

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DIETER JUNGE and ARMIN SEGELER

Appeal No. 2006-1289
Application No. 10/473,320
Technology Center 3600

ON BRIEF

Decided: February 27, 2007

Before MURRIEL E. CRAWFORD, JENNIFER D. BAHR, ROBERT E. NAPPI,
Administrative Patent Judges.

CRAWFORD, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. §134 from the examiner's final rejection of claims 4 to 7, which are all of the claims pending in this application. Claims 1 to 3 and 8 have been cancelled.

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The appellants' invention relates to a gear-changing device for a motor-vehicle. An understanding of the invention can be derived from a reading of the claims which are appended to the brief.

PRIOR ART

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

Brock	5,400,673	Mar. 28, 1995
Neubert et al. (Neubert)	5,529,424	Jun. 25, 1996
Hager	DE 29703980	May 28, 1997

REJECTIONS

Claims 4, 5, and 7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Brock in view of Hager.

Claim 6 stands rejected under 35 U.S.C. § 103 as being unpatentable over Brock in view of Hager and further in view of Neubert.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the examiner's answer (mailed November 22, 2004) for the reasoning in support of the rejection, and to appellants' brief (filed July 21, 2004) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the

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respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations that follow.

The rejections in this case are made pursuant to 35 U.S.C. § 103. We initially note that the examiner bears the initial burden of presenting a *prima facie* case of obviousness *See In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993), which is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art *See In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993).

The examiner finds that Brock discloses the invention as claimed except that Brock does not disclose a bolt having a catch and lattice structure. The examiner relies on Hager for teaching a bolt having a catch and lattice structure and concludes:

. . . it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the bolt of Brock with the bolt of Hager so as to provide a more secure bolt connection, while allowing for the bolt to be easily removed for repairs or maintenance [final rejection at page 2].

We find that Hager relates to distribution devices installed on a meter panel with interlocking parts placed at opposite sides of a cover hood for the snap fastening of the cover hood to the carrier frame (page 3).

We find that Brock discloses an automotive gear changing device including a pivot bolt 110 around which an automotive gear shifting subassembly pivots (Figure 1).

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We agree with the appellants that a person of ordinary skill in the art would not have been motivated to substitute the bolt of Hager which includes a catch and lattice structure with the bolt 110 of Brock. As Hager teaches that the therein disclosed bolt is used to connect a cover of a meter box to the box itself, a person of ordinary skill would not be motivated by the teachings of Hager to use the Hager bolt instead of the Brock bolt 110 around which an automotive gear shifting subassembly pivots. The technical requirements for a bolt to connect a cover to a meter box are totally different from the technical requirements of a bolt around which an automotive gear shifting subassembly rotates. Therefore, any motivation to combine the teachings of Hager and Brock in the manner suggested by the examiner could only be acquired through impermissible hindsight reconstruction using the appellants' claimed invention as a guide.

In view of the foregoing, we will not sustain the rejection of claims 1-5, 7 and 8 as unpatentable over Brock in view of Hager. We likewise will not sustain the rejection of claim 6 under 35 U.S.C. § 103 because this rejection also relies on the combination of Brock and Hager and the disclosure of Neubert does not cure the deficiencies of the Brock/Hager combination.

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The decision of the examiner is reversed.

REVERSED

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Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

MEC/ki