

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VERNON RAUCH

Appeal No. 2005-0118
Application 10/094,413

ON BRIEF

Before ABRAMS, FRANKFORT, and BAHR, Administrative Patent Judges.
FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 and 2. Claim 3 was canceled by appellant in the brief (filed March 9, 2004).

Appellant's invention relates to a pipe spinning tool for spinning together and apart threaded segments of drill pipe such as are used in the drilling of oil and water wells. Independent claim 1 is representative of the subject matter on appeal and a

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copy of that claim can be found in the Appendix to appellant's brief.

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

Hudson	4,221,269	Sept. 9, 1980
Rauch	6,065,372	May 23, 2000

Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rauch in view of Hudson.

Rather than attempt to reiterate the examiner's commentary with regard to the above-noted § 103 rejection and the conflicting viewpoints advanced by appellant and the examiner regarding that rejection, we make reference to the examiner's answer (mailed June 15, 2004) for the reasoning in support of the rejection, and to appellant's brief (filed March 9, 2004) and reply brief (filed August 20, 2004) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by appellant and the examiner. As a consequence of our review, we have made the determination that the above-noted § 103 rejection will not be sustained. Our reasons follow.

In the rejection of claims 1 and 2 under 35 U.S.C. § 103(a), the examiner recognizes that the motorized wrench shown in Rauch for spinning together lengths of drill pipe is significantly structurally different than that defined in appellant's claims on appeal, i.e., in that Rauch's power wrench does not have a frame with two engaging arms pivotally mounted to the frame and defining a pipe receiving space therebetween, does not have two drive systems of the type required in claim 1 on appeal and an arrangement wherein one of the drive systems is attached to each of the two above-noted pivotally mounted engaging arms, and also does not have an engagement assembly like that in appellant's claim 1 using two compressed air rams positioned in the manner set forth in claim 1 for moving the respective pivotally mounted

engaging arms. To account for the above-noted differences, the examiner looks to the pipe spinner mechanism of the Hudson patent, which the examiner characterizes as disclosing "two pivoted engaging arms, two drive systems, and two compressed air rams" (answer, page 3) to enable engagement and rotation of threaded pipe segments in a well drilling operation.¹ From the combined disclosures and teachings of Rauch and Hudson, the examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of appellant's invention to form the device of Rauch with two pivoted engaging arms, two drive systems, and two compressed air rams to enable engagement and rotation of threaded pipe segments in a rapid, efficient manner as taught by Hudson.

Appellant argues, and we strongly agree, that the examiner's attempted combination of the pipe spinning tools of Rauch and Hudson, and the wholesale structural changes to the motorized wrench of Rauch resulting therefrom, represents an improper

¹Unlike the examiner, we find no "compressed air rams" disclosed in the pipe spinner of Hudson. The elements (52) disclosed as moving the pivoted arms (38) therein are specifically said to be "hydraulic cylinders" (col. 3, lines 25-33).

exercise in hindsight reconstruction of the claimed invention based on appellant's own teachings, and also runs contrary to the disclosure in Hudson (col. 1, lines 58-68) that chain drives, e.g., like that seen in Rauch for driving the rollers (33, 34) on the fixed frame (12), are to be avoided in favor of the use of a light-weight hydraulic rotary motor (56) co-axial with each roller and mounted within the roller structure. Contrary to the examiner's apparent belief, the mere fact that Hudson may embody a concept involving the use of two pivoted engaging arms, two drive systems, and two rams, in and of itself, provides no motivation or suggestion for drastically structurally modifying the particular type of power wrench seen in Rauch in the manner urged by the examiner.

Since we have determined that the teachings and suggestions found in the Rauch and Hudson patents would not have made the subject matter as a whole of claims 1 and 2 on appeal obvious to one of ordinary skill in the art at the time of appellant's invention, we must refuse to sustain the examiner's rejection of those claims under 35 U.S.C. § 103(a).

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In light of the foregoing, the decision of the examiner to reject claims 1 and 2 of the present application under 35 U.S.C. § 103(a) is reversed.

REVERSED

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NEAL E. ABRAMS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
CHARLES E. FRANKFORT)	
Administrative Patent Judge)	APPEALS AND
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)	INTERFERENCES
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JENNIFER D. BAHR)	
Administrative Patent Judge)	

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