

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HUILI QIAO

Appeal No. 1999-2371
Application No. 08/909,834

ON BRIEF

Before ABRAMS, FRANKFORT, and McQUADE, Administrative Patent Judges.
ABRAMS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-14, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellant's invention relates to a method of removably securing a speaker grille to a cabinet (claims 1-7) and to a removable fastening system (claims 8-14). An understanding of the invention can be derived from a reading of exemplary claim 8, which appears in an appendix to the appellant's Brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Raymond	3,252,677	May 24, 1966
Notoya	4,422,222	Dec. 27, 1983
Nakamura	4,681,288	Jul. 21, 1987
Hiraki <u>et al.</u> (Hiraki)	4,993,511	Feb. 19, 1991

Claims 1-3, 5-10 and 12-14 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hiraki in view of Notoya and Raymond.

Claims 4 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hiraki in view of Notoya, Raymond and Nakamura.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the Final Rejection (Paper No. 4) and the Answer (Paper No. 11) for the examiner's complete reasoning in support of the rejections, and to the Brief (Paper No. 10) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

The appellant's invention is directed to a push-on, pull-off system for securing a decorative speaker grille to apertures in a cabinet. As manifested in independent claim 8, the inventive system comprises a plurality of receptacles in the grille and a plurality of fasteners, each fastener having a head with outwardly flared resilient wings for engagement with a receptacle and a tree-like base for securing the fastener in the apertures,

said head of each said fastener and each said receptacle being dimensioned such that a first pushing force is required for engagement and a second, larger, pulling force is required for disengagement.

The examiner is of the view that Hiraki shows all of the structure recited in claim 8 except for the claimed fasteners, the push-on, push-off structure is disclosed by Notoya and the tree structure by Raymond, and it would have been obvious to one of ordinary skill in the art to modify the Hiraki fastener to meet the terms of the claim. The appellant points out in rebuttal that while the Notoya fastener is pushed on, it is not pulled off, for it must be rotated

by a screw driver to be removed. The examiner's position with regard to this argument is that

[t]he skilled artisan would have recognized that engagement and disengagement of the parts to be fastened could be accomplished exclusively through pulling and pushing forces since the heads are resilient. The motivation being [sic, is] the inaccessibility to the screw driver slot or the unavailability of a screwdriver. (Answer, page 2, emphasis added.)

The test for obviousness is what the combined teachings of the prior art would have suggested to one of ordinary skill in the art. See, for example, In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In establishing a prima facie case of obviousness, it is incumbent upon the examiner to provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. See Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Int. 1985). To this end, the requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from the appellant's disclosure. See, for example, Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1052, 5 USPQ2d 1434, 1439 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988).

Hiraki teaches securing a speaker grille to a cabinet by means of bolts. There is no teaching in this patent that relates to a push-on, pull-off system of securement, and it therefore fails to disclose or teach most of the elements of the claimed system. Figure 2 of

Notoya discloses a fastener that can be categorized as a push-on, rotate-off system.

Push-on is accomplished by pressing the head of the fastener through an opening, whereupon a pair of flared resilient wings 19 is cammed inwardly by first edges 23 of the opening, which finally rest on oppositely inclined ramps 20. According to the reference, removal is accomplished by engaging a slot in the front of the fastener head with a screw driver and rotating the head at least forty-five degrees on flexible stem 18 in order to align the wings with a wider portion of the opening, at edges 24 (column 6, line 5 et seq.).

There is no explicit teaching in Notoya of disengaging the fastener by pulling it. Nor does it appear to us that it is capable of being removed in such a fashion, particularly in view of the statement that the oppositely inclined ramps 20 "catch onto the small diameter portion hole edges 23" (column 6, lines 18-20, emphasis added), and the fact that there is no way to determine whether the angle of inclination of ramps 20 is such as to allow them to be cammed inward by aperture edges 23 when pulled outward. From our perspective, therefore, the examiner's conclusion that the fastener can be disengaged by pulling is merely speculation. Moreover, the claim requires that the dimensioning of the elements be such as to require a lesser force for pushing on as for pulling off, and the reference provides absolutely no teaching in this regard. Raymond, which was applied for its showing of a tree-like structure to secure the fastener in an aperture in the cabinet, does not alleviate the shortcomings with the other two references.

For the reasons set forth above, the combined teachings of Hiraki, Notoya and Raymond fail to establish a prima facie case of obviousness with regard to the subject matter of independent claim 8, and we will not sustain the rejection. The same is true with regard to independent claims 1, 7 and 14, which contain the same limitations, and dependent claims 2, 3, 5, 6, 9, 10, 12 and 13.

Dependent claims 4 and 11 stand rejected on the basis of the references cited against claim 1 et al., taken further in view of Nakamura, which is cited for its teaching of sizing the body of the fastener so it provides a snug fit with the receptacle. Be this as it may, Nakamura does not overcome the problems with the basic rejection pointed out above. This rejection is not sustained.

SUMMARY

Neither rejection is sustained.

The decision of the examiner is REVERSED.

NEAL E. ABRAMS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
CHARLES E. FRANKFORT)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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JOHN P. McQUADE)	
Administrative Patent Judge)	

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APPEAL NO. 1999-2371 - JUDGE ABRAMS
APPLICATION NO. 08/909,834

APJ ABRAMS

APJ McQUADE

APJ FRANKFORT

DECISION: **REVERSED**

Prepared By:

DRAFT TYPED: 14 Jan 02

FINAL TYPED: