

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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 KURT D. SCHALDACH

Appeal No. 99-0075
Application 08/719,664¹

ON BRIEF

Before McCANDLISH, Senior Administrative Patent Judge, and McQUADE and CRAWFORD, Administrative Patent Judges.
McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Kurt D. Schaldach appeals from the final rejection of claims 25 through 29, all of the claims pending in the application. We reverse.

¹ Application for patent filed September 25, 1996. According to the appellant, the application is a continuation of Application 08/095,902, filed July 22, 1993, now U.S. Patent No. 5,662,316, issued September 2, 1997.

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The invention relates to a "pallet clamping device for automatically coupling and uncoupling a workpiece on a pallet" (specification, page 1). Claim 25 is illustrative and reads as follows:

25. A pallet clamping device comprising an air pressure supply means to supply air pressure to said pallet clamping device, a hydraulic vice, a pneumatic pilot valve, a pneumatic-hydraulic pressure amplifier supplying hydraulic pressure to said hydraulic vice, said pneumatic pilot valve includes a power port, a control port, an exhaust port, an amplification port and a retraction port, a first unlockable pneumatic coupling, a second unlockable pneumatic coupling, a piston, and conduit means, said piston alternately connecting and disconnecting said first and said second unlockable pneumatic couplings sequentially applying and removing said air pressure to said pneumatic pilot control valve whereby said hydraulic vice is alternately unlocked and locked.

Claim 25, and claims 26 through 29 by virtue of their dependency from claim 25, stand rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter the appellant regards as the invention.² The examiner explains that

²In the final rejection (Paper No. 8), claims 25 through 29 also stood rejected under the judicially created doctrine of obviousness-type double patenting. The examiner has since withdrawn this rejection in view of the terminal disclaimer filed February 17, 1998 (see page 2 in the examiner's answer, Paper No. 17).

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[i]n claim 25, line 9, the phrase "vice is alternately unlocked and locked." is vague and indefinite. It is unclear what structure the vice means is being locked or unlocked relative to. The claim is so ambiguous that one skilled [in] the art could interpret the language "unlocked" as actually moving the jaws open or, alternatively, releasing a lock such that another moving means is then capable of moving the jaws. The phrase "unlockable pneumatic coupling" (claim 25, lines 5 and 7) is not understood. This phrase appears to be contradicted by the language "whereby the vice is alternately unlocked and locked" (claim 25, line 9). How can a coupling that is "unlockable" (meaning incapable of being locked) then be recited as being "locked"? [answer, page 3].

The second paragraph of 35 U.S.C. § 112 requires claims to set out and circumscribe a particular area with a reasonable degree of precision and particularity. In re Johnson, 558 F.2d 1008, 1015, 194 USPQ 187, 193 (CCPA 1977). In determining whether this standard is met, the definiteness of the language employed in the claims must be analyzed, not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. Id.

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An analysis of the claim 25 limitations at issue in light of the appellant's disclosure shows the examiner's concerns to be unfounded.

More particularly, pages 1, 2, 5 and 6 in the appellant's specification and Figures 4 through 6 in the appellant's drawings clearly indicate that the recitation in claim 25 that the hydraulic vice is alternately "unlocked and locked" refers to the condition of the vice being locked or unlocked, i.e., clamped or unclamped, respectively, to a workpiece. Page 8 in the appellant's specification and Figures 9 through 11 in the appellant's drawings clearly indicate that recitation in claim 25 that the pneumatic couplings are "unlockable" simply denotes that the mating components of the respective couplings cannot be locked together. Although the limitations in question might have been composed to make these meanings more apparent on the face of the claim, they nonetheless are reasonably precise and particular when read, as they are required to be, in light of the underlying disclosure.

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Therefore, we shall not sustain the standing 35 U.S.C.
§ 112, second paragraph, rejection of claims 25 through 29.

The decision of the examiner is reversed.

REVERSED

HARRISON E. McCANDLISH, Senior))
Administrative Patent Judge))
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) BOARD OF PATENT
JOHN P. McQUADE))
Administrative Patent Judge) APPEALS AND
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) INTERFERENCES
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MURRIEL E. CRAWFORD)
Administrative Patent Judge)

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