

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DUANE LEONHARDT

Appeal No. 2001-0201
Application No. 08/779,706

ON BRIEF

Before CALVERT, STAAB, and NASE, Administrative Patent Judges.
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 and 2, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellant's invention relates to a hose coupling member for connection to an identical hose coupling member for use with a 1/2 to 7/8 inch hose. A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Weaver 1933	1,911,659	May 30,
Fandetti et al. 1972 (Fandetti)	3,645,562	Feb. 29,

Claims 1 and 2 stand rejected under 35 U.S.C. § 103 as being unpatentable over Fandetti in view of Weaver.

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. 13, mailed March 9, 1999) and the answer (Paper No. 16, mailed May 27, 2000) for the examiner's complete reasoning in support of the rejection, and to the brief (Paper No. 15, filed

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January 10, 2000) and reply brief (Paper No. 17, filed May 30, 2000) 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, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the examiner is insufficient to establish a prima facie case of obviousness with respect to the claims under appeal. Accordingly, we will not sustain the examiner's rejection of claims 1 and 2 under 35 U.S.C. § 103. Our reasoning for this determination follows.

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d

1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

Claim 1, the sole independent claim on appeal, reads as follows:

A hose coupling member for connection to an identical hose coupling member for use with a 1/2 to 7/8 inch hose, said coupling member having opposing identical fastening means and a cylindrical opening therethrough, each fastening means comprising a cam, a ramp and lug, each cam having a ramp angle between 4 and 5 degrees, a face surrounding said cylindrical opening inward of each said fastening means and supporting a sealing gasket, the gasket having a thickness of between 220 and 280 microns, and the gasket having a face area between 0.4 and 0.6 square inches.

In the final rejection of claim 1, the examiner determined that the patent to Fandetti disclosed the claimed subject matter "with the exception of the ramp angle and gasket size." The examiner then determined that the patent to Weaver teaches that "the ramp angle and gasket thickness need to be selected to ensure that the joint remains tight under the pressures it will encounter." The examiner then concluded that "it would have been obvious to a person having ordinary

skill in the art to arrive at the recited values [ramp angle, gasket size/thickness], since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art."

The appellant argues that the applied prior art does not suggest the subject matter of claim 1. We agree for the reasons that follow.

First, in the final rejection, the examiner did not correctly determine all the differences between Fandetti and claim 1 since claim 1 recites that the hose coupling member is for use with a 1/2 to 7/8 inch hose and that the coupling member has opposing identical fastening means and a cylindrical opening therethrough. In our view, these limitations impose a size limitation on the hose coupling member that the examiner has not dealt with in the rejection before us in this appeal.¹

¹ We are aware of the examiner's view set forth in the response to argument section of the answer (p. 3) that the claimed hose sizes are common hose sizes and therefore

(continued...)

Second, while Weaver does suggest that the "ramp angle" is a result effective variable that needs to be selected based upon the diameter of the piping (page 2, lines 105-113), we have found no specific teaching in Weaver that the "gasket thickness" is a result effective variable. Moreover, even if the "gasket thickness" were a result effective variable, the examiner has not presented any evidence that the claimed "gasket face area" is a result effective variable.

Lastly, we disagree with the examiner's position (answer, p. 5) that claim 6 of Fandetti suggests more than one sealing means may be used. In that regard, Fandetti clearly teaches (column 3, lines 31-35) that **a** sealing gasket may be interposed between his identical coupling units 10 and 11 and that such **a** gasket may register with recesses 22 of the identical coupling units 10 and 11. While in accordance with 35 U.S.C. § 112, the "fluid sealing means" recited in claim 6

¹(...continued)
obvious, however, the examiner did not incorporate this conclusion of obviousness into the rejection before us in this appeal.

of Fandetti may cover both "a sealing gasket" and two sealing gaskets, the language of claim 6, by itself (i.e., without evidence establishing that two sealing gaskets were the equivalent of "a sealing gasket"), is insufficient, in our view, to suggest two sealing gaskets. Accordingly, it is our opinion that the single sealing gasket taught by Fandetti would be thicker than the thickness recited in claim 1.

For the reasons set forth above, the decision of the examiner to reject claim 1, and claim 2 dependent thereon, under 35 U.S.C. § 103 is reversed.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 and 2 under 35 U.S.C. § 103 is reversed.

REVERSED

IAN A. CALVERT)	
Administrative Patent Judge)	
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)	
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)	BOARD OF PATENT
LAWRENCE J. STAAB)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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JEFFREY V. NASE)	
Administrative Patent Judge)	

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