

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. 37

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEFFREY A. WHITED

Appeal No. 2004-0209
Application No. 09/120,778

ON BRIEF

Before ABRAMS, STAAB, 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 24, 25 and 27. Claims 1-5, 13-17 and 28-30 have been allowed, and claims 6-12, 18-23 and 26 have been withdrawn by the examiner as being directed to a non-elected invention.

We REVERSE.

BACKGROUND

The appellant's invention relates to a low friction rotary knife. An understanding of the invention can be derived from a reading of exemplary claim 25, which appears in the appendix to the Brief.

The single prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

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| Bettcher | 3,269,010 | Aug. 30, 1966 |
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Claims 24, 25 and 27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bettcher.

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. 33) for the examiner's complete reasoning in support of the rejection, and to the Brief (Paper No. 32) and Reply Brief (Paper No. 34) 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 appellant's invention relates to power operated rotary knives wherein a rotatable annular blade is supported for rotation about a central axis by a blade support structure. The appellant's improvement comprises a blade that is supported at two axially spaced apart bearing line segments which according to the appellant, stabilize the blade both radially and axially as the knife operates, minimizes the generation of heat caused by friction, and causes the blade to operate virtually vibration free (specification, pages 3 and 4). As manifested in claim 24, this feature comprises a first "line of bearing contact" disposed in a plane that is transverse to the axis of rotation of the blade and a second "line of bearing contact" that is spaced from the first line in a direction parallel to the axis of rotation, with the lines being formed at least in part by a bead on one of the blade or the support which contacts spaced bearing surfaces formed on the other of the blade and the support. It is clear from the explanation on page 9 of the specification that the phrase "line of bearing support" should be interpreted to mean that the engagement between the structure on the blade and that on the support is, in fact, a line contact between the opposed elements such as that illustrated in Figure 9 wherein the surface of bead 100 of semicircular cross-section engages the frustoconical surfaces 70 and 72 at two spaced lines.

The examiner has taken the position that the subject matter recited in claim 24 is anticipated¹ by Bettcher. In particular, the examiner finds that the annular blade disclosed in Bettcher is supported by “a bead on the support structure (26) and lines of bearing contact formed in part by spaced bearing surfaces formed on the blade (Figure 4)” (Answer, page 3). While the examiner attempts to explain why he finds that line contact is shown in Bettcher (Answer, pages 5 and 6), we do not follow his reasoning and do not agree with his conclusion. It is clear from the detailed structure shown in Figure 4 that Bettcher supports the blade by means of three rectilinear bearing surfaces on “flange 26,” which is part of the blade support, which engage three opposed rectilinear bearing surfaces in a circumferential groove defined by portions 65 and 66 of the blade. As such, the blade support system of Bettcher does not comprise a pair of spaced “line[s] of contact” but spaced areas of contact. From our perspective, the Bettcher system is exactly the type discussed on pages 1 and 2 of the appellants’ specification, over which the appellants consider their invention to be an improvement.

Since all of the subject matter set forth in claim 24 is not disclosed or taught by Bettcher, the Section 102 rejection cannot be sustained. Nor, it follows, will we sustain the like rejection of claim 25, which depends from claim 24.

¹Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of the claimed invention. See, for example, RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).

Independent claim 27 recites the same limitations regarding spaced lines of bearing contact, and therefore we also will not sustain the rejection of this claim as being anticipated by Bettcher.

CONCLUSION

The rejection is not sustained.

The decision of the examiner is reversed.

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| NEAL E. ABRAMS |) | |
| Administrative Patent Judge |) | |
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| |) | BOARD OF PATENT |
| LAWRENCE J. STAAB |) | APPEALS |
| Administrative Patent Judge |) | AND |
| |) | INTERFERENCES |
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