

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

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ASHOK RAMESH SANADI

Appeal No. 2004-1065
Application No. 09/883,804

ON BRIEF

Before OWENS, JEFFREY T. SMITH and PAWLIKOWSKI, **Administrative Patent Judges**.

PAWLIKOWSKI, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 32 and 33.¹ A copy of each of these claims is set forth below:

32. A device for holding specimens in a plurality of chambers, said device comprising:
a single-piece unitary body;

¹ We note that appellant's Appendix to the brief incorrectly identifies claims 32 and 33 as claims 1 and 2. We refer to the claims as claims 32 and 33.

said unitary body having a generally rectangular planar plate, said plate having a principal surface, said principal surface having a length and a width;

said plate having a perimeter defined by four free edges of said plate, said four free edges each being substantially co-planar with said plate;

said principal surface having a plurality of openings defined by said plate, said openings forming an array of columns and rows along said length and width of said principal surface;

said unitary body further defining a plurality of hollow tube shaped projections in register with said openings and extending perpendicularly from said plate; and

said plurality of openings providing passage into said hollow tube-shaped protections;

wherein at least some of said hollow tube-shape projections having closed ends opposite said openings, said closed ends of said tube-shaped projections being conical in shape.

33. The device recited in claim 32, wherein each of said openings in said principal surface is surrounded by an annular ridge.

The examiner relies upon the following references:

Cooke et al. (Cooke)	3,356,462	Dec. 05, 1967
Kessler	3,785,928	Jan. 15, 1974
Thorne	4,154,795	May 15, 1979
Litt	4,824,230	Apr. 25, 1989

Claim 32 stands rejected under 35 U.S.C. § 103 as being obvious over Litt in view of Cooke and Thorne.

Claim 33 stands rejected under 35 U.S.C. § 103 as being unpatentable over Litt in view of Cooke or Thorne and further in view of Kessler.

On page 3 of the brief, appellant states that the claims stand together. We, therefore, need only consider claim 32 in this appeal. 37 CFR § 1.192(c)(7) and (8)(2003).

OPINION

For the reason set forth in answer, we affirm each of the rejections. Our comments below are for emphasis only.

On page 4 of brief, appellant argues that the claimed invention requires a "single-piece unitary body", and Litt does not suggest a single-piece unitary body. Hence, the issue is whether the wells, 14a, 14b, 14c, and 14d, as depicted, for example, in Figure 2 of Litt, are separate pieces of the microtiter plate of Litt.

Firstly, we observe that appellant's specification indicates that the wells or tubes may be discrete elements temporarily attached to a tray or plate, or preferably are formed integrally with a plate. See page 5, lines 10-12. Hence, it is possible that a "single-piece unitary body" means multiple pieces that have been bonded together to form a unitary piece, and does not necessarily mean a single-piece molded structure, for example.

In response to appellant's position identified above, the examiner, on pages 5 and 6 of the answer, fully addresses appellant's arguments. We incorporate the examiner's comments as our own because we agree with the examiner's conclusion that Litt does suggest a single-piece unitary body.

The examiner correctly points out that Litt (column 1, lines 65-67) characterizes the microtiter plate as "having a plurality of wells therein". The examiner also points out that Litt teaches, at column 2, lines 32-36, that the microtiter plate is a "multi-well member known as a microtiter plate." The noun "member" is singular in form, which suggests a single-piece unitary body.

Appellant argues that because Litt discloses that plate 10 has a base 12 from which is supported a matrix-like array of wells 14 (column 2, lines 49-51), that Litt does not suggest a single-piece unitary body. Brief, page 4. We are not convinced by appellant's argument here. It is not evident how a plate 10 having a base 12 that supports wells cannot be a single-piece unitary structure. The examiner's point, that the disclosed "multi-well member" suggests a single-piece unitary body, is more convincing to us since the noun "member" is singular in form.

Therefore, we conclude that we agree with the examiner's position that Litt does suggest a single-piece unitary body.

In the paragraph bridging pages 4 and 5 of the brief, appellant argues that there is no motivation to combine Litt and Cooke due to the requirement that Litt's structure has to be substantially planar in shape in order to be integrated with the visualization detector. Appellant argues that by changing the bottom design of the wells, the visualization pattern will not operate according to its intended purpose. Appellant argues that incorporation of the conical bottom feature of Cooke into the apparatus of Litt would render the apparatus of Litt unsatisfactory for its intended purposes. Brief, page 5.

On page 7 of the answer, the examiner correctly points out that Litt teaches two different shapes for the well bottoms, both planar or curved. See column 2, lines 52-54. Hence, we agree with the examiner's statement that "this clearly shows that the shape of the closed bottom is not critical of the functioning of the plate" of Litt. Answer, page 7.

Beginning on page 6 of the brief, appellant argues that Thorne asserts that the wells are removable from the tray recess 2. Appellant also argues that Thorne does not disclose a

single-piece unitary structure. As discussed above, Litt suggests the feature of a single-piece unitary body. The examiner relies upon Thorne for teaching shapes of wells, such as flat, hemispherical, conical, or a combination thereof, and for teaching that certain shapes of wells are considered equivalent to each other. Answer, page 4.

With regard to the rejection of claim 33, which additionally involves the reference of Kessler, although we stated that we only need consider claim 32 in this appeal, we do make the following comments. Claim 33 requires that each of the openings in the principle surface of the plate is surrounded by an annular ridge. At the bottom of page 6 of the brief, appellant refers to the same arguments used in connection with the first rejection in that there is no motivation to combine Litt with Cooke or Thorne. We disagree for the reasons discussed above. Appellant also states "there would be no motivation to further apply the Kessler reference." Brief, page 6.

On page 8 of the answer, the examiner states that Kessler teaches wells having curved bottoms and shows an annular ridge surrounding each of the wells. Appellant does not dispute these findings made by the examiner.

In view of the above, we therefore affirm each of the rejections.

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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).

AFFIRMED

TERRY J. OWENS)	
Administrative Patent Judge)	
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)	APPEALS AND
JEFFREY T. SMITH)	INTERFERENCES
Administrative Patent Judge)	
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BAP/sld

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