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. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JERRY H. CHISNELL

Appeal No. 2004-1361
Application No. 09/430,574

ON BRIEF

Before COHEN, FRANKFORT and MCQUADE, Administrative Patent Judges.

Per Curiam.

DECISION ON APPEAL

Jerry H. Chisnell appeals from the final rejection (Paper No. 13) of claims 1, 2 and 5. Claims 6 through 15 stand allowed and claims 3 and 4, the only other claims pending in the application, stand objected to as depending from a rejected base claim.

THE INVENTION

The subject matter on appeal relates to a tubular connection which is defined in representative claim 1 as follows:

1. A tubular connection, comprising:

a female connecting block having an end surface, an opposite end surface, and a throughbore therebetween, said throughbore having a chamfer at said end surface, said chamfer and said throughbore intersecting to define a transition surface; and

a tube mounted in said throughbore of said female connecting block, said tube having a tapered portion that is seated against said transition surface of said female connecting block, said tapered portion terminating in an end-form.

THE REJECTIONS

Claims 1, 2 and 5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,174,612 to Schnell.

Attention is directed to the brief (Paper No. 17) and to the final rejection and answer (Paper Nos. 13 and 19) for the respective positions of the appellant and the examiner regarding the merits of these rejections.

DISCUSSION

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. 1984). It is not necessary that the reference teach what the subject application teaches, but only that the claim read on something disclosed in the reference,

i.e., that all of the limitations in the claim be found in or fully met by the reference. Kalman v. Kimberly Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

Schnell discloses a vibration isolating clamp apparatus 176 (see Figures 7 and 8) for connecting a fluid-bearing tube to a motor vehicle component. The tube includes an end 179 having a tapered bead 188, and the motor vehicle component includes an aperture 36 in its sidewall 34 for receiving the tube end. The clamp apparatus comprises a retainer member 172 having a clamp attachment region 174 and a tube retaining region 176. The clamp attachment region 174 contains an aperture 178 for receiving a bolt 22 adapted to be threaded into the sidewall of the motor vehicle component and the tube retaining region includes an aperture 184 for receiving the end of the tube. The tube-receiving aperture 184 defines a chamfer 198 at its lower end which bears against the tapered bead 188 on the tube end 179 to urge it against the sidewall of the motor vehicle component in the area about the aperture 36.

In applying Schnell to reject claim 1 (see page 2 in the final rejection and pages 3 and 4 in the answer), the examiner reads the limitations in the claim relating to the female

connecting block on Schnell's retainer member 172, and more particularly on the clamp attachment region 174 of the retainer member, and the limitations relating to the tube on Schnell's fluid-bearing tube.

As framed and argued by the appellant (see pages 4 through 8 in the brief), the examiner's rejection of claim 1 is unsound for three reasons: (1) Schnell's retainer member 172 and clamp attachment region 174 do not constitute a "female" connecting block, (2) the tapered portion 188 of Schnell's tube is not "seated against" the transition surface defined by the intersection of the throughbore 184 and chamfer 198 of the female connecting block, and (3) the end 179 of Schnell's tube does not constitute an "end-form."

The appellant's position here is not persuasive, essentially because it rests on an improper reading of limitations from the specification into claim 1. It is well settled that during patent examination, claims are to be given their broadest reasonable interpretation consistent with the underlying specification without reading limitations from the specification into the claims. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

With respect to the first argued distinction, the appellant submits that "[t]he female connecting block is so named because it receives the male component [i.e., the tube]" (brief, page 6). As clearly shown in Figure 8 of the Schnell reference, however, the retainer member 172 and its clamp attachment region 174 define a connecting block which receives the tube. Hence, Schnell's retainer member 172 and clamp attachment region 174 embody a "female" connecting block to the extent that such is broadly recited in claim 1. The appellant's contention (see page 6 in the brief) that this claim limitation should be construed more narrowly in accordance with the description and illustration of female connecting block 40 in the underlying specification has no basis in law.

As for the second argued distinction, the appellant observes that the tapered portion 188 on Schnell's tube seats flatly against the chamfer 198 and thus "the difference here between Schnell and Applicant amounts to a difference between line contact (Applicant) and surface contact (Schnell)" (brief, page 7). Suffice to say, however, that Figure 8 in the Schnell reference clearly shows tapered portion 188 seating against the transition surface at the intersection of the throughbore 184 and the chamfer 198, and that claim 1 neither requires line contact nor excludes surface contact.

Concerning the third argued distinction, the appellant contends that "[o]ne of ordinary skill in the art knows that there is a significant difference between a mere tube end [such as Schnell's tube end 179] and an end-form of a tube: an end-form requires some special forming operation such as swaging annular grooves in the tube" (brief, page 7). The record, however, contains no evidence to substantiate this contention. The recitation of the "end-form," given its broadest reasonable interpretation consistent with the underlying specification, finds response in the end 179 of Schnell's tube.

Thus, the appellant's position that the subject matter recited in claim 1 distinguishes over that disclosed by Schnell is not convincing. We shall therefore sustain the standing 35 U.S.C. § 102(b) rejection of claim 1 as being anticipated by Schnell.

We also shall sustain the standing 35 U.S.C. § 102(b) rejection of dependent claims 2 and 5 as being anticipated by Schnell as the appellant has not challenged such with any reasonable specificity, thereby allowing these claims to stand or fall with parent claim 1 (see In re Nielson, 816 F.2d 1567, 1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987)).

SUMMARY

The decision of the examiner to reject claims 1, 2 and 5 is reversed.

REVERSED

IRWIN CHARLES COHEN Administrative Patent Judge	)	
CHARLES E. FRANKFORT Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
JOHN P. MCQUADE Administrative Patent Judge	)	

JPM/gjh

VANOPHEN & VANOPHEM, PC
51543 VAN DYKE, SUITE 103
SHELBY TOWNSHIP, MI 48317-4447