

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 32

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHANN JACKEL and HEINZ MOLT

Appeal No. 1998-0491
Application 08/125,002¹

HEARD: October 7, 1999

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

DECISION ON APPEAL

This is an appeal from the final rejection of claims 27 through 37, 39, and 42 through 47 (Paper No. 23). These claims constitute all of the claims remaining in the application.

¹ Application for patent filed September 21, 1993.

Appeal No. 1998-0491
Application 08/125,002

Appellants' invention pertains to a metallic component constituting an element of a friction clutch, a friction clutch, a torque transmitting apparatus, and an apparatus for compensating for torsional stresses. A basic understanding of the invention can be derived from a reading of exemplary claims 27, 29, 33, and 35, copies of which appear in the APPENDIX to the brief (Paper No. 27).

As evidence of obviousness, the examiner has applied the single document specified below:

Reik et al. 1992 (Reik)	5,160,007	Nov. 3,
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The following rejection is before us for review.

Claims 27 through 37, 39, and 42 through 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reik.

The full text of the examiner's rejection and response to the argument presented by appellants appears in the answer

Appeal No. 1998-0491
Application 08/125,002

(Paper No. 28), while the complete statement of appellants' argument can be found in the brief (Paper No. 27).

OPINION

In reaching our conclusion on the obviousness issue raised in this appeal, this panel of the board has carefully considered appellants' specification and claims, the evidence of obviousness,² and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determination which follows.

We reverse the rejection of claims 27 through 37, 39, and 42 through 47 under 35 U.S.C. § 103(a) as being unpatentable over Reik.

² In our evaluation of the applied patent, we have considered all of the disclosure thereof for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

Appeal No. 1998-0491
Application 08/125,002

At the outset, we note that, in addressing the twelve independent claims 27, 29, 33, 35, 37, 39, 42, 43, 44, 45, 46, and 47 of varying scope, the examiner has relied upon a single patent to Reik. In assessing the content of these claims, we give language therein its broadest reasonable interpretation; the language being read in light of the underlying disclosure. Additionally, in assessing the process language of the article claims during this ex parte appeal, we take into account as limitations of the claimed subject matter, features imparted to the article by the process, and not the steps of the process itself; in other words, the determination of patentability is based upon the article itself. See Atlantic Thermoplastics Co. v. Faytex Corp., 970 F.2d 834, 845-46, 23 USPQ2d 1481, 1490-91 (Fed. Cir. 1992).

We turn now to a consideration of each of the independent claims on appeal relative to the applied prior art.

At this juncture, it is noted that the apparatus of the Reik patent (Fig. 2), relied upon by the examiner, includes,

Appeal No. 1998-0491
Application 08/125,002

inter alia, a ring shaped component (ring) 156, with a substantially L-shaped cross-sectional outline, having a radially innermost portion 157 and a radially outwardly extending portion 156a adjacent the portion 159 of a cover 122, and secured thereto by bolts 159 (column 23, lines 35 through 52). The cover is

indicated to be made of a metallic sheet material (column 24, line 64).³

As to claims 27, 29, 33, 35, we are of the view that one having ordinary skill in the art would not have viewed the overall substantially L-shaped cross-sectional ring configuration of Reik as responding to or suggestive of a tubular section having an axial end surface with at least one recess; material of the tubular section being displaced

³ We note that the Reik patent (column 35, line 22 through column 36, line 47) also reveals the knowledge in the art of applying a deforming force by using a tool 777 to displace the ductile material of a cylindrical portion 723 of a cover 722 to connect the portion 723 with secondary flywheel 703. With this knowledge, it appears to us that one of ordinary skill in the art would understand the Reik showing in Fig. 4 (column 29, line 43 to column 30, line 2) to be suggestive of fabricating projections 272, 273 on the sheet material cover 222 by applying a tool to displace material of the cover 222.

substantially transversely, as claimed.⁴ As to claims 37 and 39, we likewise conclude that one having ordinary skill in the art would not have considered the overall substantially L-shaped cross-sectional ring configuration of Reik as responding to or suggestive of a substantially cylindrical (first) section having an axial end

surface provided with recesses; material of the first section being displaced substantially radially, as claimed. With respect to claim 42, 44, and 46, it also our determination that one having ordinary skill in the art would not have considered the overall substantially L-shaped cross-sectional ring configuration of Reik as responding to or suggestive of a tubular section of sheet metal having an axial end surface provided with at least one recess (or blind bore in claim 47); sheet metal of the tubular section being displaced, as claimed. Relative to claims 43 and 45, it is apparent to us that one having ordinary skill in the art would not have

⁴ Consistent with the underlying disclosure, we understand the process recitation of "displaced" in the context used in appellants' claims to denote a change of position of material in the claimed article, and not a removal of material. Thus, it is apparent to this panel of the board that the resulting article, as claimed, would include a recognizable characteristic feature of displaced material.

Appeal No. 1998-0491
Application 08/125,002

viewed the overall substantially L-shaped cross-sectional ring configuration of Reik as responding to or suggestive of a tubular section of sheet metal having an axial end surface provided with a plurality of tapped recesses extending in the sheet metal in an axial direction of the tubular section (claim 43) or provided with at least one recess in said end surface of the sheet metal tubular section (claim 45).

As can readily be discerned from our analysis, supra, the evidence of obviousness proffered by the examiner simply would not have been suggestive of the particular subject matter of appellants' claims. Lacking evidence, we are, therefore, constrained to reverse the rejection under 35 U.S.C. 103.

In summary, this panel of the board has reversed the rejection of claims 27 through 37, 39, and 42 through 47 under 35 U.S.C. § 103(a) as being unpatentable over Reik.

The decision of the examiner is reversed.

Appeal No. 1998-0491
Application 08/125,002

REVERSED

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IRWIN CHARLES COHEN))
Administrative Patent Judge)	
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)	BOARD OF PATENT
LAWRENCE J. STAAB)	
Administrative Patent Judge)	APPEALS AND
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Appeal No. 1998-0491
Application 08/125,002