Paper No. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte JEFFREY D. McCAMLEY

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Appeal No. 2000-0818
Application No. 08/949,917

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ON BRIEF

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Before ABRAMS, McQUADE, and GONZALES, Administrative Patent Judges.

ABRAMS, Administrative Patent Judge.

## DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-23, which are all of the claims pending in this application.

We REVERSE.

## BACKGROUND

The appellant's invention relates to a wrench. An understanding of the invention can be derived from a reading of exemplary claim 1, which appears in the appendix to the appellant's Brief.

Claims 1-23 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor, at the time the application was filed, had possession of the invention.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejection, we make reference to the final rejection (Paper No. 5) for the examiner's complete reasoning in support of the rejections, and to the Brief (Paper No.11) for the appellant's arguments thereagainst.

## OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

The appellant’s invention combines aspects of open ended wrenches and of ratchet wrenches. The inventive wrench has a head assembly movable between an open head

orientation for facilitating lateral receipt of a member such as a nut or bolt and a closed head orientation for engaging the member for rotation. Basically, the wrench comprises a pair of pivotable arms each culminating in a free end. In the disclosed embodiment, three gripped segments are carried by ends of the arms, which segments in the open orientation are aligned in such a fashion as to allow the ends of two adjacent segments to separate from one another (Figure 2), while the third, or base, segment moves longitudinally with respect to the wrench axis. In the closed head position (Figures 1, 3, 5 and 7, the three segments encircle the member that is to be turned.

The examiner has raised two issues under this rejection. The first is that lines 20-25 of page 17 of the appellant's specification, wherein the process of placing the wrench head segments into the aligned configuration is described, "imply that an aligning function results in an additional alignment, i.e. the aligned position eases the further alignment of the device" (final rejection, Paper No. 5, page 2). We do not share the examiner's opinion. From our perspective, one of ordinary skill in the art would understand from the specification that a single act is necessary in order to place the wrench segments in the aligned position, that is, movement of the elements must be affected until mark 105 is visible in window 106. While the language to which the examiner has directed our attention might, in his opinion, be less than precise, it does not in our opinion suggest that a second alignment step must, can, or will follow.

The second issue concerns the manner in which bearings that support the base segment are disclosed. As we understand the examiner's position, it is that the wrench is inoperable because the bearings that support the base segment are locked into the grooves in which they are mounted and therefore will not allow the wrench to be opened. According to the examiner, this is because such opening will cause the base segment to bind owing to the interacting grooves and bearing segments. The examiner points to Figure 2 in support of this conclusion.

On pages 7-11 of the Brief, the appellant has aptly argued why this is not the case, and we find ourselves generally in agreement with his explanation. As the appellant has pointed out, mounting the arcuate bearing segments on pivot pins allows them to compensate for the movement of the base segment with respect to the arms of the wrench, and therefore there is no binding. It appears to us that the manner in which the invention is illustrated in Figure 2 is at least somewhat misleading in that it does not show where the pivot pins are located when the wrench is in the open orientation. However, the location of these pins with respect to the other structure when the wrench is in the closed orientation is quite clear from Figure 4, and the artisan would, in our view, gain an understanding from this and the other Figures, when considered in the light of the specification, where they should be in Figure 2 and how they operate.

It is our conclusion that, with regard to both issues raised in the rejection, the disclosure is sufficient to indicate to the artisan that the inventor was in possession of the claimed invention at the time the application was filed.

SUMMARY

The rejection is not sustained.

The decision of the examiner is REVERSED.

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| NEAL E. ABRAMS<br>Administrative Patent Judge | ) |
| JOHN P. McQUADE<br>Administrative Patent Judge | ) BOARD OF PATENT<br>) APPEALS<br>) AND<br>) INTERFERENCES |
| JOHN F. GONZALES<br>Administrative Patent Judge | ) |

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APPEAL NO. 2000-0818 - JUDGE ABRAMS
APPLICATION NO. 08/949,917

APJ ABRAMS

APJ McQUADE

APJ GONZALES

DECISION: **REVERSED**

Prepared By:

**DRAFT TYPED:** 30 Aug 01

**FINAL TYPED:**