

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte THOMAS S. WRAGG

Appeal No. 2002-2154
Application No. 09/217,496

ON BRIEF

Before COHEN, McQUADE, and NASE, Administrative Patent Judges.
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 24, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellant's invention relates to a small boat having sections that can be separated and stacked to facilitate storage or transportation, including portability, of the boat (specification, p. 1). A copy of the claims under appeal is set forth 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:

Aimonetti	2,514,303	July 4, 1950
Cook	3,381,322	May 7, 1968
Morgan	3,983,830	Oct. 5, 1976

Claims 1 to 5, 8, 13, 14 and 16 to 24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Morgan.

Claims 1 to 12, 14 and 16 to 23 stand rejected under 35 U.S.C. § 103 as being unpatentable over Cook in view of Morgan.

Claims 15 and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Morgan in view of Aimonetti.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the answer (Paper No. 21, mailed March 17, 2002) for the examiner's complete reasoning in support of the rejections, and to the brief (Paper No. 20, filed February 28, 2002) 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, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

The anticipation rejection

We will not sustain the rejection of claims 1 to 5, 8, 13, 14 and 16 to 24 under 35 U.S.C. § 102(b) as being anticipated by Morgan.

To support a rejection of a claim under 35 U.S.C. § 102(b), it must be shown that each element of the claim is found, either expressly described or under principles of inherency, in a single prior art reference. See Kalman v. Kimberly-Clark Corp., 713

F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

All the claims under appeal recite in one manner or another the following limitations: (1) pairs of opposed terminal ends of a rigid members are disposed in facing relationships on respective adjacent hull sections; (2) at least one rigid elongated linear shank member; (3) each said shank member spanning between a pair of facing terminal ends and cooperating therewith to form a releasable rigid, load bearing coupling between said adjacent sections; and (4) that cooperation between each respective shank member and pair of facing terminal ends for all said hull sections couples said hull sections into a rigid, load bearing unitary boat.

Morgan's invention relates to barges and, more particularly, to barges comprised of a plurality of a modular float sections, assembled by drawing them together from a spaced array, and releasably secured one to the other through separable alignment pins and post tensioning cables. Figures 1 and 2 show a modular barge 10 which includes a plurality of floating modules 12 and alignment bodies or pins 14 assembled in an array and linked by elongated filaments in the form of cables threaded therethrough. The modules 12 are watertight structures, each having a generally rectangular transverse cross-sectional periphery defining a deck surface 18, a bottom

surface 19, opposite side walls 20 and end walls 21. Each side wall 20 is constructed with a plurality of spaced recesses or sockets 22 therealong for assembly and structural purposes.

As shown most clearly in Figure 4, the alignment pin 14 is a unitary structure formed in a generally ellipsoid configuration with outwardly tapering end portions of complementary shape and size to the sockets 22 for relatively loose fitting mating engagement therewith. The alignment pin 14 is preferably formed of cast steel or other suitably rigid materials in a tubular, watertight construction. A pair of tapered portions 24 generally frustoconical in shape extend outwardly the center portion 25 of the pin 14 to form this ellipsoid shape. The alignment pin 14 further includes a longitudinal passageway 26 which functions as a tubular chord in the pin 14 providing longitudinal rigidity and providing a sleeve for the through positioning of tension members, such as cables used in the barge assembly. The alignment pin 14 is releasable secured in socket 22 by the fastening of a latch 58. Morgan teaches (column 10, lines 46-50) that pins 14 carry minimal to zero loads in the assembled, post-tensioned structure, alleviating possible damage to this alignment and assembly element under heavy barge loading.

In the anticipation rejection before us in this appeal, the examiner (answer, p. 3) determined that the claimed shank member was readable on¹ the pins 14 of Morgan. The appellant argues (brief, pp. 8-9) that the claimed shanks and the pins 14 of Morgan have exactly opposite, structures, functions and assembly and accordingly the claimed shank member is not met by the pins 14 of Morgan.

In our view, the claimed shank member is not readable on the pins 14 of Morgan. In that regard, the pins 14 of Morgan do not span between a pair of facing terminal ends of respective modules 12 and cooperating therewith to form a releasable rigid, load bearing coupling between adjacent modules.

For the reasons set forth above the subject matter of claims 1 to 5, 8, 13, 14 and 16 to 24 is not anticipated by Morgan. Accordingly, the decision of the examiner to reject claims 1 to 5, 8, 13, 14 and 16 to 24 under 35 U.S.C. § 102(b) is reversed.

¹ The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984), it is only necessary for the claims to "'read on' something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or 'fully met' by it."

The obviousness rejection of claims 15 and 24

We will not sustain the rejection of claims 15 and 24 under 35 U.S.C. § 103 as being unpatentable over Morgan in view of Aimonetti.

We have reviewed the reference to Aimonetti additionally applied in the rejection of claims 15 and 24 (dependent on claims 14 and 18, respectively) but find nothing therein which makes up for the deficiencies of Morgan discussed above regarding claims 1 to 5, 8, 13, 14 and 16 to 24. Accordingly, the decision of the examiner to reject claims 15 and 24 under 35 U.S.C. § 103 is reversed.

The obviousness rejection of claims 1 to 12, 14 and 16 to 23

We will not sustain the rejection of claims 1 to 12, 14 and 16 to 23 under 35 U.S.C. § 103 as being unpatentable over Cook in view of Morgan.

In this rejection, the examiner (answer, p. 4) ascertained that Cook failed to teach the claimed shank member. The examiner then concluded that it would have been obvious at the time the invention was made to a person of ordinary skill in the art to provide Cook's boat with shank members as suggested by the pins of Morgan.

The appellant's argue (brief, pp. 11-14) that the applied prior art does not suggest the claimed subject matter. We agree. In that regard, even if the boat of Cook were modified to include pins as taught by Morgan this would not result in the claimed subject matter for the reasons set forth above in our treatment of the anticipation rejection base on Morgan. That is, the pins 14 of Morgan when place on Cook's boat would not form a releasable rigid, load bearing coupling between adjacent hull sections.

For the reasons set forth above, the decision of the examiner to reject claims 1 to 12, 14 and 16 to 23 under 35 U.S.C. § 103 is reversed.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 to 5, 8, 13, 14 and 16 to 24 under 35 U.S.C. § 102(b) is reversed and the decision of the examiner to reject claims 1 to 12 and 14 to 24 under 35 U.S.C. § 103 is reversed.

REVERSED

IRWIN CHARLES COHEN
Administrative Patent Judge

JOHN P. McQUADE
Administrative Patent Judge

JEFFREY V. NASE
Administrative Patent Judge

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