

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte THOMAS H. ENGLE

Appeal No. 2003-0396
Application No. 09/698,570

HEARD: JUNE 10, 2003

Before ABRAMS, STAAB and BAHR, Administrative Patent Judges.
BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-6, which are all of the claims pending in this application.

We AFFIRM-IN-PART.

BACKGROUND

The appellant's invention relates to electropneumatic braking systems for railroad cars and more particularly to a combined electrical and pneumatic train line connector. A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

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

Engle et al. (Engle)	3,895,850	Jul. 22, 1975
Gardner et al. (Gardner)	5,658,159	Aug. 19, 1997
Buchter	5,833,482	Nov. 10, 1998
Gay et al. (Gay)	5,865,329	Feb. 2, 1999

The following rejections are before us for review.

Claims 3, 5 and 6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gardner.

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Engle in view of Gay and Gardner.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Engle in view of Gay, Gardner and Buchter.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Gardner in view of Buchter.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the final rejection and answer (Paper Nos. 7 and 14) for the examiner's complete reasoning in

support of the rejections and to the brief (Paper No. 12) 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. As a consequence of our review, we make the determinations which follow.

Gardner discloses a connector for use to connect air lines and/or electrical signal and power lines for a rail car braking system. Gardner teaches that the disclosed connector is an improvement over conventional gladhand couplings, which, according to Gardner, are ill-suited for connecting both air and electrical lines since the gladhand couplings are rotated to join the couplings (column 1, lines 50-53).

Gardner's connector is best understood by reference to Figures 1 and 8. The connector includes an axial lumen 18 for passage of pneumatic fluid and a gasket 26 surrounding the lumen. The distal end 16 of the connector body is provided with tabs 20 and slots 22 which act as a keying mechanism to orient the connector faces when the connectors are coupled together. The connector further includes an electrical housing 68 provided with lumens 70 in which male contacts 72 and female contacts 74 are disposed. Attachment of two identical connectors is accomplished by positioning the distal ends of the connectors to face each other, aligning the tabs 20 of each connector with the slots 22 of the other connector and then moving the connectors

together. This causes the contacts 72 of each connector to be received into the contacts 74 of the other connector and brings the gaskets 26 into contact with one another. Coupling nuts 30 rotatably mounted on the connectors are then rotated to engage teeth 54, 58 of one of the nuts into slots 56, 52 of the nut of the other connector to couple the connectors securely together.

Appellant (brief, page 4) argues that the subject matter of claims 3, 5 and 6 is not anticipated by Gardner because the “electrical connection in Gardner is neither connected as the pneumatic connection is made nor ‘simultaneous’ as recited in claims 3 and 5”. According to appellant, rotation of the coupling nuts of Gardner is required in order to complete the electrical connection; thus, “Gardner neither teaches nor suggests an electrical connection that is made as the pneumatic connection is made, nor ‘simultaneous’ therewith, as claimed in independent claims 3 and 5.”

Appellant’s claim 5 recites a step of connecting a first railroad car with a second railroad car by coupling the pneumatic couplers of the cars such that a first electrical connector of the first car is simultaneously connected with a second railroad connector and a second electrical connector of the first car is simultaneously connected with a first railroad connector of the second car. Gardner’s disclosed method of attaching the connectors meets this limitation. Specifically, the gaskets 26 surrounding the pneumatic lumens 18 are brought together at the same time that the electrical contacts 72, 74 are brought into contact with one another, namely, at the time when the tabs 20 of one connector are received into the slots 22 of the other connector. From our

perspective, the pneumatic couplers of the two connectors are “coupled”¹ at this point and the electrical connectors are “connected”² at this point. In any event, to the extent that the electrical connectors are not deemed to be “connected” until the coupling nuts 30 have been rotated, perhaps by virtue of the fact that they can be easily separated until the teeth and slots of the coupling nuts are engaged to secure the connectors together, the pneumatic couplers must also not be deemed to be coupled until secured by rotation of the coupling nuts 30. Thus, in our opinion, the electrical connectors are connected simultaneously with the coupling of the pneumatic couplers.

Appellant offered no other argument as to why the subject matter of claim 5 is not anticipated by Gardner. Having not found appellant’s sole argument persuasive, as discussed above, we shall sustain the examiner’s rejection of claim 5 as being anticipated by Gardner. As appellant has not separately argued the patentability of claim 6 apart from claim 5 from which it depends, we shall also sustain the rejection of claim 6. See In re Young, 927 F.2d 588, 590, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991); In re Wood, 582 F.2d 638, 642, 199 USPQ 137, 140 (CCPA 1978).

Turning now to the rejection of claim 3, appellant’s argument that Gardner “neither teaches nor suggests an electrical connection that is made as the pneumatic connection is made, nor ‘simultaneous’ therewith, as claimed in independent claims 3

¹ The term “couple” is defined as to join [to put or bring together; connect; fasten] together by fastening or by association. Webster’s New World Dictionary, Third College Edition (Simon & Schuster, Inc. 1988).

² The term “connect” is defined as to join or fasten; link; couple. Id.

and 5" (brief, page 4) is not commensurate in scope with claim 3, as such language does not appear in claim 3. It is well established that limitations not appearing in the claims cannot be relied upon for patentability. In re Self, 671 F.2d 1344, 1348, 213 USPQ 1, 5 (CCPA 1982).

Claim 3 does require that the first electrical connector of a first car engage the second electrical connector of a second car as the pneumatic connector of the first car is connected to the pneumatic connector of a second car. To the extent that appellant's argument is that this limitation is not met by Gardner, we do not agree. The contacts 72 of Gardner's connectors are received into the contacts 74 of the mating connector when the tabs 20 are received in the slots 22 of the other connector, as discussed above. The electrical connectors of Gardner's connectors "engage"³ the connectors of the other connector at this point. As the pneumatic connectors (lumens 18) are connected by movement of the two connectors together with the tabs 20 of one connector being received in the slots 22 of the other connector and rotation of the coupling nuts 30, during which time the electrical connectors engage one another, the pneumatic connectors are connected as the electrical connectors engage one another, as called for in claim 3.

³ The term "engage" is understood to mean to interlock; mesh. Webster's New World Dictionary, Third College Edition (Simon & Schuster, Inc. 1988).

For the foregoing reasons, appellant's argument does not persuade us of any error in the examiner's determination that claim 3 is anticipated by Gardner. We thus shall sustain the rejection of claim 3.

Appellant's only argument against the examiner's rejection of claim 4 as being unpatentable over Gardner in view of Buchter is the argument discussed supra with regard to claim 3 (see page 8 of the brief). We find this argument no more persuasive with respect to claim 4. We thus shall sustain the rejection of claim 4.

We shall not, however, sustain the examiner's rejections of claim 1 as being unpatentable over Engle in view of Gay and Gardner and claim 2 as being unpatentable over Engle in view of Gay, Gardner and Buchter. While it not clear from the examiner's rejections exactly how the examiner proposes to modify Engle's gladhand connectors to arrive at the claimed invention, both of these rejections appear to rely in part on the examiner's determination that it would have been obvious to modify the gladhand connector of Engle to provide each gladhand with a first electrical connector mounted on an inner face and a second electrical connector mounted on an outer face in view of the teachings of Gardner (see page 5 of the final rejection). Given the disparate structure of Engle's gladhands, which are rotated to secure the electrical and pneumatic connections, by engagement of the cam surfaces present on the flanges 35 of the gladhands, and the connectors of Gardner, which are coupled by linear movement of the connectors together to engage the electrical contacts and the pneumatic lumens and secured together by rotation of coupling nuts only and which are intended

specifically to avoid the rotation coupling arrangement of gladhands (column 1, lines 50-53 of Gardner), we find no suggestion in Gardner to rearrange the electrical contacts of Engle's gladhands. In that neither Gay⁴ nor Buchter⁵ cures the above-noted deficiency in the combination of Engle and Gardner, we cannot sustain the examiner's rejections of claims 1 and 2.

CONCLUSION

To summarize, the decision of the examiner to reject claims 3, 5 and 6 under 35 U.S.C. § 102(b) and claim 4 under 35 U.S.C. § 103(a) is affirmed and the decision to reject claims 1 and 2 under 35 U.S.C. § 103 is reversed. The examiner's decision is affirmed-in-part.

⁴ The examiner appears to rely on Gay for a suggestion to use an electrically conductive blade in the first electrical connector and a conductive contact means in the second electrical connector in Engle's gladhand connector. Be that as it may, this would still not result the claimed invention, with the first and second connectors being mounted on inner and outer faces of the connector, respectively.

⁵ Buchter is relied upon for a suggestion to provide a cover over the contacts of Engle's electrical connector to protect the contacts (see page 6 of the final rejection) and appellant does not appear to dispute this. Nevertheless, for the reasons discussed above, even if Engle were so modified, the subject matter of claims 1 and 2 would not be the result.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

NEAL E. ABRAMS)	
Administrative Patent Judge)	
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LAWRENCE J. STAAB)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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JENNIFER D. BAHR)	
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Appeal No. 2003-0396
Application No. 09/698,570

Page 10

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