

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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC FETCHKO,
ANDREW McFADYEN
and
DANA TROUSIL

Appeal No. 2001-0783
Application 09/012,796

ON BRIEF

Before PATE, STAAB and NASE, **Administrative Patent Judges**.

PATE, **Administrative Patent Judge**.

DECISION ON APPEAL

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This is an appeal from the examiner's refusal to allow claims 1 through 9 as amended after final rejection. The other remaining claims in the application, *i.e.*, claims 11 and 14 through 17, have been allowed in the Examiner's Answer. These are all the claims that remain in the application.

The claimed invention is directed to a hydraulic steering assembly for a watercraft having twin outboard propulsion units. The claimed subject matter may be further understood with reference to the appealed claims appended to appellants' brief.

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

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|---------------------------|-----------|---------------|
| Rockhill | 2,961,986 | Nov. 29, 1960 |
| North | 4,009,678 | Mar. 1, 1977 |
| McBeth | 5,092,801 | Mar. 3, 1992 |
| Kuroi (Japanese Kokai) | 8-276896 | Oct. 22, 1996 |

THE REJECTIONS

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Claims 1, 5, 8, and 9 stand rejected under 35 U.S.C. § 102(b) as anticipated by Kuroi.¹

Claims 2 through 4 stand rejected under 35 U.S.C. § 103 as unpatentable over Kuroi in view of Rockhill.

Claim 6 stands rejected under 35 U.S.C. § 103 as unpatentable over Kuroi in view of North.

Claim 7 stands rejected under 35 U.S.C. § 103 as unpatentable over Kuroi in view of McBeth. For the full details of these rejections, reference is made to the Examiner's Answer.

OPINION

We have carefully reviewed the rejections on appeal in light of the arguments of the appellants and the examiner. As a result of this review, we have determined that all claims on appeal lack novelty or are **prima facie** obvious over the

¹ Our understanding of the Kuroi Japanese patent comes from an English language translation, a copy of which is appended to the decision.

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applied prior art. Therefore, all rejections on appeal are affirmed. Our reasons follow.

The following represents our findings of fact with respect to the rejections on appeal:

The Japanese reference to Kuroi discloses a hydraulic steering assembly for an outboard propulsion watercraft which can rotate two propulsion units 1 about their vertical axes in unison to steer the craft. The outboard propulsion units can be tilted up out of the water as shown in Figure 1a.

Translation (here-inafter Tr.) at 15. This tilting motion is provided by tilt tube 15. Tr. at 15. The tiller 17 provides a means to steer by

swinging the propulsion units from side to side. Tr. at 15. This side to side motion is accomplished by piston cylinder 20, 21 which is mounted coaxial with the tilt tube. Tr. at 16. The hydraulic steering linkage the examiner relies on is shown in Figures 5, 11 and 12. In Fig. 5, the output of the piston cylinder is pivotally connected to member 31, which is connected to tiller 17 of a first propulsion unit through the

agency of bar 22, 32 which extends to the pivotable connection on the tiller 17. The member 31 is further connected via bracket 33 to tie bar 36 by a pivotable joint at 36a. This tie bar is connected to tiller 17 of the second propulsion unit by a pivotal connection. The connection of Fig. 5 is provided so that the propulsion units may be tilted out of the water individually as shown in Figures 6 and 7.

The embodiment shown in Fig. 11 includes a member 31' which is attached to tiller 17 of the first propulsion unit by a bar 32', 22. The member 31' is further connected to the output of the piston cylinder 21 and a bracket 33. The bracket attaches the tie rod 23, 36 to the tiller 17 of the second unit. Here again the units may be tilted out of the water individually.

Anticipation under 35 U.S.C. § 102 requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting *Verdegaal Bros., Inc. v.*

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Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). It is our finding that these two discussed embodiments of Kuroi anticipate appellants' claims 1,

Appellants argue at page 7 of the brief that member 31 is not connected to tiller 17, but only to bar 32. Claim 1 is recited with open-ended "comprising" language, and nothing therein precludes the presence of additional structure in the steering mechanism. The bar 22, 32 is not the tie bar relied upon as connecting to the second unit. Tie bar 23, 36 fulfills this requirement of the claimed subject matter. These arguments apply with equal merit to the embodiment of claim 11.

With respect to claims 2-4, Kuroi does not show a ball joint on bracket 33 connecting member 31 to the tie rod 23, 36. The examiner has cited Rockhill for the disclosure of ball joints at a plurality of locations in an outboard steering linkage. In our view, it would have been obvious to incorporate ball joint 23 of Rockhill for pivot joint 36a in Kuroi for the self-evident advantage of minimizing

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misalignment which a ball joint provides. For claim 3, note bracket 33 of Kuroi.

The examiner also states that Kuroi anticipates claim 5 on appeal. As explained by the examiner, the claim does not require that a pivotable connection exist between the tiller and the tie bar on two perpendicular axes, but merely that the tie bar is pivotable about these two perpendicular axes. The tie bar 23, 36 of Kuroi is pivotable about axis 38, the propulsion unit tilt axis, as well as the pivotable joint connecting it to tiller 17.

Claims 6 and 7 have not been separately argued. They fall with claim 1.

Claims 8 and 9 require the tie bar 23, 36 of Kuroi to have an axially rotatable connection. Connection 36a is a threaded connection wherein the nut is axial (actually helically) rotatable. The tie rod also is pivotable on bracket 33. Appellants argue that the rotatable connection must be with reference to the long axis of the tie rod, not axial to the tie rod end.

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Notwithstanding this argument, it is our view that the claim language has been given the broadest reasonable interpretation by the examiner. Accordingly, we agree that Kuroi anticipates this broadly worded claim.

In summary, we affirm the examiner's rejections of claims 1-9.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

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| | WILLIAM F. PATE, III |) | |
| | Administrative Patent Judge |) | |
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| | |) | BOARD OF |
| PATENT | |) | |
| | LAWRENCE J. STAAB |) | APPEALS |
| AND | |) | |
| | Administrative Patent Judge |) | |
| INTERFERENCES | |) | |
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| | |) | |
| | JEFFREY V. NASE |) | |
| | Administrative Patent Judge |) | |

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