

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS E. HALL, JOHN J. McDONALD and KEVIN RUPLEY

Appeal No. 98-1264
Application No. 08/489,272¹

ON BRIEF

Before CALVERT, ABRAMS, and STAAB, *Administrative Patent Judges*.

ABRAMS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the decision of the examiner finally rejecting claims 1-8, 11-15 and 17-20, which constitute all of the claims remaining of record in the application. However, the examiner has since indicated that claim 4 contains

¹ Application for patent filed June 9, 1995.

In reaching our decision on the issues raised in this appeal, we have carefully assessed the claims, the prior art applied against the claims, and the respective views of the examiner and the appellants as set forth in the Answer and the Brief. Since the rejection is under 35 U.S.C. § 103, we have evaluated it on the basis that the examiner bears the initial burden of presenting a *prima facie* case of obviousness (see *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993)), which is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art (see *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993)).

The appellants' invention is directed to electrical connectors of the type wherein a male element is slidably received in a female element, and deals in particular with the problem of providing low insertion forces for the male element while maintaining an acceptable level of force acting against extraction. As explained in the specification, the appellants accomplish their objective by the use as the female element of

a movable spring member mounted in a housing in a specified manner and having primary and secondary pivot points which cause the spring member to react in a particular manner to the insertion of the male element.

It is the examiner's position that all of the subject matter recited in the claims on appeal is rendered obvious by the teachings of Sian. The appellants have advanced but one argument in opposition to the examiner's position, and it is directed only to independent claims 1, 11 and 20 (Brief, page 4). In its entirety, it is that

Sian teaches that each spring contact member includes **a curved portion at the entry end** of the body portion. The **Applicants'** structure as claimed in claims 1, 11, and 20 has a spring member having **a curved portion adjacent the exit end** of the body portion, **not at the entry end**. As a result of the claimed spring member's different orientation, the claimed terminal behaves differently upon insertion and removal of a male blade as disclosed in the specification.

We are not persuaded by this argument that the rejection should not stand. The applicable language of claim 1 requires that the movable spring member have "a curved portion adjacent said exit end; and a contact portion extending from said curved portion toward said entry end." As is best shown in Figure 1,

Sian's spring member 40 has a compound curved portion at its distal end which is "adjacent" the exit end of the chamber in which it is mounted, and a contact portion extending from the curved portion toward the entry end. This is all that is required by the claim. There is no language in claim 1 that is directed to the manner in which the terminal "behaves," as is argued by the appellants. We agree with the examiner that this subject matter is taught by Sian.

Therefore, in the absence of other argument which would compel us to decide oppositely, it is our opinion that the teachings of Sian establish a *prima facie* case of obviousness with regard to the subject matter of claim 1, and we will sustain the rejection of claim 1. We also will sustain the rejection of claims 2, 3 and 5-8, which depend from claim 1, in view of the fact that their separate patentability was not argued, in accordance with *In re Nielson*, 816 F.2d 1567, 1570, 2 USPQ2d 1525, 1526 (Fed. Cir. 1987).

The same rationale applies to remaining independent claims 11 and 20, which also require a curved portion adjacent the exit end, and to the claims dependent therefrom, for which

separate argument of patentability also was not provided. Sian thus establishes a *prima facie* case of obviousness with respect to the subject matter recited in claims 11-15 and 17-20.

SUMMARY

The rejection is sustained.

The decision of the examiner is affirmed.

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

AFFIRMED

IAN A. CALVERT)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
NEAL E. ABRAMS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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LAWRENCE J. STAAB)	
Administrative Patent Judge)	

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