

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROCCO J. NOSCHESE and
FREDERICK D. HOOPER

Appeal No. 95-1405
Application 08/095,276¹

ON BRIEF

Before THOMAS, HAIRSTON and FLEMING, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

¹ Application for patent filed July 21, 1993. According to the appellants, this application is a division of Application 07/924,129, filed August 3, 1992.

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DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 21 to 28, which constitute all the claims remaining in the application.

Representative claim 21 is reproduced below:

21. An electrical busing connector comprising:

a housing;

bus bars mounted in the housing having terminals extending from the housing; and

a plurality of sponge floats located between the housing and portions of the bus bars, the sponge floats being resiliently deformable to enable the bus bars to move in the housing in a limited range of movement such that the bus bars can be adjusted relative to the housing by deformation of the sponge floats.

The following references are relied on by the examiner:

Carlson 1949	2,468,614	Apr. 26,
Edmunds 1956	2,766,405	Oct. 9,
Fisher 1957	2,786,152	Mar. 19,
Davis 1973	3,726,988	Apr. 10,

All claims on appeal stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon

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Carlson in view of Davis as to claims 21 to 27 and Fisher in view of Edmunds as to claim 28.

Rather than repeat the positions of the appellants and the examiner, reference is made to the Brief and the Answer for the respective details thereof.

Opinion

The rejection of claims 21 through 27 under 35 U.S.C. § 103 in light of the collective teachings of Carlson and Davis is sustained. As set forth at page 3 of the Final Rejection, the examiner considers that Carlson discloses all of the claimed features except for the use of the sponge floats made of silicon. We agree. In the context of this reasoning of the examiner, we note that the claimed sponge floats comprising silicon is only set forth in dependent claim 24 and not in independent claim 21, for example. Respective Figure 4 of Carlson shows, for example, bus duct 20 and cover 22 comprising the claimed housing. The various bus bars recited in claim 21 having terminals extending from the housing as

recited in this claim are also shown there extending from bus duct 20.

Figures 7 to 10 of Carlson relate most directly to that argued feature relating to the sponge floats. The paragraph bridging columns 2 and 3 of Carlson discusses the insulating supports or spacers 42, 43 shown in Figures 7 to 10. In accordance with the examiner's reasoning as to dependent claim 25, the examiner considers the claimed plurality of plates individually sandwiching the bus bars therebetween as comprising these plates. The various ribs 46, 47 and 48 in Figures 8 to 10 clearly show that there are regions of these insulating supports or spacers 42, 43 having plural regions comprising the claimed sponge floats of claim 21, further having not only the structure but the functions recited therein. The material comprising these spacers and the ribs thereon clearly appears to be resiliently deformable in the manner claimed because it is stated at the bottom of column 2 that the adjustable nuts on the ends of the rods 38, 39 draw the channel posts together toward each other and compress the bus bar collars or spacers together.

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Although the material comprising these insulating spacers in Carlson is not disclosed in this reference, claim 1 does not set forth any specific material either. Obviously, within 35 U.S.C. § 103, the rubber-like silicon material forming the outside of the bus bar stack in representative Figure 4, for example, of Davis clearly would have been a more specific representation of the type of material comprising the spacers in Carlson disclosed there only in a generic sense. Davis discloses that this material is well known trademarked SILASTIC material. The file record contains a copy of the Condensed Chemical Dictionary from its 1971 edition indicating the properties of this material at the top of 783 thereof. The examiner's comments with respect to this material in the Final Rejection as well as at pages 3 and 4 of the Answer are well supported by this dictionary.

As to appellants' arguments with respect to independent claim 21 at page 4 of the Brief, much of it is misplaced to the extent it argues the disclosed invention. Contrary to the assertion made there, the examiner did not assert that Carlson did not disclose or suggest a plurality of sponge floats, only that the composition of them was not in Carlson but in Davis'

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specific use of SILASTIC material. Additionally, the language "sponge floats" used in claim 21 is not coextensive with the statement that they have "sponge-like configurations as argued." In any event, we find that the insulating supports/spacers/plates in dependent claim 25, in Carlson clearly appear to us to perform the stated functions of the sponge floats in independent claim 21 on appeal.

Appellants also disclose no material of their own nor any known material to comprise the claimed sponge floats. Thus, such material was either known or would have been obvious to this artisan. In re Fox, 471 F.2d 1405, 1407, 176 USPQ 340, 341 (CCPA 1973).

We agree with the examiner's correlation of dependent claim 26 upon Carlson's teachings and showings clearly indicating the subject matter of this claim on appeal. Note Figures 2 and 4 of Carlson which show the staggered appearance of joints 30, 31 and 32 of the particular bus bars 14. Inasmuch as appellants have not argued the particulars of dependent claims 22 through 24 and 27, the rejection of them is sustained as well.

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To the extent appellants argue in their concluding remarks at page 6 of the Brief that the examiner has not set forth a prima facie case of obviousness because the examiner's position has not embraced the problems the appellants have solved, this position is misplaced. In an obviousness determination, the prior art need not suggest solving the same problem set forth by appellants. In re Dillon, 919 F.2d 688, 692-93, 16 USPQ2d 1897, 1901 (Fed. Cir. 1990) (in banc) (overruling in part In re Wright, 848 F.2d 1216, 1220, 6 USPQ2d 1959, 1962 (Fed. Cir. 1988), cert. denied, 500 U.S. 904 (1991)).

Turning lastly to the rejection of independent claim 28 under 35 U.S.C. § 103 in light of the collective teachings of Fisher in view of Edmunds, we reverse this rejection. The statement of the rejection of this claim is stated at page 3 of the Answer to be found in Paper No. 5, which is the Final Rejection. At pages 3 and 4 of this rejection, the examiner asserts that Fisher discloses everything claimed except for the housing with receiving slots. For all the reasons set forth by the appellants in the paragraph bridging pages 5 and 6 of the Brief, we will reverse this rejection.

When the rejection of claim 28 is considered with Edmunds being the base reference teaching essentially all of the subject matter including the various slots to receive the various bus bars according to the detailed configuration set forth in claim 28 in light of Fisher's teachings, we also reverse this view of the rejection. The single moulded version of the invention in Edmunds in Figure 1 is shown in the other figures as comprising a support moulding 10 comprising the claimed base portion as well as the separate premoulded support 29 or claimed top portion with grooves and recesses for the bus bars therein in Figure 2. The flatness of the bus bar sections claimed is certainly apparent in this figure as well as broadly recited planes of the bus bar sections being arranged generally perpendicular to the plane of the base portion 10. The bus bars 22a through 22c are snugly positioned in the receiving slots of premoulded support unit 29 in Figure 2 in a general noncrossing relationship relative to each other in the manner claimed. The ratio of the height to the width of the bus bars 22 would have been an

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obvious variation to the artisan within 35 U.S.C. § 103 as would the placement of the bus bars in slots in the base portion rather than in the top portion 29 as taught.

Although the removable circuit breakers 25 of Edmunds comprise the claimed limiters, they are not configured as three pairs which are "electrically connecting a first set of the conductors to the two other sets of conductors" as claimed. Fisher's teachings are no help in this regard. This language of claim 28 is consistent with the showing in Figure 8 of appellants' disclosed invention where incoming three phase conductors connect with terminals A, B and C to be split in a Y splitter fashion by interconnecting limiters to branch A1, B1 and C1 comprising one branch and branch A2, B2 and C2 comprising a second branch. There is no teaching or suggestion within the collective teachings and suggestions of Edmunds and Fisher which would have indicated to the artisan the specific configuration of a first set of conductors being connected to the other two sets of conductors by means of

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three pairs of limiters in the manner set forth at the end of
claim 28 on appeal.

In view of the foregoing, we have sustained the rejection
of claims 21 to 27 under 35 U.S.C. § 103 but have reversed the
rejection of claim 28 under 35 U.S.C. § 103. Accordingly, the
decision of the examiner is affirmed-in-part.

AFFIRMED-IN-PART

JAMES D. THOMAS)
Administrative Patent Judge)

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