The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 CHRISTOPHER FLOWERS, THOMAS JOHNSON and BARRY TULLER

Appeal No. 2005-0461
Application No. 10/171,031

ON BRIEF

Before KIMLIN, WALTZ and TIMM, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-21, all of the claims in the present application.

Claims 1 and 8 are illustrative:

> 1. An improved dishwasher having a tub, a frame extended around the tub, a door, and a pair of hinges secured to the frame on opposite sides of the tub for pivotally connecting the door to the tub, the improvement comprising:

at least one boss on each side of the tub; and

a recess in each hinge adapted to receive the boss so as to locate the hinge relative to the tub.

8. A method of mounting a hinge for a dishwasher door to a frame of the dishwasher, the dishwasher having a tub, with the frame extending around the tub, the method comprising:

aligning the hinge on the tub by positioning a recess in the hinge over a boss on the frame so that the boss is received in the recess; and then

securing the hinge to the frame.

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

Becker et al. (Becker)	5,613,747	Mar. 25, 1997
Lotz	5,794,309	Aug. 18, 1998
Friedewald et al. (Friedewald)	6,254,173	Jul. 03, 2001

Appellants' claimed invention is directed to a dishwasher comprising a tub, a frame to support the tub above the floor, a door, and a pair of hinges secured to the frame for pivotally connecting the door to the tub. A least one boss is situated on the side of the tub for insertion into at least one recess in each of the hinges. Some claims on appeal are directed to the frame having a boss that is received in the recess of the hinge.

Appealed claims 1-10, 12-19 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Becker in view of

Lotz. Claims 11 and 20 also stand rejected under § 103(a) as being unpatentable over the stated combination of references further in view of Friedewald.

Appellants group claims 1-12 together for purposes of the present appeal, and further group claims 13-21 together (see page 4 of principal brief, last paragraph). However, since independent claims 1 and 8 are directed to different embodiments of the invention, i.e., claims 1 defines the boss on the side of the tub whereas claim 8 defines the boss on the frame, we will consider claims 1-7 separately from claims 8-12. Likewise, claims 13-16, which define a recess in the tub, will be considered separately from claims 17-21, which recite a hole on the frame aligned with a boss on the hinge.

We have thoroughly reviewed the respective positions advanced by appellants and the examiner. In so doing, we concur with appellants that the examiner has not established a prima facie case of obviousness for the subject matter defined by claims 1-7 and 13-16. However, we will sustain the examiner's rejections of claims 8-12 and 17-21.

There is no dispute that Becker, like appellants, discloses a dishwasher having the presently claimed frame extending around a tub and a pair of hinges secured to the frame with screws. Becker does not teach the claimed coaction between a boss and recess or hole present on the hinge and either frame or tub. However, as appreciated by appellants, Lotz discloses bosses on a hinge that are received by holes in a hinge support which, in turn, is secured to the door pillar of a vehicle. Since we find that the door pillar of Lotz serves as a frame or, at least, is ultimately secured to a frame, we agree with the examiner that one of ordinary skill in the art, based on the Lotz disclosure, would have found it obvious to employ the boss/recess arrangement in affixing Becker's hinge to the frame. Manifestly the boss/recess arrangement was a well-known mechanical expedient for connecting parts of an apparatus, and appellants do not argue otherwise. Inasmuch as Lotz discloses the boss/recess mechanism for connecting the hinge of a door to a support structure, we are satisfied that one of ordinary skill in the art would have found it obvious to extend this general teaching to the hinge/door mechanism of Becker's dishwasher. Appellants have proffered no

objective evidence of nonobviousness, such as unexpected results, to rebut the inference of obviousness drawn from the applied prior art.

We do not subscribe to appellants' argument that Lotz, directed to a hinge/lock assembly for a vehicle door, is non-analogous to the art of dishwasher doors. We do not agree with appellants that in order to qualify as analogous art Lotz must be concerned with the particular problem addressed by appellants. In our view, it is sufficient that both Lotz and Becker are directed to the problem of securing the hinge of a door to a support structure. Certainly, hinges were well known for securing doors to the frames of a myriad of products. Again, as noted above, appellants have presented no evidence that dishwashers within the scope of the appealed claims are unexpectedly superior to dishwashers fairly taught by Becker.

Appellants have not contested with substantive argument the examiner's separate rejection of claims 11 and 20 over Becker in view of Lotz and Friedewald. In particular, appellants have not refuted the examiner's conclusion that it would have been obvious for one of ordinary skill in the art to use the welding method of Friedewald for attaching Becker's hinge to the frame.

We will not sustain the examiner's § 103 rejection of claims 1-7 and 13-16, which recite at least one boss on each side of the tub (claim 1) and a recess in the side of the tub (claim 13). Becker provides no teaching or suggestion of having a coacting relationship between the hinge and the tub. Insofar as Lotz also fails to provide such a teaching or suggestion, the combined teachings of the references do not result in the claimed invention. Consequently, the requisite factual support for the prima facie case of obviousness is lacking. Accordingly, we are constrained to reverse the examiner's § 103 rejection of claims 1-7 and 13-16.

In conclusion, based on the foregoing, the examiner's rejection of claims 1-7 and 13-16 is reversed, whereas the rejections of claims 8-12 and 17-21 are sustained. Hence, the examiner's decision rejecting the appealed claims is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

EDWARD C. KIMLIN Administrative Patent Judge	)	
THOMAS A. WALTZ Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
CATHERINE TIMM Administrative Patent Judge	)	

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