fig. 3) configured to receive and retain at least one strap (21) at a plurality of strap attachment points (22,24) as in claims 1 and 5. Collins discloses that the undergarment is a brassiere and includes at least two strap attachment points (22,24) as claimed. Collins discloses a

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plurality of strap sets which comprise a pair of straps each, the sets being interchangeable to provide shoulder straps of a design or color which coordinates with the outer clothing of the wearer (p. 5, lines 18-29). Each of the straps (21) have first and second strap connectors (23,26) at first and second ends of the straps, which are removably attachable to the strap attachment points (22,24) on the undergarment (see Figs. 3 and 4). Each of the sets of straps comprises a material distinct from every other strap set (pg. 5, lines 18-22), as claimed. The straps are interchangeable and provide a distinct exposed portion of the undergarment when worn in conjunction with an outer garment (see page 3, lines 9-15), as in claims 1 and 6. The undergarment has two attachment points (22) on the front and two attachment points (24) on the back, as in claim 3. Collins discloses that the strap sets may differ in color (pg. 5, line 22), as in claims 4 and 7.

45. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 15 of the request, and it is being adopted essentially as proposed in the request for claims 1-7.

Issue 22:

46. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins in view of Woods.

Collins discloses a brassiere with detachable and interchangeable straps, and the straps comprise flat lengths of fabric as in claim 8. Collins does not specifically disclose a strap width in the range of 0.5 to 1.0 inch, however such a strap width is

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conventional in the art and provides for a desirable combination of support and wearer comfort. Woods discloses a bra having straps which "preferably are $\frac{3}{4}$ to 1 inch in width" (col. 4, line 6). Such a range meets the limitation of claim 8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least one of the strap sets of the brassiere of Collins to have a width of $\frac{3}{4}$ to 1 inch, such as taught by Woods, in order to provide straps that are both comfortable and supportive, and furthermore since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

47. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 15 of the request, and it is being adopted as proposed in the request regarding claim 8.

48. The third party requestor's proposal that claim 8 is alternatively unpatentable under 35 U.S.C. 103(a) over Collins in view of the Elle reference and/or Erwin is not adopted because neither the Elle reference nor Erwin specifically disclose a strap width in the range of 0.5 to 1 inch.

Issue 23:

49. The third party requestor's proposal that claim 9 is unpatentable under 35 U.S.C. 103(a) over Collins in view of the Elle reference, Woods, and/or Erwin is not adopted because these references do not specifically disclose a brassiere strap width in the range of 1 to 3 inches. The requestor does not elaborate as to how Elle, Woods, and/or

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Erwin render claim 9 obvious over Flaherty in view of these references (see page 15 of the request), however the Erwin reference is discussed in the proposed rejection of claim 9 as obvious over JP 58-110006 in view of Erwin (see page 8 of request). Here, the requestor states that Erwin explicitly discloses strap widths of one inch and greater. The examiner notes that Erwin discloses strap widths of about 1 inch to about 13 inches for the straps 34,36 of the undergarment 2 (col. 6, lines 46-48), while the straps 21,23 of the brassiere 1 are shown as much thinner than straps 34,36 (see Fig. 1(c)). Thus, Erwin does not provide a teaching as to brassiere strap widths in the range of 1-3 inches and would not motivate one of ordinary skill in the art to construct the straps of the brassiere of Flaherty to be in the range of 1-3 inches.

Issue 24:

50. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins in view of Woods.

Collins discloses a brassiere with detachable and interchangeable straps, however the straps are not disclosed as tubular lengths of fabric having a diameter in the range of 0.1 inch to 0.5 inch. Woods discloses a bra having straps comprising tubular lengths of fabric which are formed by folding over the edges of the length of fabric and joining the edges to form a tubular fabric, as shown Figs. 1-3. Woods discloses that the straps may have a width of a ½ inch or greater (col. 4, lines 4-5). One having routine skill in the art would be motivated to choose a strap having a width of ½ inch since straps having such a width are well known, as disclosed by Woods, and

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since one having ordinary skill in the art would recognize that a narrow ½ inch strap would be more aesthetically pleasing with certain styles of shirts, such as shirts having narrow straps. A strap having a width of ½ inch would meet the limitation of being in the range of 0.1 inch to 0.5 inch, as in claim 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the straps of at least one of the strap sets of the brassiere of Collins out of tubular fabric, since straps are conventionally formed out of tubular fabric, such as shown by Woods, in order to provide finished edges which resist fraying. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the straps of at least one of the strap sets of the brassiere of Collins out of tubular fabric having a width of ½ inch, such as taught by Woods, in order to provide straps that are aesthetically pleasing when outer garments with thin straps are worn, and furthermore since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

51. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 15 of the request, and it is being adopted as proposed in the request regarding claim 10.

52. The third party requestor's proposal that claim 10 is alternatively unpatentable under 35 U.S.C. 103(a) over Collins in view of the Elle reference and/or Erwin is not adopted because neither the Elle reference nor Erwin specifically disclose a strap of tubular fabric having a width in the range of 0.1 to 0.5 inch.

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Issue 25:

53. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins in view of the Elle reference.

Collins discloses a brassiere with detachable and interchangeable decorative straps, however Collins does not disclose straps comprising transparent material. The Elle reference discloses a brassiere having detachable and interchangeable decorative straps, and teaches that one of the strap sets comprises transparent straps (see pages 4, 6, 9, and 10 of the Elle reference). Transparent straps are known in the art in order to minimize the appearance of the brassiere straps when worn. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide straps made of transparent material in one of the strap sets of Collins, in order to minimize the appearance of the straps when worn, as shown by Elle.

54. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 15 of the request, and it is being adopted as proposed in the request regarding claim 11.

55. The third party requestor's proposal that claim 11 is alternatively unpatentable under 35 U.S.C. 103(a) over Collins in view of Woods and/or Erwin is not adopted because neither Woods nor Erwin discloses a strap made of transparent material.

Issue 26:

56. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins in view of the Elle reference.

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Collins discloses a brassiere with detachable and interchangeable decorative straps, however Collins does not disclose straps comprising multiple strands of material connected together at first and second ends thereof. The Elle reference discloses a brassiere having detachable and interchangeable decorative straps, and teaches that one of the strap sets consists of straps each comprising multiple strands of material, the strands being shown as connected at their first and second ends (see pages 4-7 and 10 of the Elle reference). Such a strap design provides a pleasing decorative appearance and is known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide straps made of multiple strands of material connected at the ends in one of the strap sets of Collins in order to provide a decorative and aesthetically pleasing appearance, as shown by Elle.

57. This rejection was proposed by the third party requestor in the request for reexamination, as set forth on page 15 of the request, and it is being adopted as proposed in the request regarding claim 12.

58. The third party requestor's proposal that claim 12 is alternatively unpatentable under 35 U.S.C. 103(a) over Collins in view of Woods and/or Erwin is not adopted because neither Woods nor Erwin discloses a strap comprising multiple strands of material.

Issue 27:

59. The third party requestor's proposal that claim 13 is unpatentable under 35 U.S.C. 103(a) over Collins in view of the Elle reference, Woods, and/or Erwin is not

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adopted because none of these references disclose strap connectors which each comprise two component connectors adjacent each other on the ends of the straps, and four strap attachment points which each comprise two receptors for receiving the two component connectors.

Issue 28:

60. The third party requestor's proposal that claim 14 is unpatentable under 35 U.S.C. 103(a) over Collins in view of the Elle reference, Woods, and/or Erwin is not adopted because none of these references disclose at least two groups of strap attachment points allowing placement of the straps at offset alternative positions on the brassiere.

Issue 29:

61. Claims 1-7, 11, and 12 are rejected under 35 U.S.C. 102(b) as unpatentable over the Wacoal Corporation Product Catalog.

The Wacoal reference discloses an undergarment article of clothing in the form of a brassiere which is configured to receive and retain at least one strap at a plurality of strap attachment points as in claims 1 and 5 (see figures and text on pages 1 and 6 of the Wacoal reference). The Wacoal reference discloses a plurality of strap sets (see pages 1-6), each of the strap sets comprising at least one strap as in claims 1 and 5. The strap sets are clearly shown on pages 1, 5, and 6 of Wacoal as each comprising two straps, as in claims 2, 3, and 6. Each of the straps have first and second strap

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connectors at first and second ends of the straps, which are removably attachable to the strap attachment points on the front and back of the undergarment (see page 6, which discloses that each strap is detachably hooked to the front and back of the bra). Each of the strap sets comprise a material characteristically distinct from a material of every other strap set; see pages 1 and 5, which show four strap sets, with each strap set differing from the material of the other strap sets as in claims 1, 5, and 6. The straps are interchangeable and provide a distinct exposed portion of the undergarment when worn in conjunction with an outer garment (see pages 5-6), as in claims 1 and 6.

Regarding claims 4 and 7, the Wacoal reference shows on pages 1 and 5 that the straps are made of materials which differ in color, material composition, texture and/or strap width. Regarding claim 11, the Wacoal reference discloses that one of the strap sets has straps comprising transparent material (see page 6). On pages 1, 4 and 6, the Wacoal reference shows a strap set having straps comprising multiple strands of material connected together at first and second ends thereof, as in claim 12.

62. This rejection as applied to claims 1, 2, 4-7, and 11 was proposed by the third party requestor in the request for reexamination, as set forth on page 15 of the request, and it is being adopted essentially as proposed in the request regarding claims 1, 2, 4-7, and 11.

63. The third party requestor's proposal that claim 14 is unpatentable under 35 U.S.C. 102(b) over the Wacoal reference is not adopted because the Wacoal reference does not disclose that the strap attachment points comprise at least two groups of

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adjacent attachment points allowing placement of the straps at offset alternative positions on the brassiere.

64. The examiner has additionally rejected claims 3 and 12 of the May patent as being unpatentable under 35 U.S.C. 102(b) over the Wacoal reference, as set forth above, since the Wacoal reference discloses that each of the strap sets comprise two straps and the straps are attached at two attachment points on a front section of the brassiere and two attachment points on a back section of the brassiere (see pages 1 and 6 of Wacoal) as in claim 3, and Wacoal shows a strap set comprised of straps each having multiple strands of material connected together at first and second ends thereof as in claim 12.

Issue 30:

65. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of Fernandes.

Flaherty discloses a brassiere with detachable and interchangeable decorative straps, including strap attachment points (220) on the front and back of the brassiere. The strap attachment points (220) shown by Flaherty do not comprise at least two groups of adjacent attachment points as in claim 14. Fernandes discloses a brassiere having detachable decorative straps which attach to at least two strap attachment points (70 and 69). The strap attachment points comprise at least two groups of adjacent strap attachment points (see the loops shown in Fig. 1 on each side of both the front and back of the brassiere, and see loops 68, 70, and 72 shown in Fig. 5 and loops 69,

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71, and 73 as shown in Fig. 6.). These groups of adjacent attachment points allow placement of the straps at offset alternative positions, as in claim 14. Fernandes discloses that this configuration of plural adjacent loops provides a variety of attachment positions at the option of the user, so that the strap positioning is adjustable depending upon the location of the straps in the outer garment and depending upon the preferences of the wearer (col. 2, lines 31-39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide plural groups of adjacent strap attachment points on the brassiere of Flaherty in order to permit adjustability of the strap position depending upon the location of the straps in the outer garment and depending upon the preferences of the wearer, as taught by Fernandes.

Issue 31:

66. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins in view of Fernandes.

Collins discloses a brassiere with detachable and interchangeable decorative straps, including strap attachment points (22,25) on the front and back of the brassiere. The strap attachment points (22,25) shown by Collins do not comprise at least two groups of adjacent attachment points as in claim 14. Fernandes discloses a brassiere having detachable decorative straps which attach to at least two strap attachment points (70 and 69). The strap attachment points comprise at least two groups of adjacent strap attachment points (see the loops shown in Fig. 1 on each side of both the front

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and back of the brassiere, and see loops 68, 70, and 72 shown in Fig. 5 and loops 69, 71, and 73 as shown in Fig. 6.). These groups of adjacent attachment points allow placement of the straps at offset alternative positions, as in claim 14. Fernandes discloses that this configuration of plural adjacent loops provides a variety of attachment positions at the option of the user, so that the strap positioning is adjustable depending upon the location of the straps in the outer garment and depending upon the preferences of the wearer (col. 2, lines 31-39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide plural groups of adjacent strap attachment points on the brassiere of Collins in order to permit adjustability of the strap position depending upon the location of the straps in the outer garment and depending upon the preferences of the wearer, as taught by Fernandes.

Issue 32:

67. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty.

Flaherty discloses a brassiere with detachable and interchangeable straps, and the straps comprise flat lengths of fabric as in claims 8 and 9. Flaherty does not disclose the specific dimensions of the strap width, however it is disclosed that the straps may be the same width as conventional bra straps, or wider or narrower than conventional bra straps (col. 5, lines 13-16). Thus, it would be within the routine skill in the art to construct the straps as having a width in the range of 0.5 to 1.0 inch, or 1.0 inch to 3.0 inches, since Flaherty specifically teaches that the straps may be varied in

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width as desired. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the straps of at least one of the strap sets of Flaherty to have a width within the claimed ranges, since Flaherty specifically teaches that the straps may be of the same width as conventional bra straps, or wider or narrower than conventional bra straps, and since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Issue 33:

68. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of Murray.

Flaherty discloses a brassiere with detachable and interchangeable straps, and the straps comprise flat lengths of fabric as in claim 13. It is noted that claim 13 is dependent upon claim 8, although this appears to be erroneous, since the range recited in claim 13 of a strap width of 1.0 inch to 3.0 inches appears to contradict the strap width range of 0.5 to 1.0 inch which is recited in claim 8. Flaherty does not disclose the specific dimensions of the strap width, however it is disclosed that the straps may be the same width as conventional bra straps, or wider or narrower than conventional bra straps (col. 5, lines 13-16). Thus, it would be within the routine skill in the art to construct the straps as having a width in the range of 0.5 to 1.0 inch, or 1.0 inch to 3.0 inches, since Flaherty specifically teaches that the straps may be varied in width as desired. It would have been obvious to one having ordinary skill in the art at the time

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the invention was made to construct the straps of Flaherty to have a width within the claimed range, since Flaherty specifically teaches that the straps may be of the same width as conventional bra straps, or wider or narrower than conventional bra straps, and since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Flaherty does not disclose that the first and second strap connectors at the ends of the strap *each* comprise two component connectors positioned adjacent each other on the ends of the straps, and the four strap attachment points *each* comprise two receptors for receiving the two component connectors. It is noted that this structure is not described in the May specification or shown in the figures of May. Murray discloses a brassiere with a detachable back strap and shoulder straps (24, 16, and 18). The back strap is attached to the brassiere front by first and second strap connectors at each end. These connectors each comprise two component connectors (eyes 40; see Fig. 1) positioned adjacent each other on the end of the strap. They attach to strap attachment points on the brassiere front, which each comprise two receptors (hooks 36) for receiving the two component connectors (40), as in claim 13. One having routine skill in the art would recognize that this two-connector type of attachment would be advantageous when the strap is relatively wide, for example 1 inch, so as to more securely attach the end of the strap and to distribute the weight and forces thereon. Also, such a connection is more comfortable since the fabric of the strap (24) lies between the wearer's skin and the connector to form a cushion, as taught by Murray

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(col. 2, lines 57-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the connectors and attachment points of Flaherty to be two-component connectors which mate with two receptors on the brassiere, in order to provide a secure attachment which is more comfortable due to the fabric lying between the connector and the wearer's skin, as taught by Murray.

Issue 34:

69. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of LoCascio.

Flaherty discloses a brassiere with detachable and interchangeable straps, and the straps comprise flat lengths of fabric as in claims 8 and 9. Flaherty does not disclose the specific dimensions of the strap width, however it is disclosed that the straps may be the same width as conventional bra straps, or wider or narrower than conventional bra straps (col. 5, lines 13-16). Bra straps are known to be constructed to have a width of 1 inch. LoCascio specifically discloses a bra strap width of 1 inch (col. 2, lines 9-10). Claim 8 recites the strap width as being in the range of 0.5 to 1.0 inch, while claim 9 recites the width as being in the range of 1.0 inch to 3.0 inch. Thus, a strap width of 1 inch meets the limitations of both claim 8 and claim 9. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the straps of at least one of the strap sets of Flaherty to have a width of 1 inch, such as taught by LoCascio, in order to provide straps that are both comfortable and supportive, and furthermore since it has been held that where the general

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conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Issue 35:

70. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flaherty in view of LoCascio, in further view of Murray.

Flaherty discloses a brassiere with detachable and interchangeable straps, and the straps comprise flat lengths of fabric as in claim 13. It is noted that claim 13 is dependent upon claim 8, although this appears to be erroneous, since the range recited in claim 13 of a strap width of 1.0 inch to 3.0 inches appears to contradict the strap width range of 0.5 to 1.0 inch which is recited in claim 8. Therefore, claim 13 as well as understood appears to read on a strap width of 1 inch, which width is encompassed in both claim 8 and claim 13. Flaherty modified in view of LoCascio meets such a limitation.

Flaherty also does not disclose that the first and second strap connectors at the ends of the strap *each* comprise two component connectors positioned adjacent each other on the ends of the straps, and the four strap attachment points each comprise two receptors for receiving the two component connectors. It is noted that this structure is not described in the May specification or shown in the figures of May. Murray discloses a brassiere with a detachable back strap and shoulder straps (24, 16, and 18). The back strap is attached to the brassiere front by first and second strap connectors at each end. These connectors each comprise two component connectors (eyes 40; see

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Fig. 1) positioned adjacent each other on the end of the strap. They attach to strap attachment points on the brassiere front, which each comprise two receptors (hooks 36) for receiving the two component connectors (40), as in claim 13. One having routine skill in the art would recognize that the two connector type of attachment would be advantageous when the strap is relatively wide, for example 1 inch, so as to more securely attach the end of the strap and to distribute the weight and forces thereon. Also, such a connection is more comfortable since the fabric of the strap (24) lies between the wearer's skin and the connector to form a cushion, as taught by Murray (col. 2, lines 57-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the connectors of Flaherty modified in view of LoCascio to be two-component connectors which mate with two receptors on the brassiere, in order to provide a secure attachment which is more comfortable due to the fabric lying between the connector and the wearer's skin, as taught by Murray.

Issue 36:

71. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Elle reference in view of LoCascio.

The Elle reference discloses a brassiere with detachable and interchangeable straps, and the straps of at least one of the strap sets comprise flat lengths of fabric as in claims 8 and 9. The Elle reference does not disclose the specific dimensions of the strap width, however bra straps are known to be constructed to have a width of 1 inch. LoCascio specifically discloses a bra strap width of 1 inch (col. 2, lines 9-10). Claim 8

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recites the strap width as being in the range of 0.5 to 1.0 inch, while claim 9 recites the width as being in the range of 1.0 inch to 3.0 inch. Thus, a strap width of 1 inch meets the limitations of both claim 8 and claim 9. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the straps of at least one of the strap sets of the brassiere disclosed in the Elle reference to have a width of 1 inch, such as taught by LoCascio, in order to provide straps that are both comfortable and supportive, and furthermore since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Issue 37:

72. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Elle reference in view of LoCascio, in further view of Murray.

The Elle reference discloses a brassiere with detachable and interchangeable straps, and the straps of at least one of the strap sets comprise flat lengths of fabric as in claim 13. It is noted that claim 13 is dependent upon claim 8, although this appears to be erroneous, since the range recited in claim 13 of a strap width of 1.0 inch to 3.0 inches appears to contradict the strap width range of 0.5 to 1.0 inch which is recited in claim 8. Therefore, claim 13 as well as understood appears to read on a strap width of 1 inch, which width is encompassed in both claim 8 and claim 13. The Elle reference modified in view of LoCascio, as set forth in the preceding paragraph, meets such a limitation.

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The Elle reference also does not disclose that the first and second strap connectors at the ends of the strap each comprise two component connectors positioned adjacent each other on the ends of the straps, and the four strap attachment points each comprise two receptors for receiving the two component connectors. It is noted that this structure is not described in the May specification or shown in the figures of May. Murray discloses a brassiere with a detachable back strap and shoulder straps (24, 16, and 18). The back strap is attached to the brassiere front by first and second strap connectors at each end. These connectors each comprise two component connectors (eyes 40; see Fig. 1) positioned adjacent each other on the end of the strap. They attach to strap attachment points on the brassiere front, which each comprise two receptors (hooks 36) for receiving the two component connectors (40), as in claim 13. One having routine skill in the art would recognize that the two connector type of attachment would be advantageous when the strap is relatively wide, for example 1 inch, so as to more securely attach the end of the strap and to distribute the weight and forces thereon. Also, such a connection is more comfortable since the fabric of the strap (24) lies between the wearer's skin and the connector to form a cushion, as taught by Murray (col. 2, lines 57-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the connectors of the brassiere of the Elle reference modified in view of LoCascio to be two-component connectors which mate with two receptors on the brassiere, in order to provide a secure attachment which is more comfortable due to the fabric lying between the connector and the wearer's skin, as taught by Murray.

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Issue 38:

73. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fridolph.

Fridolph discloses a brassiere with detachable and interchangeable straps, and the straps comprise flat lengths of fabric as in claims 8 and 9. Fridolph does not disclose the specific dimensions of the strap width, however they are shown in the figures to be fairly wide and look to be about one inch. It would be within the ordinary skill in the art to construct the straps as having a width in the range of 0.5 to 1.0 inch, or 1.0 inch to 3.0 inches, since brassiere straps are conventionally provided in such widths, and it is within the ordinary skill in the art to choose the strap width as appropriate based on the material of which the straps are made, the size of the intended wearer, and desired appearance. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the straps of Fridolph to have a width within the claimed ranges, since the choice of such a strap width is within the routine skill in the art based upon considerations of material, size of the wearer, and appearance preferences, and furthermore, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Other Art Made of Record

74. On page 16 of the request, requestor notes that the other non-patent literature documents listed on the Form PTO-1449 (see references 12 and 13 on PTO-1449 filed

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12/8/04) are advertising and promotion material published more than one year prior to the filing date of the application upon which the May patent was granted. The examiner notes that these documents show the same product (brassiere with interchangeable straps) which is advertised and discussed in the Elle reference and the Wacoal reference. The Elle reference and the Wacoal reference were applied in rejections above.

75. US Patent No. 1,603,915 to Hultz is cited to show another design of a brassiere which has removable and interchangeable straps. Hultz teaches that the straps are changeable so that the strap color can be chosen to match the outer garment.

76. US Patent No. 6,240,560 to DeCaro is cited to show a bikini top of a swimsuit which has fasteners for attachment of removable and interchangeable straps, linked chains, and other accessories which alter the style and appearance of the swimsuit.

Conclusion

77. The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 6,166,906 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

78. In order to ensure full consideration of any amendments, affidavits or declarations, or other documents as evidence of patentability, such documents must be

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submitted in response to this Office action. Submissions after the next Office action, which is intended to be an Action Closing Prosecution (ACP), will be governed by 37 CFR 1.116, which will be strictly enforced.

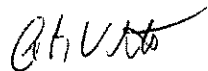
79. All correspondence relating to this *inter partes* reexamination proceeding should be directed:

By Mail to: Mail Stop *Inter Partes* Reexam
Central Reexamination Unit
Office of Patent Legal Administration
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX to: (571) 273-0100
Central Reexamination Unit

By hand: Customer Assistance Window
Randolph Building, Lobby Level
401 Dulany St.
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.



Amy B. Vanatta
Primary Examiner
Art Unit 3765

Litigation, procedural review
MPEP §2286