

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. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JACK D. JARVIS

Appeal No. 1999-1168
Application No. 08/876,191

ON BRIEF

Before McCANDLISH, Senior Administrative Patent Judge and ABRAMS and NASE, Administrative Patent Judges.

ABRAMS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 13-19, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellant's invention relates to a socket wrench having a detachable handle. An understanding of the invention can be derived from a reading of exemplary claim 19, which appears in the appendix to the appellant's Brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Nickipuck (Nickipuck '511)	4,480,511	Nov. 6, 1984
Sharp et al. (Sharp)	4,748,874	Jun. 7, 1988
Nickipuck (Nickipuck '405)	4,768,405	Sep. 6, 1988
Nickipuck (Nickipuck '549)	4,905,549	Mar. 6, 1990
Nickipuck (Nickipuck '107)	4,938,107	Jul. 3, 1990

Claims 13-19 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sharp in view of Nickipuck '511, Nickipuck '405, Nickipuck '549, or Nickipuck '107.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejection, we make reference to the Answer (Paper No. 22) for the examiner's complete reasoning in support of the rejection, and to the Brief (Paper No. 21) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, the applied prior art references, the respective positions articulated by the appellant and the examiner, and the guidance provided by our

reviewing court. As a consequence of our review, we make the determinations which follow.

At the outset, we note for the record that the test for obviousness is what the combined teachings of the prior art would have suggested to one of ordinary skill in the art. See, for example, In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In establishing a prima facie case of obviousness, it is incumbent upon the examiner to provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. See Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Int. 1985). To this end, the requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from the appellant's disclosure. See, for example, Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1052, 5 USPQ2d 1434, 1439 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988).

As manifested in the claims before us, the appellant's invention focuses upon the mechanism by which a handle assembly for a socket drive head is attachable to the drive head. There is no dispute that Sharp discloses the basic components recited in the appellant's independent claim 19, to wit, a socket drive head comprising a palm ratchet having a drive extending from its lower flat wall and a bore formed in the side wall, and an elongated handle capable of being removably installed in the bore. However, Sharp does

not disclose or teach a mechanism for locking the handle in the bore, much less the sliding sleeve, control bar, and transverse stem that are described at some length in the claim.

With regard to this, the examiner takes the position on page 3 of the Answer that

[a]ny of the Nickipuck patents suggest the use of a sliding sleeve to lock a detent means in position. It would therefore be obvious to one skilled in the art at the time the invention was made to modify Sharp et. al. by using this well known type of locking means because all the Nickipuck patents suggest this type of detent locking means in handles and extensions.

The appellant has argued in the Brief that the conclusion reached by the examiner is not correct. We agree, recognizing that the examiner has in the rejection combined each of the Nickipuck patents with Sharp as alternatives, and that no single one of them discloses or teaches all of the structural limitations of the locking mechanism that are recited in claim 19.

Among the requirements of the locking mechanism as recited in claim 19 is that there be a spring biased detent means in the front of the handle to lock the handle to the bore in the ratchet head, and that this comprise a spring biased singular stem transversely arranged within a transverse bore, with the stem head "always being urged into and remaining always in contact with said control bar by the bias of said spring." The appellant points out in the Brief (page 10) that a purpose of this arrangement is to keep the stem from migrating out of the bore when the locking bar is in the unlocked position.

As shown in Figures 9, 11 and 12, Nickipuck '405 discloses a transverse stem that is cammed into a locking position in a detent by means of a slidable control bar. However, the stem is not spring-biased, as is required by the claim. Moreover, as shown in Figure 11, it is not maintained in contact with the control bar when the bar is in the unlocked position, also as required by the appellant's claim 19. As explained in the patent specification, the diameter of the bore is decreased at its ends to retain the balls in the bore (column 5, lines 30-37). The structure disclosed in Nickipuck '405 thus fails to disclose two of the requirements of claim 19 and therefore, even if the required suggestion to combine the references were present, the resulting structure would not meet the terms of the claim. The same rationale applies to Nickipuck '511, which shows the stem only in Figure 9.

In the locking mechanism of Nickipuck '549, a transverse stem that can seat in a detent in the ratchet is spring-biased toward a sliding control bar (see Figures 2 and 3). However, a ball is interposed between the head of the stem and the control bar, whereby the head does not contact the control bar as is recited in claim 19. In addition, as was the case in Nickipuck '405, the transverse locking device (the ball and the stem) is not maintained in contact with the control bar when the bar is in the unlocked position, as is shown in Figure 3. In this setup, the diameter of the bore is decreased at the open ends to maintain the components therein. Thus, this reference also fails to disclose some of the

required structure, and even if combined with Sharp would not provide the claimed subject matter.

The locking mechanism disclosed in Nickipuck '107 operates differently than those of the other three Nickipuck references in that it does not utilize a detent in the ratchet head. Instead, locking of the handle to the ratchet head is accomplished by the camming action of a pair of balls in a transverse bore which are pressed against a smooth surface in the bore in the side of the ratchet head by the action of a sliding control bar (see Figures 2 and 3). This reference thus fails to disclose the required transverse stem. As shown in some of the embodiments, the balls can be spring-biased apart. Interestingly, in this system, the uppermost ball (as shown) is maintained in contact with the sliding control bar, even when in the unlocked position (see Figure 7, for example). Nevertheless, the absence of the transverse stem means that even if this reference is combined with Sharp, all of the required structure would not be present.

For the reasons explained above, while each of the Nickipuck references discloses some of the structure recited in claim 19, no single one discloses all that is missing from the primary reference. This being the case, it is our conclusion that a prima facie case of obviousness with regard to the subject matter recited in independent claim 19 is not established by combining Sharp with any of the three Nickipuck references.

CONCLUSION

The rejection of claims 13-19 as being unpatentable over Sharp in view of Nickipuck '511, Nickipuck '405, Nickipuck '549, or Nickipuck '107 is not sustained.

The decision of the examiner is reversed.

REVERSED

HARRISON E. McCANDLISH)	
Senior Administrative Patent Judge)	
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)	BOARD OF PATENT
NEAL E. ABRAMS)	APPEALS
Administrative Patent Judge)	AND
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JEFFREY V. NASE)	
Administrative Patent Judge)	

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PAUL M. DENK
763 SOUTH NEW BALLAS ROAD
ST LOUIS, MO 63141

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APPLICATION NO. 08/876,191

APJ ABRAMS

APJ NASE

APJ McCANDLISH

DECISION: REVERSED

Prepared By: TINA D. LEE

DRAFT TYPED: 22 Aug 01

FINAL TYPED: