

The opinion in support of the decision being entered today was **not** written for publication in a law journal and 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 HARRY MAYS, GEORGE PATTON and MICHAEL MORRISON

Appeal No. 2000-0789
Application No. 08/856,373

ON BRIEF

Before CALVERT, NASE, and GONZALES, Administrative Patent Judges.

NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 4, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates to the reinforcement of the head and bottom of a conventional 55 gallon drum to prevent bulging of the drum when shipping the product under mild pressure in the range of 25 psi and below (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Mittinger, Jr. (Mittinger)	1,045,055	Nov. 19,
1912		

Claims 1 to 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Mittinger.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the answer (Paper No. 14, mailed October 20, 1999) for the examiner's complete reasoning in support of the rejection, and to the brief (Paper No. 13,

Appeal No. 2000-0789
Application No. 08/856,373

Page 3

filed July 6, 1999) for the appellants' arguments
thereagainst.

OPINION

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

To support a rejection of a claim under 35 U.S.C. § 102(b), it must be shown that each element of the claim is found, either expressly described or under principles of inherency, in a single prior art reference. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

Claim 1 reads as follows:

In the combination with a steel drum having a cylindrical drum body having a diameter for defining open circular ends, the drum body including a plurality of expanded circumferential rings configured about the cylindrical drum body;

a circular drum head closing one end of the cylindrical body; and,

a circular drum bottom closing the other end of the cylindrical body;

the improvement to the circular drum head and bottom comprising:

first and second reinforcing rims each having a cylindrical configuration and a diameter less than the diameter of the cylindrical drum body, the first and second reinforcing rims for placement to the circular drum head and the circular drum bottom, respectively; and,

means for integrally fastening the first and second rims, respectively, to the circular head and bottom of the drum to increase resistance to bulging.

Claim 3 reads as follows:

A process for reinforcing the head and bottom of a steel drum comprising the steps of:

providing a cylindrical drum body having a diameter for defining open circular ends, the drum body including a plurality of expanded circumferential rings configured about the cylindrical drum body;

providing a circular drum head closing one end of the cylindrical body;

providing a circular drum bottom closing the other end of the cylindrical body;

providing first and second reinforcing rims each having a cylindrical configuration and a diameter less than the diameter of the cylindrical drum body, the first and second reinforcing rims for placement to the circular drum head and the circular drum bottom respectively; and,

integrally fastening the first and second rims respectively to the circular head and bottom of the drum to increase resistance to bulging.

We agree with the appellants' argument (brief, p. 4) that the claimed first and second reinforcing rims integrally fastened to the circular drum head and the circular drum bottom, respectively, are not readable on Mittinger's metal keg. In the answer (p. 3), the examiner determined that the claimed first and second reinforcing rims were readable on the outer wall of Mittinger's head 12 and the outer wall of Mittinger's bottom 4. We do not agree. In that regard, the outer wall of Mittinger's head 12 is downwardly turned portion 13 (see Figure 3) which has a diameter greater than the diameter of the cylindrical drum body (contrary to the language of claims 1 and 3). Likewise, the outer wall of Mittinger's bottom 4 is upwardly turned portion 6 (see Figure 3) which has a diameter greater than the diameter of the cylindrical drum body (contrary to the language of claims 1 and 3). Moreover, the claimed first and second reinforcing rims are not readable on the curved portions 8, 17 or the ribs 9, 9', 13', 14' of Mittinger's head 12 and bottom 4 since the curved portions 8, 17 and the ribs 9, 9', 13', 14' are all parts of the structure that permits Mittinger's head 12 and

bottom 4 to close the open circular ends of the cylindrical drum body.

Since all the limitations of claims 1 to 4 are not disclosed in Mittinger for the reasons set forth above, the decision of the examiner to reject claims 1 to 4¹ under 35 U.S.C. § 102(b) is reversed.

CONCLUSION

¹ Claim 2 depends from claim 1 and claim 4 depends from claim 3.

To summarize, the decision of the examiner to reject claims 1 to 4 under 35 U.S.C. § 102(b) is reversed.

REVERSED

IAN A. CALVERT)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JEFFREY V. NASE)	APPEALS
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)	INTERFERENCES
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JOHN F. GONZALES)	
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Appeal No. 2000-0789
Application No. 08/856,373

Page 9

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Appeal No. 2000-0789
Application No. 08/856,373

Page 10

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