

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SEAN P. HANSON

Appeal No. 1999-2774
Application 08/794,337

ON BRIEF

Before McCANDLISH, Senior Administrative Patent Judge, and
FRANKFORT and JENNIFER D. BAHR, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

ON REQUEST FOR REHEARING

This is in response to appellant's request for rehearing of our decision mailed September 28, 2000, wherein we affirmed the examiner's rejection of claims 1 through 6, 10 through 13, 22 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Kee in view of Law or Utterberg, and reversed the examiner's

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rejection of claims 7 through 9 and 14 through 21 under 35 U.S.C. § 103(a) as being unpatentable over Kee in view of Law or Utterberg considered further in view of either Oreopoulos or Rugheimer.

In the request, appellant urges that our decision regarding the combination of Utterberg with Kee as applied to independent claims 1, 22 and 23 is based on a mistaken interpretation of the structural characteristics of the Luer-Lok joint seen in Utterberg. More specifically, in contrast to our observations on page 8 of our earlier decision that Utterberg discloses "a loose, freely rotatable mounting of the sleeves once the connector is past the threaded portion of the luer lock or the tangs of the retention device (34a)," appellant argues that it is well known that such a Luer-Lok joint operates by jamming the frustoconical sealing surfaces of the joint together to create a seal (as seen at 46 in Fig. 5B of Utterberg), and that rotation at the sealing interface would be inconsistent with the proper functioning of a Luer-Lok device. Having again reviewed the Utterberg reference in light of appellant's points of argument, we must agree with

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appellant's position as presented in the Request for Rehearing (pages 3-4). Accordingly, we modify our earlier opinion by now reversing the examiner's rejection of claims 1 through 6, 10 through 13, 22 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Kee in view of Utterberg.

However, after having carefully considered each of the points of argument raised by appellant in his Request for Rehearing in relation to the combination of Kee and Law, we remain of the view expressed in our earlier decision that claims 1 through 6, 10 through 13, 22 and 23 would have been obvious to one of ordinary skill in the art under 35 U.S.C. § 103(a) based on the collective teachings of Kee and Law. Contrary to appellant's assertions on page 2 of the request, the clevis set forth in independent claims 1, 22 and 23 on appeal is not required to be "a cylindrical element structured to capture the tang," and nothing in the originally filed drawings or the specification as originally filed requires that the clevis be a cylindrical element, or requires that the clevis necessarily provide "structural reinforcement completely around the tang

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circumference," as urged on page 2 of the request. In this regard, we direct appellant to our discussion of this issue on pages 6 through 8 of our decision mailed September 28, 2000, and again point out that the originally filed disclosure of the application does not even use the terminology "tang," "clevis," or "tang and clevis connection."

In further support of our determination in the decision mailed September 28, 2000 regarding the combination of Kee and Law, we observe that a "tang" is defined¹ as "a long and slender projecting strip, tongue, or prong forming part of an object, such as a chisel, file, knife, etc., and serving as a means of attachment for another part, as a handle or stock," while a "clevis" is defined as "a U-shaped yoke at the end of a chain or rod, between the ends of which a lever, hook, etc., can be pinned or bolted." Thus, contrary to appellant's argument in both the brief and this Request for Rehearing, a clevis would not be understood by one of ordinary skill in the art as

¹ Webster's Encyclopedic Unabridged Dictionary of the English Language, Portland House, 1989.

requiring "a cylindrical element structured to capture a tang," as argued, for example, on page 2 of this request and would not necessarily be required to provide structural reinforcement completely around a tang circumference, or be required to carry transverse loading diametrically, from side-to-side of a joint, through a continuous span of material arranged in a hoop direction, as argued on pages 2 and 3 of the request.

Looking at Law, Figures 1-3, it remains our opinion that the projecting portion (18, 40) of the conduit housing (12) would have been viewed in its broadest reasonable interpretation as constituting a "tang," while the U-shaped receiving portions defined by structures (42, 52, 60) of the second conduit housing (20) would have been viewed as broadly being a "clevis," and that the "tang and clevis connection" formed when these components are brought together to define a raintight and oiltight swivel connection is "capable of low friction rotation while maintaining a fluid tight seal at the interface between the first and second parts," as set forth, for example, in independent claim 1 on appeal. As a further

point, we observe that in Figure 4 of Law the rotatable connection between the conduit housings (112) and (120) likewise provides a "tang and clevis connection" as broadly set forth in claim 1 on appeal.

Moreover, even if we were to accept appellant's assertions on pages 2 and 3 of the request concerning what constitutes a "clevis," we view the structure in Figure 4 of Law to be responsive. In Figure 4 of Law the projecting portion (118, 119) of the conduit housing (112) would have been viewed as broadly constituting a "tang," while the U-shaped receiving portion defined on the second conduit housing (120) would have been viewed as broadly being a "clevis." In this instance, the "clevis" includes (at annular channel 54) a portion that is a U-shaped, cylindrical element which provides structural reinforcement completely around the tang circumference (at 119), but still provides for swivelling of the joint without permitting unintended decoupling of the joint (col. 6, lines 1-8). In addition, the cylindrical portion of the "clevis" in Figure 4 of Law would transfer transverse loads from one side

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to a diametrically opposite side of the joint through a continuous span of material arranged in a hoop direction. Thus, the structure in Law Figure 4 satisfies even appellant's more restrictive understanding of what constitutes a "clevis."

In light of the foregoing, our affirmance of the rejection of claims 1 through 6, 10 through 13, 22 and 23 under 35 U.S.C.

§ 103(a) based on the collective teachings of Kee and Law set forth in our decision mailed September 28, 2000 is maintained. But our affirmance of the rejection of that same set of claims based on Kee and Utterberg is now vacated and the examiner's rejection of claims 1 through 6, 10 through 13, 22 and 23 under 35 U.S.C. § 103(a) based on the collective teachings of Kee and Utterberg is reversed.

As for appellant's comments in the request concerning the

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proposed drawing corrections submitted with the Request for Rehearing, we leave consideration of such drawing corrections and the drawing corrections filed on February 23, 1998 to the examiner, with the suggestion that the examiner carefully review both of the proposed drawing corrections and the amendments to page 8 of the specification (made in Paper Nos. 4 and 6) for any new matter.

Appellant's request for rehearing is granted to the extent that we have modified our earlier decision by now reversing the examiner's rejection of claims 1 through 6, 10 through 13, 22 and 23 under 35 U.S.C. § 103(a) based on the collective teachings of Kee and Utterberg, but, in our opinion, no further change in our decision mailed September 28, 2000, is warranted.

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

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HARRISON E. McCANDLISH, Senior)	
Administrative Patent Judge)	
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