

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SIEGFRIED ZENKER and CARSTEN CHRISTENSEN

Appeal No. 2003-1702
Application No. 08/749,840

ON BRIEF

Before KIMLIN, GARRIS and KRATZ, Administrative Patent Judges.
KRATZ, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 9-17. Claims 18 and 19, which are all of the other claims pending in this application, stand withdrawn from further consideration by the examiner as drawn to a non-elected invention.

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BACKGROUND

Appellants' invention relates to a hydraulic dual circuit steering system. An understanding of the invention can be derived from a reading of claim 9, the sole independent claim on appeal, which is reproduced below.

9. Hydraulic dual circuit steering system comprising

- a first circuit having a first control unit and a first steering motor connected with the control unit via working connections,
- a second circuit having a second control unit and a second steering motor connected with the control unit via working connections,
- a change-over valve, which in a first position activates the first circuit and deactivates the second circuit and in a second position activates the second circuit and deactivates the first circuit,

and in which in the first position of the changeover valve working connections of the second circuit and in the second position of the changover valve the working connections of the first circuit are connected to a pressure source.

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

Bohner et al. (Bohner)	6,102,150	Aug. 15, 2000
		(\$ 102(e) date - Oct. 16, 1998)

Claims 9-17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bohner.

We refer to the briefs and to the answer for an exposition of the opposing viewpoints expressed by appellants and the examiner concerning the issues before us in this appeal.

OPINION

We have reviewed the record, including all of the arguments advanced by both the examiner and the appellants in support of their respective positions. This review leads us to conclude that the examiner's rejection is not well founded. Accordingly, we reverse the aforementioned rejection.

The examiner has the initial burden of establishing a prima facie case of anticipation by pointing out where all of the claim limitations are described in a single reference. See In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990); In re King, 801 F.2d 1324, 1327, 231 USPQ 136, 138-39 (Fed. Cir. 1986).

All of the claims on appeal require a change-over valve that, in a first position, activates a first (hydraulic) circuit having a first control unit and a first steering motor connected with the control unit via working connections while deactivating a second circuit. Also, the same change-over valve is required by the claims on appeal to activate a second such circuit when in a second position while deactivating the first circuit.

Moreover, a pressure source is connected to the working connections of the second circuit when the changeover valve is in a first position and connected to the working connections of the first circuit when the changeover valve is in the second position.

In applying the hydraulic dual steering circuit system of Bohner to the claimed subject matter, the examiner has noted that Bohner provides dual circuits and takes the position that appellant's change-over valve would read on the combination of valves 31 and 32 as illustrated in drawing figure 3 of Bohner.

Even if we could agree with the examiner's viewpoint concerning that application of Bohner's system to appellants' claimed subject matter, the examiner has not fairly addressed in the final rejection and examiner's answer where Bohner provides a description of the additionally recited pressure source and connection of that pressure source to the working connections of whatever circuit is deactivated by the change-over valve as required by appellants' independent claim 9 and as argued as a patentable distinction by appellants in the briefs.

To the extent the examiner may have been assuming that independent claim 9 merely requires a change over valve position wherein pressure from a pressure source is vented to a tank or

reservoir as implied in Paper No. 16 rather than connected for pressurizing the working connections of the deactivated circuit, we can not agree. In such a no pressure load operation or set up for the deactivated circuit as may be conveyed in Bohner (column 5, lines 35-43), a source of pressure is not described as being connected to the working connections of the deactivated circuit, as required by appellants' claim 9.

Consequently, the examiner has not discharged the initial burden of establishing a prima facie case of anticipation as to any of the claims on appeal. It follows that, on this record, we will not sustain the rejection under 35 U.S.C. § 102(e).

CONCLUSION

The decision of the examiner to reject claims 9-17 under
35 U.S.C. § 102(e) as being anticipated by Bohner is reversed.

REVERSED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
BRADLEY R. GARRIS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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Administrative Patent Judge)	

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