

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is not binding precedent of the Board.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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte KLAUS LERCHENMUELLER  
WOLFGANG ENDRES and CORNELIUS GAIDA

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Appeal No. 2006-0452  
Application No. 10/442,040

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ON BRIEF

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Before THOMAS, RUGGIERO, and SAADAT, Administrative Patent  
Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 1-7 and 9-16.

Representative claim 1 is reproduced below:

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1. A corona-resistant wire comprising:
  - a primary insulation composed of an enamel layer;  
and
  - at least one additional layer having a different composition than the enamel layer and being applied to the enamel layer, wherein:
    - a diameter of the wire is between 20  $\mu\text{m}$  and 80  $\mu\text{m}$ .

The following references are relied on by the examiner:

Saunders et al. (Saunders)	4,406,055	Sep. 27, 1983
Hake et al. (Hake)	5,917,155	Jan. 29, 1999
Lienert et al. (Lienert)	6,337,442	Jan. 08, 2002
		(filed Apr. 12, 2000)

Claims 1, 2, 6, 7, 9-12 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Saunders.

Claims 3-5 and 16 stand rejected under 35 U.S.C. § 103.

As evidence of obviousness, the examiner relies upon Saunders in view of Lienert.

Claims 13 and 14 also stand rejected under 35 U.S.C. § 103.

As evidence of obviousness of these claims, the examiner relies upon Saunders in view of Hake.

Rather than repeat the positions of the appellants and the examiner, reference is made to the brief (no reply brief has been filed) for the appellants' positions, and to the answer for the examiner's positions.

OPINION

For the reasons set forth by the examiner in the answer, as buttressed by the following remarks, we sustain each of the three separately stated rejections of the claims on appeal.

As to the first stated rejection of certain claims under 35 U.S.C. § 102, arguments are presented only as to independent claim 1 and its dependent claim 15. As to independent claim 1, appellants only assert on pages 3 and 4 of that brief that the examiner mistakenly asserts that Saunders teaches the claimed corona-resistant wire and its diameter. At this point we note that there is no positive recitation of a wire per se, that is, there is no positive recitation of an underlying electrically conductive core. Claim 1 recites “a diameter of the wire is between 20  $\mu\text{m}$  and 80  $\mu\text{m}$ ”. This claim does not positively recite that the diameter of the entire wire comprising a primary insulation layer and at least one additional layer is between this claimed range. It is understood, when dependent claim 2 is studied, that the claimed “a diameter” of claim 1 does not include the additional layer since dependent claim 2 only recites that the primary insulation layer has the diameter that is claimed in independent claim 1.

Notwithstanding these considerations, the examiner rightly asserts that even considering both insulation layers of independent claim 1, at page 4 of the answer, that the wire as a whole comprises a core wire plus two insulation layers of 2.8 mils which correspond to 70  $\mu\text{m}$ . This is apparently agreed to by appellants at the bottom of page 3 of the brief which states "[a]t a minimum, then, the wire in Saunders should be 70  $\mu\text{m}$  (2 mils for the wire and 0.8 mils for the two coatings)." Appellants' position goes on, however, to assert that this thickness is enlarged because of the use of the magnet wire lubricant which appellants assert is not insignificant in its own thickness. The examiner correctly addresses this argument at pages 9 and 10 of the answer in two respects. The initial respect is that Saunders specifically teaches at column 5, lines 32-36 that after insertion into the motor housing, the magnet wire lubricant is removed, substantially 100%. Additionally, the examiner correctly notes that because independent claim 1 utilizes the transitional term comprising, the use of the additional lubricant, which would have some nominal thickness itself, claim 1 itself is open ended.

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Therefore, we sustain the rejection of independent claim 1 under 35 U.S.C. § 102.

Turning to the additional rejection of claim 15 under 35 U.S.C. § 102 argued by appellants at page 4 of the brief, appellants merely assert that claim 15 recites that the wire is part of the converter-supplied motor. The examiner correctly points out that the initial lines at column 1 indicates that the magnet wire of Saunders is known to be used in the windings associated with electrical motors. Appellants do not clarify nor does the specification clarify what a "converter-supplied" motor is to comprise in conventional terminology. In any event, the examiner has correctly argued at pages 10 and 11 of the answer that because of the term "part of" in claim 15, the manner of intended use of the claimed wire is ordinarily considered not a patentable distinction for a structure claim.

Therefore, we sustain the rejection of dependent claim 15 under 35 U.S.C. § 102. We note again that no arguments are presented in the brief as to dependent claims 2, 6, 7 and 9-12 also rejected under 35 U.S.C. § 102. As such, the rejection of these claims is sustained as well.

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Turning to the rejection of claims 3-5 and 16 under 35 U.S.C. § 103, we also sustain this rejection as set forth by the examiner in the answer. The arguments presented as to these claims at pages 4 and 5 of the brief essentially argue the same features as argued with respect to independent claim 1 urging patentability. Appellants do not argue against the combinability of Saunders and Lienert within 35 U.S.C. § 103 and appellants do not argue against what the examiner says Lienert teaches. Even the abstract of Lienert specifically teaches that titanium dioxide is utilized as a second or top coat of an enamelled wire used as a magnet wire. It is further noted that independent claim 16 only recites one insulation layer. Therefore, we sustain the rejection of claims 3-5 and 16 under 35 U.S.C. § 103.

Lastly, we also sustain the rejection of dependent claims 13 and 14 under 35 U.S.C. § 103 in light of the combination of Saunders and Hake. As to this rejection, the arguments at pages 5 and 6 of the brief do appear to indicate appellants are arguing the absence of a proper motivation or modification of the two references within 35 U.S.C. § 103. In a manner consistent with the corona resistant enamelled coated magnet wire of Saunders,

Hake teaches a corresponding plural layered corona resistant enamelled coated

magnet wire. Appellants have not challenged the examiner's reasoning of combinability at pages 7 and 8 of the answer.

Dependent claims 13 and 14 respectively recite that their wires "are part of" a lighting system in an a.c. voltage transmitter. The specification and appellants do not clarify what an a.c. voltage transmitter comprises in conventional terms. It appears to us that it may comprise a transformer of some kind. As correctly noted by the examiner, Hake merely teaches in the initial paragraph of column 1 relating to the Background of the Invention that magnet wires have conventionally been used as windings of transformers and in electric motors and the like. Therefore, it appears that Hake actually does teach use in a voltage transmitter or a transformer and we agree with the examiner's reasoning that transformers would ordinarily be used as a "part of" a lighting system (claim 13) using alternating current as its source. The examiner also correctly points out at page 12 of the answer that the intended uses of the wire in dependent claims 13 and 14 do not ordinary give patentability to a structure claim.

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In view of the foregoing, the decision of the examiner rejecting various ones of claims 1-7 and 9-16 under 35 U.S.C.

§ 102 and 35 U.S.C. § 103 is affirmed.

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

AFFIRMED

JAMES D. THOMAS	)
Administrative Patent Judge	)
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	)
JOSEPH F. RUGGIERO	) BOARD OF PATENT
Administrative Patent Judge	) APPEALS AND
	) INTERFERENCES
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	)
MAHSHID D. SAADAT	)
Administrative Patent Judge	)

JDT/vsh

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