

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THADDEUS A. NIEMIRO and THOMAS W. ORZECOWSKI

Appeal No. 96-3874
Application 08/308,186¹

ON BRIEF

Before McCANDLISH, *Senior Administrative Patent Judge*, STAAB and CRAWFORD, *Administrative Patent Judges*.

STAAB, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 6-10, all the claims currently pending in the

¹ Application for patent filed September 19, 1994.

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application.²

With reference to drawing Figure 1, appellants' invention pertains to a dampening system for a printing press which includes an accumulator 26 located between a pressure regulator 22 and a spray bar 16 for dampening pressure pulses of liquid being supplied to the spray bar.

Independent claim 6 is illustrative of the appealed subject matter and reads as follows:

6. A dampening assembly for a printing press, comprising:

a spray bar for spraying a liquid onto a portion of the press;

a source of the liquid;

a pressure regulator being connected to the source by a first conduit, and being connected to the spray bar by a second conduit;

an accumulator having a chamber communicating with the second conduit, and having a diaphragm separating the chamber into a first compartment being connected to the second conduit, and a second closed compartment being charged with an inert gas, said accumulator dampening pressure pulses of the liquid being supplied to the spray bar.

In rejecting appellants' claims under 35 U.S.C. § 103, the examiner has relied upon the references listed below:

² Although the examiner's answer indicates that claim 11 is a rejected claim in this appeal, claim 11 has been canceled by an amendment submitted on June 29, 1995 (Paper No. 5).

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Pirsch	1,893,685	Jan. 10, 1933
Smith, Jr. (Smith)	4,050,378	Sept. 27, 1977
Miller	4,445,829	May 1, 1984
Webb	4,570,538	Feb. 18, 1986
Plager et al. (Plager)	5,337,791	Aug. 16, 1994

Claims 6, 7 and 9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Smith in view of each of Plager, Miller and Pirsch. Claims 8 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Smith in view of each of Plager, Miller and Pirsch, and further in view of Webb.

The examiner considers that Smith discloses in Figure 1 a dampening system for a printing press comprising a spray bar 25, a source of liquid 126, and a pressure regulator 130 connected to the source of liquid by a first conduit (not numbered) and to the spray bar by a second conduit 125. The examiner further considers that each of Plager, Miller and Pirsch discloses the conventional expedient of minimizing pulsations in a liquid delivery line by utilizing an accumulator device charged with air. The examiner concedes that Smith does not disclose an accumulator in the dampening system thereof. It is the examiner's position, however, that it would have been obvious to one of ordinary skill in the art "to broadly utilize an accumulator in the feed line of Smith" (answer, page 4) in accordance with the teachings of each of Plager, Miller and

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Pirsch for the purpose of dampening pressure pulses such as taught by each of the secondary references. Implicit in the examiner's rejection is the position that the proposed modification of Smith would result in a dampening assembly that corresponds to the claimed assembly in all respects.

We will not sustain this rejection. At the outset, it is questionable whether it would have been obvious as a general proposition to provide an accumulator in the dampening system of Smith in view of the collective teachings of the applied references. Admittedly, it is well known, as a general proposition, that vibrations may be caused by pressure pulsations at the beginning and end of the delivery stroke of a pump, and that these pulsations can be minimized by utilizing an accumulator device in communication with the liquid being pumped. The secondary references to Plager, Miller and Pirsch teach as much. However, it is not apparent, nor has the examiner explained, why one of ordinary skill in the art would have appreciated this circumstance to be applicable to Smith's printing press dampening apparatus. In this regard, Smith does not indicate that system pump 128³ or any of the metering pumps

³ See column 5, line 34-51. Presumably the cylindrically shaped object seen in Smith's Figure 1 between the filter 127 and the check valve 129 constitutes the pump in question.

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26 for the individual printing towers are a problem in the sense that they cause damaging vibrations as a result of pressure pulsations in the dampening liquid.

Furthermore, even if we were to assume that one of ordinary skill in the art would have been motivated by the collective teachings of the applied references to provide an accumulator in the system of Smith, there remains the issue of *where* one would locate the accumulator. In that Plager, Miller and Pirsch teach that the source of the pressure pulsations is the system pump, it appears to us that, at best, in following the teachings of these references the ordinarily skilled artisan would locate the accumulator *upstream* of Smith's pressure regulator 130 in order to place the accumulator as close as possible to the source of the pressure pulsations. However, appealed claim 6 calls to the accumulator to be located *downstream* of the pressure regulator next to the spray bar. This is presumably because, as set forth in appellants' specification in the sentence bridging pages 6 and 7, the constantly changing pressure pulses are created by the on/off cycling of the spray bar nozzle valve operators. The examiner has not addressed this location issue raised by

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appellants in the brief⁴ and we can think of no reason why it would have been obvious to locate an accumulator in the Smith apparatus at this particular location.

Where prior art references require a selective combination to render obvious a claimed invention, there must be some reason for the combination other than hindsight gleaned from the invention disclosure, *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985). In the fact situation before us, we are unable to agree with the examiner that one of ordinary skill in the art would have been motivated by the teachings of the secondary references to incorporate an accumulator in the system of Smith in the location required by claim 6.

In light of the foregoing, we will not sustain the examiner's standing § 103 rejection of claims 6, 7 and 9 as being unpatentable over Smith in view of each of Plager, Miller and Pirsch.

Nor will we sustain the standing § 103 rejection of claims 8 and 10 as being unpatentable over Smith in view of each of Plager, Miller and Pirsch, and further in view of Webb. In

⁴ See page 6 of the brief (" . . . nor is it clear *where* to dampen the pulses on Smith Jr. in the absence of the applicants' teachings in the present specification." (emphasis added)).

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short, Webb's disclosure of using a pressure gauge (e.g., pressure gauge 80) in the dampening fluid supply line does not cure the above noted deficiencies of the basic combination with respect to the subject matter recited in parent claim 6.

The decision of the examiner is reversed.

REVERSED

HARRISON E. McCANDLISH)	
Senior Administrative Patent Judge)	
)	
)	
)	
LAWRENCE J. STAAB)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
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MURRIEL E. CRAWFORD)	
Administrative Patent Judge)	

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