

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.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. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT M. STONE

Appeal No. 2003-0092
Application No. 09/432,525

ON BRIEF

Before KIMLIN, WALTZ and JEFFREY T. SMITH, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1, 4-6 and 8-20, all the claims remaining in the present application.

Claim 1 is illustrative:

1. A lift table comprising:

a base, a load platform, and a vertically extendible means for raising and lowering the platform relative to the base;

Appeal No. 2003-0092
Application No. 09/432,525

a sensor mechanism mounted on the base and affecting a perimeter of the base; and

a guard operably connected to the base and mounted over said sensor mechanism and adapted to activate the sensor mechanism when pressure is exerted upon the guard;

thereby providing a means for interrupting a descent of the platform in response to an object encroaching said perimeter of the base and exerting pressure on the guard.

The examiner relies upon the following references as evidence of obviousness:

Martin	3,466,411	Sep. 09, 1969
Yeakle	5,379,655	Jan. 10, 1995
Kemmerer et al. (Kemmerer)	5,931,532	Aug. 03, 1999

Appellant's claimed invention is directed to a lift table comprising, inter alia, a sensor mechanism mounted on the base having a guard operably connected to the base and mounted over the sensor mechanism. When pressure is exerted upon the guard, the descent of a platform is interrupted as a safety measure.

Appealed claims 1, 4-6, 8-13, 15 and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Yeakle in view of Kemmerer. Claims 14 and 16-19 stand rejected under 35 U.S.C. § 103 as being unpatentable over Yeakle in view of Kemmerer and Martin.

Appeal No. 2003-0092
Application No. 09/432,525

Appellant submits at page 4 of the principal brief that independent claims 1 and 20 should be considered separately. Accordingly, the dependent claims on appeal stand or fall together with the independent claim upon which they depend.

We have thoroughly reviewed each of appellant's arguments for patentability. However, we are in complete agreement with the examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejections for essentially those reasons expressed in the Answer.

Appellant does not dispute the examiner's factual determination that Yeakle discloses a lift table much like appellant's with the exception that the sensor mechanism (42), actuated by a guard (46), is mounted on the perimeter of the table, not the base, as presently claimed. However, as acknowledged by appellant, Kemmerer discloses a power-operated lift recliner wherein the sensor mechanism for interrupting the descent of the recliner may be situated on the bottom surfaces of the wooden frame members or the top surfaces of the base frame members (see column 3, lines 5-12). Accordingly, based on the

Appeal No. 2003-0092
Application No. 09/432,525

collective teachings of Yeakle and Kemmerer, we concur with the examiner that it would have been obvious for one of ordinary skill in the art to modify the lift table of Yeakle by placing the sensor mechanism on the base (12) rather than the table. In our view, it would have been an obvious alternative for one of ordinary skill in the art.

Appellant first contends that Yeakle and Kemmerer are not combinable because Kemmerer, directed to a power-operated lift recliner, is non-analogous to the lift table of Yeakle. However, it is well settled that the determination of analogous art requires a two-part test, (1) the reference must be within applicant's field of endeavor and, if not, (2) the reference must be reasonably pertinent to the particular problem addressed by the applicant. In re Wood, 599 F.2d 1032, 1036, 202 USPQ 171, 174 (CCPA 1979). In the present case, inasmuch as both Yeakle and Kemmerer are directed to powered, vertically movable apparatus with safeguards for interrupting the vertical movement, we find that Kemmerer is reasonably pertinent to the particular safety problem addressed by appellant. In our view, one of ordinary skill in the art, looking to improve upon the safety features of Yeakle's lift table, would be reasonably expected to

Appeal No. 2003-0092
Application No. 09/432,525

look to safety features employed by other vertically movable structures. We do not find that one of ordinary skill in the art would limit his/her search to the field of lift tables.

Appellant also contends that "[t]he combination of the two patents, though, does not also teach or suggest the use of a guard mounted over and adapted to activate the sensor mechanism when pressure is exerted upon the guard, as additionally recited in amended claim 1" (page 7 of principal brief, first paragraph). Appellant does not address, however, the examiner's finding that Yeakle discloses a guard (46) which activates the sensor mechanism. Also, it is not necessary for a finding of obviousness that one of ordinary skill in the art modify Yeakle by utilizing the pressure-sensitive ribbon described by Kemmerer. We find that it would have been obvious for one of ordinary skill in the art to employ any conventional sensor mechanism on the base of Yeakle's lift table. Indeed, Kemmerer expressly discloses that "[o]ther types of sensor switches may be employed instead of the pressure sensitive switches **60**" (column 3, lines 60-61).

Appeal No. 2003-0092
Application No. 09/432,525

As for the perimeter beam-sensor of separately argued claim 20, appellant has not addressed the examiner's finding that Kemmerer discloses that a curtain of light may be provided around the space defined by the perimeter of the base as a sensor mechanism. We do note that appellant agrees with the examiner's assertion that the use of various switches, such as perimeter-beam switches, is well known (page 8 of principal brief, last sentence).

Appellant does not provide a separate argument for the examiner's § 103 rejection of claims 14 and 16-19 over the additional Martin reference, stating that "[t]he same reasoning is believed to apply to Claims 4-6 and 10-19, the remaining rejected claims that now depend, directly or indirectly, from Claim 1" (page 8 of principal brief, second paragraph).

As a final point, we note that appellant bases no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to refute the inference of obviousness established by the examiner.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

Appeal No. 2003-0092
Application No. 09/432,525

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

AFFIRMED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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THOMAS A. WALTZ)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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JEFFREY T. SMITH)	
Administrative Patent Judge)	

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Appeal No. 2003-0092
Application No. 09/432,525

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