

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 2005-2176
Application No. 10/266,229

ON BRIEF

Before MCQUADE, NASE and BAHR, Administrative Patent Judges.
BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-9.

BACKGROUND

The appellant's invention relates to a hot melt adhesive dispensing unit and a pump for use in such a dispensing unit, the pump having a housing including an inlet, an outlet and a chamber formed between the inlet and the outlet and a filter positioned in the chamber between the inlet and the outlet. Further understanding of the invention

may be obtained from a reading of claim 1 which is reproduced, *infra*, in the opinion section of this decision.

The Rejection

The following rejection is before us for review.

Claims 1-9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Reighard¹.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejection, we make reference to the final rejection (mailed April 15, 2004) and answer (mailed November 15, 2004) for the examiner's complete reasoning in support of the rejection and to the brief (filed September 14, 2004) and reply brief (filed January 19, 2005) 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 Reighard patent, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

Claim 1 reads as follows:

¹ US Pat. No. 3,815,788, issued June 11, 1974 to Reighard et al.

1. A pump for use in a dispensing unit of a hot melt adhesive system, the pump comprising:
 - a pump housing having an inlet, an outlet, and a chamber between said inlet and said outlet;
 - a piston slidably disposed within said housing such that motion of said piston draws adhesive into said inlet and discharges adhesive from said outlet; and
 - a filter removably positioned in said chamber between said inlet and said outlet to capture particulate material in the hot melt adhesive as it is pumped from said inlet to said outlet.

Reighard discloses an applicator system for melting thermoplastic material and supplying the molten or liquid material under pressure to an applicator head or gun. The system includes a machine 10 comprising a heated reservoir 14, a pneumatic motor 15, a pump 16 and a manifold block 17. A combination filter, check valve and relief valve cartridge 18 is removably located in the manifold block 17. Molten material is supplied from the outlet port 100 of the manifold 17 to a heated dispensing gun 11 through a conduit 19. The pump 16 includes a piston 50 on the end of a piston rod 49, actuated by the pneumatic motor 15, and a sleeve 45, the sleeve 45 having four radial ports 70 which open into the bottom 40 of the reservoir 14. The sleeve 45 has an outlet port 72 located in the bore 75 of the manifold block 17.

The law of anticipation does not require that the reference teach what the appellant is claiming, but only that the claims on appeal "read on" something disclosed in the reference (see Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984)).

In reading claim 1 on Reighard, the examiner considers the pump housing to be met by Reighard's machine 10 and the claimed inlet and outlet of the pump housing to be met by the radial ports 70 of sleeve 45 and outlet port 100 of the manifold block 17, with the claimed filter to be met by the combination filter, check valve and relief valve cartridge 18 located in the manifold block 17, such filter thus being positioned in a chamber between the inlet and the outlet as called for in claim 1.

The examiner's reading of the claim on the structure of Reighard requires that the manifold block 17 be considered part of the pump housing. The appellant argues, in essence, that Reighard's manifold block cannot be considered part of the pump housing and that the outlet 100 is thus not the outlet of the pump housing. Rather, the appellant urges that the outlet port 72 of the sleeve 45 is the outlet of the pump housing and that the filter cartridge 18 is thus positioned downstream of the pump outlet rather than between the inlet and outlet of the pump (brief, pages 5-7).

We find no error in the examiner's reading of the pump housing as including not only the sleeve 45 but also the manifold block 17, which is bolted to the bottom wall of reservoir 14 and receives the lower flange 73 and outlet port 72 of the sleeve 45 of the pump 16, thus in fact housing the pump. While, akin to the filter chamber 68 of the appellant's invention which is downstream of the pump piston 73 and inlet passage 70 of the appellant's pump, Reighard's manifold block 17 is located downstream of the pump piston which achieves the pumping action of the pump, we see nothing in this which precludes the manifold block 17 from being considered part of the pump

housing.² In this regard, we note that claim 1 does not require that the pump housing be a unitary (one-piece) housing.³

We appreciate that Reighard does not use the term “pump housing” to describe the manifold block 17 but we are also mindful that a reference does not fail as an anticipation merely because it does not contain a description of the subject matter of the appealed claim in *ipsissimis verbis*. In re May, 574 F.2d 1082, 1090, 197 USPQ 601, 607 (CCPA 1978).

For the foregoing reasons, we agree with the examiner that claim 1 is anticipated by Reighard. Accordingly, the rejection of claim 1, as well as dependent claims 2-4 which the appellant states stand or fall together with claim 1 (brief, page 3), as being anticipated by Reighard is sustained.

The rejection of claims 5-9 as being anticipated by Reighard, on the other hand, is not sustained. Independent claim 5, from which claims 6-9 depend and which is directed to a hot melt adhesive dispensing unit, recites, *inter alia*, a manifold having an inlet and an outlet, a pump coupled to said manifold outlet for pumping liquid adhesive through said manifold, said pump including a pump inlet and outlet and a chamber

² The appellant implies on page 3 of the reply brief that the examiner has “[twisted] clear claim terminology outside of a scope recognized by one of ordinary skill in the art,” but we find nothing in the record which establishes an art-recognized definition of pump housing which is inconsistent with or repugnant to that applied by the examiner in reading the claimed pump housing as including Reighard’s manifold block 17.

³ Limitations are not to be read into the claims from the specification. In re Van Geuns, 988 F.2d 1181, 1184, 26 USPQ2d 1057, 1059 (Fed. Cir. 1993) citing In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

between the pump inlet and outlet and a filter removably positioned in said chamber. The examiner's reading of claim 5 on the structure of Reighard requires the manifold block 17 to be considered part of the pump which, of course, means that the manifold block 17 cannot also be considered to meet the manifold recited in claim 5. In rejecting claim 5 (final rejection, page 2; answer, page 3), the examiner contends that Reighard's dispensing gun 11 responds structurally to the "manifold" recited in the claim. The dispensing gun 11 is not a "manifold," that is, "a pipe with one inlet and several outlets or with one outlet and several inlets, for connecting with other pipes" (Webster's NewWorld Dictionary (Simon and Schuster 1984)), as one of ordinary skill in the art would understand that term⁴. Rather, Reighard's dispensing gun 11 has a single thermoplastic material inlet from conduit 19 and a single thermoplastic material outlet orifice 126. The dispensing gun also comprises a single air inlet passage 137, for receiving pressurized air for actuation of nozzle control valve 128, in communication with a venting orifice 134 to atmosphere, but the passage 137 and orifice 134 are not in communication with the thermoplastic material inlet or outlet orifice.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-9 under 35 U.S.C. § 102 is affirmed as to claims 1-4 and reversed as to claims 5-9.

⁴ Consistent with the appellant's underlying disclosure, the manifold in a hot melt adhesive dispensing unit is understood to be the pipe which divides the single output conduit from the pump into a plurality of conduits for dispensing the hot melt adhesive from a single reservoir and pump to a plurality of dispensing guns.

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

AFFIRMED-IN-PART

JEFFREY V. NASE)	
Administrative Patent Judge)	
)	BOARD OF PATENT
)	APPEALS
)	AND
)	INTERFERENCES
JENNIFER D. BAHR)	
Administrative Patent Judge)	

MCQUADE, Administrative Patent Judge, dissenting-in-part.

The examiner's 35 U.S.C. § 102(b) rejection of claims 1 through 9 as being anticipated by Reighard should be reversed in its entirety for the reasons advanced in the appellant's main and reply briefs.

The specification in the instant application (see pages 1 through 3) indicates that the dispensing units of conventional hot melt adhesive systems include a number of distinct components including a pump and a pump manifold, that the pump manifold in these conventional systems generally contains a filter for removing problematic particulate material from the adhesive, that in some conventional systems access to the pump manifold, and hence the filter, is difficult, and that the appellant's invention solves this problem by locating the filter in the pump (rather than in the pump manifold) such that it is readily accessible for servicing and replacement. Independent claim 1 brings out one aspect of the appellant's invention through its recitation of a pump for use in a dispensing unit of a hot melt adhesive system wherein the pump comprises, inter alia, a pump housing having an inlet, an outlet and a chamber therebetween, and a filter removably positioned in the chamber.

Reighard appears to be representative of the conventional hot melt adhesive systems discussed in the appellant's specification.¹ In this regard, the Reighard system includes a pump 16 composed of a barrel or sleeve 45 which defines four inlet ports 70, an interior chamber 71 and an outlet port 72, and a piston 50 slidable within the barrel, a manifold block 17 located downstream of the pump 16, and a filter 82 disposed in the manifold block 17 (see Reighard at column 2, line 66, through column 3, line 6; column 3, lines 51 through 53; column 4, line 56, through column 5, line 33). Reighard's description and illustration of the pump and manifold make it abundantly clear that these are separate and distinct components of the hot melt adhesive system.

For anticipation to lie, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

The examiner's rejection of claim 1 and the majority's affirmance thereof rest on the proposition that Reighard's manifold block 17 is part of a "pump housing" as recited in claim 1. The clear and express teachings of Reighard, as they would be understood by a person of ordinary skill in the art, provide no reasonable support for, and in fact

¹ The assignee listed on the front of the Reighard patent, Nordson Corporation, is the same as the real party of interest in the instant application as named on page 1 in the appellant's main brief.

completely belie, this position. To reiterate, Reighard discloses the pump and manifold block as separate and distinct elements. The mere presence in the upstream end of Reighard's manifold block 17 of a shallow bore 75 which receives the extreme downstream end of pump sleeve 45 (see column 5, lines 3 through 11) does not make the manifold block 17 a "pump housing" as set forth in claim 1 under any realistic interpretation of this term. Thus, Reighard, at least to the extent applied by the examiner, does not support a finding of anticipation with respect to the subject matter recited in claim 1 or in claims 2 through 4 which depend therefrom.

JOHN P. MCQUADE
Administrative Patent Judge

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