

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JUL 19 1996

PAT.&T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL G. MATHEWS and MARTIN N. HASSINK

Appeal No. 96-1079
Application 07/991,603¹

ON BRIEF

Before CALVERT, MEISTER and FRANKFORT, Administrative Patent Judges.

MEISTER, Administrative Patent Judge.

DECISION ON APPEAL

Paul G. Mathews and Martin N. Hassink (the appellants) appeal from the final rejection of claims 1-4 and 7-18.² Claims

¹ Application for patent filed December 16, 1992.

² The claims on appeal have been amended subsequent to final rejection by an amendment filed on July 6, 1995 (Paper No. 6).

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19 and 20, the only other claims remaining in the application, stand allowed. We reverse.

The appellants' invention pertains to a lamp of the type having an envelope of vitreous light-transmitting material enclosing an internal space, light-generating means within the space, and conductive lead structure projecting into the space. Of particular is the provision of a tubular bead of vitreous material for supporting the lead structure in the envelope as well as for forming a seal between the lead structure and the envelope. Independent claim 15 is further illustrative of the appealed subject matter and reads as follows:

15. A Lamp comprising:

- (a) an envelope of vitreous light-transmitting material enclosing an internal space where light is generated,
- (b) a light generating means within said internal space,
- (c) conductive lead structure projecting into said internal space and comprising an inner lead member, and in which:
- (d) said envelope includes a first envelope portion surrounding said lead structure and sealed thereto,
- (e) said envelope further includes a second envelope portion of tubular form located closer to the internal space than said first envelope portion, and
- (f) a tubular bead of vitreous material is provided about said inner lead portion; said bead fitting within said second envelope portion, sealingly joined thereto, and supporting

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said inner lead member in a precise predetermined position within said envelope; said inner lead member projecting inwardly beyond said bead and providing support for said light-generating assembly at the inner end of said inner lead member.

The references of record relied on by the examiner are:

Francis et al. (Francis)	2,245,394	Jun. 10, 1941
Mathijssen	4,038,578	Jul. 26, 1977
Karikas	4,254,356	Mar. 03, 1981

Claims 1-4 and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Karikas in view of Mathijssen.

Claims 7-11 and 13-18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Karikas in view of Mathijssen as applied to the rejection of claims 1-4 and 12 above, and further in view of Francis.

We will not sustain either of the above-noted rejections.

Both of these rejections are bottomed on the examiner's view that it would have been obvious to provide the inner lead of the conductive lead structure of Karikas with a vitreous bead that is sealingly joined to Karikas' envelope in view of the teachings of Mathijssen. According to the examiner

Mathijssen discloses a tubular bead (12) of vitreous material which is located in the second envelope portion. As shown in figure 1, the inner lead member (5) is projected through and beyond the tubular bead. In lines 27-29 of column 1 (in the background of the invention), Mathijssen states that "the supporting member of a quartz glass cylinder is fused with the wall of the lamp envelope". By acknowledging the above

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teaching, Mathijssen clearly understands that his tubular bead (12) could be sealed to the second envelope portion by fusing it to the wall of the envelope. However, Mathijssen simply chooses to slide the tubular bead onto [the] lead member and into the second envelope portion so that the lamp is not sensitive to shocks (lines 39-46 of column 2). In lines 13 of column 5, Mathijssen clearly states the applicant's reason for utilizing such a tubular bead which is to support and center electrodes (6 and 7). Therefore, such a tubular bead not only supports electrodes but it also centers the electrodes which inherently improves the lumen output and thus prolongs the life of a lamp. Thus, it would have been obvious, at the time the invention was made, to a person having ordinary skill in the art to provide Mathijssen's tubular bead around the inner lead of Karikas's electrodes for supporting and centering electrodes. (See answer, pages 4 and 5; emphasis in original.)

It is clear from the above quoted portion of the answer that the examiner recognizes the tubular bead 12 of Mathijssen is not "sealingly joined" to his envelope in the manner required by independent claims 1 and 15. Contrary to providing such an arrangement, Mathijssen expressly states that it is "undesirable" to adhere the bead to the envelope and goes to great lengths to insure that it does not (see column 4, lines 32-44) and thus teaches away from sealingly joining the bead 12 to the envelope. Nevertheless, the examiner takes the position that Mathijssen suggests such an arrangement since, in discussing the prior art, he states that the supporting member or bead of Swiss Patent No. 397081 is "fused" to the wall of the lamp envelope.

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We will not support the examiner's position. Specifically, we do not believe that the teachings of Mathijssen would fairly suggest to the artisan to provide the lamp of Karikas with a tubular bead which was "sealingly joined" to the envelope, especially in view of the fact that Mathijssen has expressly stated in column 4, lines 32-44, that it is "undesirable" to adhere the supporting bead to the envelope. As to the examiner's reliance upon Mathijssen's statements concerning the Swiss patent, the examiner may not pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. *See Bausch & Lomb, Inc., v. Barnes-Hind/Hydrocurve Inc.*, 796 F.2d 443, 448, 230 USPQ 416, 419 (Fed. Cir. 1986), *cert. denied*, 484 U.S. 823 (1987) and *In re Kamm*, 452 F.2d 1052, 1057, 172 USPQ 298, 301-02 (CCPA 1972). Here, as the appellants have correctly noted, the full statement of what Mathijssen stated in regard to the Swiss patent is that:

According to Swiss Pat. Specification No. 397081 this [cracking around the seal between the conductive lead structure and envelope] is prevented in that a cylindrical supporting member through which the electrode pin is led is provided in the neck-shaped portions of the lamp envelope. The supporting member consists of a quartz glass cylinder which is fused with

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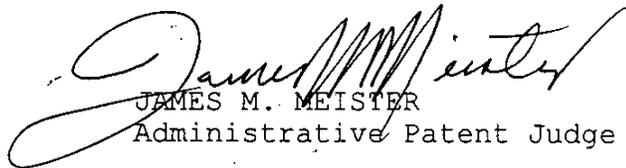
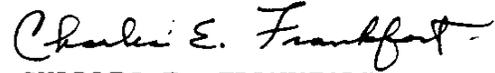
the wall of the lamp envelope. The cylinder has **continuous recesses** along its jacket and/or **axial bores** so that gas transport from the discharge space to the space in the neck-shaped portion behind the supporting member, and conversely, can easily take place. These ducts would also be **necessary** to evacuate and gas-fill the lamp envelope during the manufacture of the lamp. (See column 1, lines 24-36; emphasis ours.)

It is readily apparent that Mathijssen's statement concerning the teachings of the Swiss patent **taken as a whole** would teach the artisan, rather than "sealingly joining" the tubular bead to the envelope, to "fuse" the tubular bead to the envelope **and at the same time** provide recesses or bores for the passage of gas. Accordingly, even if the artisan were somehow motivated to provide the lamp of Karikas with a tubular bead that is "fused" to the envelope (despite the fact that Mathijssen teaches away from this modification by expressly stating that such an arrangement is "undesirable"), in view of Mathijssen's statements concerning the Swiss patent, the claimed feature of the tubular bead being "sealingly joined" would not result inasmuch as the complete statement concerning the Swiss patent would teach the artisan that the "fused" bead should **also** be provided with recesses or bores which allow for the passage of gas.

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The decision of the examiner is reversed.

REVERSED

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IAN A. CALVERT)	
Administrative Patent Judge)	
)	
JAMES M. MEISTER)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
CHARLES E. FRANKFORT)	
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