

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 BHUPINDER SINGER DAYAL, JOHN PAUL KRALIK, KEITH A. CONDRAN,
ROBERT DOUGLAS CRYER and THOMAS CHARLES SONNEY

Appeal No. 2006-1425
Application No. 10/277,260

ON BRIEF

Before CRAWFORD, NAPPI, HORNER , Administrative Patent Judges.
CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 9 and 16 to 19, which are all of the claims pending in this application. Claims have been cancelled 10 to 15 have been withdrawn.

The appellants' invention relates to a method for maintaining the quality of lubricant in the engine of a mobile vehicle (specification, p. 2). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The Prior Art

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

Boyle et al. (Boyle)	5,964,318	Oct. 12, 1999
Margrey et al. (Margrey)	6,192,321	Feb. 20, 2001

Appellants admitted prior art (AAPA).

The Rejections

Claims 1 to 3, 7 to 9, and 16 to 19 stand rejected under 35 U.S.C. § 103 as being unpatentable over AAPA in view of Boyle.

Claims 3 to 8 under 35 U.S.C. § 103 as being unpatentable over AAPA and Boyle and further in view of Margrey.¹

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the answer (mailed October 14, 2005) for the examiner's complete reasoning in support of the

¹ The examiner's rejection of claims 1 to 9 under 35 U.S.C. § 101 has been withdrawn (answer at page 2).

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rejections, and to the brief (filed July 25, 2005) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

We turn first to the examiner's rejection of claims 1 to 3, 7 to 9 and 16 to 19 under 35 U.S.C. § 103 as being unpatentable over AAPA in view of Boyle. In support for this rejection the examiner finds that AAPA describes the invention as claimed except that AAPA does not describe replacing less than all of the lubricant nor calculating or predicting the quality of oil during operation of the engine. The examiner relies on Boyle for teaching determining the quality of the engine lubricant and replacing portion of the lubricant. The examiner concludes:

[I]t would have been obvious to modify
the teaching of
AAPA/BOYLE et al
by determining a
pre-determined
lubricant quality
parameter as a
function or based
on an engine
operation period
between

maintenance time
or outage as mere
determining a pre-
determined engine
lubricant value
using other
equivalent engine
operation
parameter or
period, absent
evidence of
unexpected results
[answer at page 6].

Appellants argue that the cited prior art does not disclose subject matter that is recited in claim 1, i.e:

Using the at least one quality parameter to determine a
replacement quantity of lubricant less than all of the lubricant
in the engine that must be removed from the engine and
replaced with fresh lubricant in order to maintain a desired
engine lubricant quality parameter.

We agree with the appellants that the combined teachings of the cited prior art do not describe a method that includes determining the quantity of lubricant that must be removed from the engine and replaced with fresh lubricant in order to maintain the desired lubricant quality parameter. AAPA describes replacing all of the lubricant to maintain a measured lubricant quality (specification at page 2). Boyle describes removing a predetermined amount of lubricant from the engine and making a

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determination of whether the lubricant quality has fallen below a predetermined quality level and directing the removed lubricant to a lubricant reservoir if it is determined that the lubricant quality has fallen below a predetermined quality. Boyle does not disclose determining the amount of lubricant necessary to maintain a desired lubricant quality.

The amount of lubricant removed in Boyle is a predetermined amount of lubricant.

In view of the foregoing, we will not sustain this rejection as it is directed to claim 1 and claims 2, 3, 7 to 9 dependent thereon. We will also sustain this rejection as it is

directed to claim 16 because claim 16 recites language similar to claim 1 i.e.
“calculating an amount of lubricant” to ensure lubricant quality.

We turn next to the examiner’s rejection of claims 3 to 8, which are dependent on claim 1, under 35 U.S.C. §103 as being unpatentable over AAPA, Boyle and Margrey. We will not sustain this rejection because the Margrey reference does not cure the deficiency noted above for the AAPA and Boyle references.

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Administrative Patent Judge)
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ROBERT NAPPI) APPEALS
Administrative Patent Judge) AND
) INTERFERENCES
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