

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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

Appeal No. 1999-2246
Application 08/821,561¹

ON BRIEF

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 1 through 15, all of the claims in the application.

Appellant's invention pertains to a support clip for an unshingled pitched roof. An understanding of the invention

¹ Application for patent filed March 21, 1997.

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can be derived from a reading of exemplary claim 1, a copy of which appears in the Appendix to the brief (Paper No. 13).

As evidence of obviousness, the examiner has applied the documents listed below:

Johnson (Great Britain)	161,782	Apr. 21, 1921
Gibson	1,711,730	May 7, 1929

The following rejection is before us for review.

Claims 1 through 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gibson in view of Johnson.

The full text of the examiner's rejection and response to the argument presented by appellant appears in the answer (Paper No. 14), while the complete statement of appellant's argument can be found in the brief (Paper No. 13).

In the brief (page 2), appellant indicates that claims 1 through 15 stand or fall together. In accordance with 37 CFR

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1.192(c)(7), we select claim 1 for review, with remaining claims 2 through 15 standing or falling therewith.

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 applied references,² and the respective viewpoints of appellant and the examiner. As a consequence of our review, we make the determinations which follow.

We reverse the examiner's rejection of claim 1. It follows that we likewise reverse the rejection of claims 2 through 15 since these claims stand or fall with claim 1 as earlier indicated.

² In our evaluation of these documents, we have considered all of the disclosure of each reference 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).

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At the outset, we particularly note that the underlying disclosure (specification, pages 2 and 3) clearly informs us that

An important feature of using a U-shaped clip of this invention is that by securing or fixing the U-shaped clip to a roof by a nail through one of its arms and its base the holding or gripping action of the clip is enhanced since the arm with the nail therein now has less flexibility than the opposing arm making the overall holding or gripping action of the clip greater than if the clip were secured or fixed through a single aperture in the central portion (generally, the base) of the clip.

Independent claim 1, akin to the other independent claims 6 and 11, addresses a support clip comprising, inter alia, a substantially flat base with a pair of opposing arms extending therefrom, a first aperture in a bridge portion of one of opposing arms, and a second aperture in the base wherein the second aperture is in alignment with the first aperture and offset from the center of the base.

Turning now to the evidence of obviousness, we find that the Gibson document (page 1, lines 61 through 64) teaches a spring clip (Fig. 1) with an attaching portion 1 centrally pierced at 7

for the reception of a screw, by means of which the clip may be fastened to a wall or other support. The patentee expressly points out that a pair of continuously curving symmetrically

disposed bows 9 of the clip "provide equal opposite spring clamping effect." (page 1, lines 48 through 51). The Johnson reference (page 1, lines 38 through 48 and lines 60 through 70) addresses clips for fastening trees or other articles to walls which provide a loop or extension b (Figs. 1, 3, and 4) for holding the clip by the fingers while a nail is being hammered in, such that the flesh is not subject to injury. As background (page 1, lines 27 through 37), the patentee Johnson discusses clips for attaching electric conductors, for example, wherein an end portion for taking a nail is bent to a tubular shape and provided with two oppositely situated holes, with the other end of the clip being saddle shaped for holding

the conductor.

Setting aside what appellant has informed us of in the present application, we are of the view that the applied combined prior art teachings simply would not have been suggestive of the now claimed clip. As we see it, each of Gibson and Johnson reveal distinctly different fastening clips. Clearly, the type of clip taught by Johnson relies upon offset aligned holes for a nail. Nevertheless, the particular clip of Gibson relies upon symmetrically disposed bows and, as the patentee indicates, this is to provide an equal, opposite spring clamping effect. To alter the clip of Gibson, as proposed by the examiner, would have destroyed the aforementioned equal, opposite spring clamping effect, certainly a disincentive on the part of one having ordinary skill in the art for making such a change. Only appellant teaches the specific advantage noted, supra, of an offset hole arrangement in a clip with opposing arms, i.e., an overall holding or gripping action of the clip greater than if the clip were secured or fixed through a single aperture in

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the central portion. For the above reasons, the evidence proffered by the examiner does not support a conclusion of obviousness. Thus, the rejection of appellant's claims cannot be sustained.

In summary, this panel of the board has reversed the rejection of claims 1 through 15 under 35 U.S.C. § 103(a) as being unpatentable over Gibson in view of Johnson.

The decision of the examiner is reversed.

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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