

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DIETER MAUER

Appeal No. 99-0165
Application 08/478,070¹

ON BRIEF

Before FRANKFORT, STAAB and McQUADE, Administrative Patent Judges.

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Dieter Mauer appeals from the final rejection of claims 16 through 21, all of the claims pending in the application.

¹ Application for patent filed June 7, 1995. According to appellant, the application is a division of Application 08/154,649, filed November 18, 1993, now U.S. Patent No. 5,478,051, issued December 26, 1995, which is a division of Application 07/857,021, filed March 24, 1992, now abandoned.

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We reverse.

The invention relates to a conveying belt having a plurality of components integrally connected thereto at spaced intervals. The belt is used to sequentially present the components at a manufacturing line assembly station where the components are separated from the belt. Claim 16 is illustrative and reads as follows:

16. An elongated belt for use in presenting portions thereof at an assembly point in a manufacturing process comprising:

an elongated thread member;

a plurality of guide elements arranged sequentially along said member;

at least one positioning bore in each of said guide elements for use in positioning said belt; and

a plurality of component parts, each of said component parts being integrally connected to one of said guide elements for sequential presentation to the assembly point;

said positioning bore in each of said guide elements having a fixed spatial relationship to said connected component part.

The references relied upon by the examiner as evidence of anticipation and obviousness are:

Erlichman	4,008,302	Feb. 15,
1977		

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Suginaka
1980
(Japanese Patent Document)²

55-112735

Aug. 30,

The appealed claims stand rejected as follows:

a) claims 16, 17, 20 and 21 under 35 U.S.C. § 102(b) as being anticipated by the Japanese reference;

b) claim 19 under 35 U.S.C. § 103 as being unpatentable over the Japanese reference; and

c) claim 18 under 35 U.S.C. § 103 as being unpatentable over the Japanese reference in view of Erlichman.

Reference is made to the appellant's brief (Paper No. 10) and to the examiner's answer (Paper No. 11) for the respective positions of the appellant and the examiner with regard to the merits of these rejections.

Turning first to the standing 35 U.S.C. § 102(b) rejection of claims 16, 17, 20 and 21, the Japanese reference discloses a belt-like member for sequentially presenting pairs of complementary pinching (e.g., clothespin) pieces to an

² An English language translation of this reference, prepared on behalf of the Patent and Trademark Office, is appended hereto.

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assembly point in a manufacturing line where the components of each pair are folded toward one another and separated from the belt-like member. The belt-like member is an integrally molded construction consisting of a central runner 2 and pairs of complementary pinching pieces 1 connected to the central runner at spaced intervals by base parts 3. As shown in Figure 1, each of the pinching pieces has a slot adjacent its outer end and what appears to be a bore adjacent its inner end.

Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.), cert. dismissed, 468 U.S. 1228 (1984). In other words, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

The examiner has determined that the Japanese reference discloses each and every element of the belt recited in

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independent claim 16 in that

Japan '735 discloses an elongated belt,
comprising:

an elongated plastic thread member 2;

a plurality of plastic guide elements arranged
sequentially along the member, with each guide
element having a positioning bore (i.e. each guide
element is deemed to comprise 3 and that portion of
1 containing the bore but not the slot); and

a plurality of plastic component parts
integrally connected to the guide elements (i.e.
each component part is deemed to comprise that
portion of 1 containing the slot but not the bore),

wherein the positioning bore in each of the
guide elements has a fixed spatial relationship to
the connected component part [answer, page 3].

The appellant, on the other hand, persuasively argues
that the examiner's finding of anticipation is unsound because
the Japanese reference does not meet the limitations in claim
16 requiring the claimed belt to comprise a plurality of guide
elements each having at least one positioning bore and a
plurality of component parts each integrally connected to one
of the guide elements (see pages 6 through 11 in the brief).
Arguably, a person of ordinary skill in the art would view
each Japanese base part 3 and pinching piece 1 as constituting
a guide element and component part, respectively. Such a

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person, however, would not reasonably consider each Japanese base part 3 and the portion of the adjacent pinching piece containing the apparent bore to be a guide element and the remainder of the pinching piece to be a component part as urged by the examiner. This interpretation of the Japanese "belt" is quite arbitrary and has no reasonable basis in the disclosure of the reference.

Thus, the Japanese reference does not disclose each and every element of the invention recited in independent claim 16. Accordingly, we shall not sustain the standing 35 U.S.C. § 102(b) rejection of claim 16 or of claims 17, 20 and 21 which depend therefrom.

In addition to not disclosing a belt meeting the foregoing limitations in claim 16, the Japanese reference, taken alone or in combination with Erlichman, would not have suggested same to one of ordinary skill in the art. Therefore, we shall not sustain the standing 35 U.S.C. § 103 rejections of dependent claims 18 and 19.

The decision of the examiner is reversed.

REVERSED

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CHARLES E. FRANKFORT)	
Administrative Patent Judge)	
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LAWRENCE J. STAAB)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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