

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 MICHAEL J. PETERSON
and
RICHARD M. RUSSELL

Appeal No. 2005-0206
Application No. 10/310,420

ON BRIEF

Before KIMLIN, PAK and WARREN, Administrative Patent Judges.
KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 23 and 25-27. Claims 35-37 and 44-46 stand withdrawn from consideration. Claim 23 is illustrative:

23. A modular fluid transmission system comprising:

a) a modular ductwork assembly including a plurality of generally horizontally extending ductwork segments and connectors on the ends of the ductwork segments for connecting adjacent ductwork segments;

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- b) a plurality of conduit segments mounted within each ductwork segment;
- c) a detachable coupling on at least one end of each conduit segment; and
- d) a support column attached to and extending downward from at least one of the generally horizontally extending ductwork segments for supporting said ductwork assembly from a floor of a room.

The examiner relies upon the following references as evidence of obviousness:

Chambers	2,461,197	Feb. 8, 1949
Kromer	3,011,681	Dec. 5, 1961
Kok et al. (Kok)	3,747,632	Jul. 24, 1973

Appellants' claimed invention is directed to a modular fluid transmission system comprising a modular ductwork assembly having a plurality of conduit segments mounted therein. The fluid transmission system also comprises a support column that is attached to and extends downward from the horizontally extending ductwork segments. The support column supports the assembly from a floor of a room.

Appealed claims 23, 26 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kok in view of Kromer. Claim 25 also stands rejected under § 103 as being unpatentable over Kok in view of Kromer and Chambers.

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Appellants submit at page 4 of the principal brief that "the claims stand or fall together." Accordingly, all the appealed claims stand or fall together with claim 23.

We have thoroughly reviewed each of appellants' arguments for patentability. However, we are in complete agreement with the examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejection for essentially those reasons expressed in the Answer, and we add the following primarily for emphasis.

Appellants do not dispute the examiner's factual determination that Kok, like appellants, discloses a modular fluid transmission system comprising a modular ductwork assembly having a plurality of conduit segments mounted therein. As appreciated by the examiner, Kok does not expressly disclose how the ductwork assembly is supported. However, we concur with the examiner that it would have been obvious for one of ordinary skill in the art to support the assembly of Kok with a support column, as presently claimed. While we agree with appellants that the phantom structure depicted in Figure 3 of Kromer does not correspond to a support column that extends to the floor, we

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are in full agreement with the examiner that it would have been most obvious for one of ordinary skill in the art to provide a quite conventional support column to effect support for the assembly of Kok. We agree with the examiner that one of ordinary skill in the art would have understood from Kromer that "ductwork for dispensing beverages at counters or bars does not float in the air, but is supported in dispensing stations such as that shown in phantom in Fig. 3" (page 5 of Answer, second paragraph). While appellants suggest that "the piping of Kromer is more likely either mounted on or hidden inside a solid wall behind the counter or bar from which the drinks are being served" (page 2 of Reply Brief, third paragraph), it cannot be gainsaid that one of ordinary skill in the art would have been able to resort to a myriad of conventional structures for supporting the assembly of Kok. Manifestly, a support column as presently claimed is simply one of the conventional means known for support.

As a final point, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

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

AFFIRMED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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CHUNG K. PAK)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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CHARLES F. WARREN)	
Administrative Patent Judge)	

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