

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* JEFFREY J. POWELL and STEPHEN E. BRACKETT

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Appeal No. 2006-2108  
Application No. 10/392,418  
Technology Center 3600

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ON BRIEF

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Before OWENS, CRAWFORD and NAPPI, *Administrative Patent Judges*.  
OWENS, *Administrative Patent Judge*.

*DECISION ON APPEAL*

This appeal is from a rejection of claims 1-14 and 23-27.  
Claims 15-22 have been canceled. Claims 7, 8 and 23 are indicated allowable in the examiner's answer (page 2).

*THE INVENTION*

The appellants claim a vehicle component connector having a retention member that is movable between locked and unlocked positions. Claim 1 is illustrative:

A connector assembly for a vehicle component comprising:

a first vehicle component having a main body with at least one transversely extending projection defining a longitudinal axis;

a second vehicle component having a longitudinally

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extending bore slidably received over said projection to define an overlap connection portion; and

a retention member substantially surrounding said overlap connection portion and engaging said second vehicle component wherein said retention member is movable between an unlocked position where linear movement of said second vehicle component relative to said first vehicle component along said longitudinal axis is permitted and a locked position where linear movement of said second vehicle component relative to said first vehicle component along said longitudinal axis is prohibited.

*THE REFERENCE*

Oetiker et al. (Oetiker) 5,284,368 Feb. 8, 1994

*THE REJECTION*

Claims 1-6, 9-14 and 24-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Oetiker.

*OPINION*

The rejection is affirmed as to claims 1-3, 9-12 and 24-27, and reversed as to claims 4-6, 13 and 14.

The appellants' argument regarding independent claim 1 includes the arguments directed toward independent claim 9 and its dependent claim 10, and the appellants do not separately argue claims 2, 3, 11, 12 and 24-27. Also, the same argument is applied to claim 25 that depends from claim 1 and claim 27 that depends from claim 9. Hence, we limit our discussion of the claims for which the rejection is affirmed to claims 1 and 25.

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Claims 2, 3, 9-12, 24 and 26 stand or fall with claim 1, and claim 27 stands or falls with claim 25. See 37 CFR § 41.37(c)(1)(vii) (2004).

*Claim 1*

Oetiker discloses a connector for flexible, stretchable tubes such as silicon tubes used for intravenous feeding (col. 1, lines 8-11). The connector includes a nipple portion (30), a sleeve member (50) for placement around the nipple portion, a collar (15) having recesses (17) and locking members (16) therein, a cylindrical main portion (11), an annular portion (12), and fin-like members (25) for removable connection to another part (col. 4, lines 28-54; col. 5, lines 65-66; fig. 1).

In operation, a tube is slipped over the nipple and then the sleeve is placed around the tube in a non-clamping position (fig. 3A), slid to a clamping position (fig. 4A), and rotated until its notches (58) align with the collar's locking members (col. 6, lines 7-31). The sleeve then can move very slightly, depending on the depth of the notches, in the axial direction, but this movement does not affect the holding ability of the connector due to the compressibility of the tube (col. 6, lines 27-40).

The appellants argue that Oetiker does not disclose any type of vehicle component used in the automotive industry (brief,

pages 7-9; reply brief, pages 2-3 and 6) and that "the specification clearly states that the subject invention is utilized in a vehicle that includes emission components, brake components, etc." (brief, page 8).

The examiner argues that each of the references in the appellants' specification to motor vehicle components is merely exemplary and that, therefore, the specification does not limit the term "vehicle" to a motor vehicle (answer, page 9). Indeed, the specification refers to "a vehicle component such as an air intake manifold induction component or other similar component" (¶ 12), and states that the hose "can be configured to conduct air, hydraulic fluid, brake fluid, emission gases, etc." (¶ 25) and that "emission components, brake components, air induction components, intake manifold components, fuel components, etc., which require hose attachments can utilize the subject connector assembly 16" (¶ 25). The "such as", "can be" and "can utilize" indicate that the term "vehicle" is not limited by the specification.

During patent prosecution, claims are to be given their broadest reasonable interpretation consistent with the specification, as the claim language would have been read by one of ordinary skill in the art in view of the specification.

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See *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *In re Sneed*, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983). Because all of the references to motor vehicle components in the appellants' specification are merely exemplary, the broadest reasonable interpretation of "vehicle component" in view of the appellants' specification is that it encompasses vehicle components generally. Consequently, we accept the examiner's general definition of "vehicle" which is not disputed by the appellants, i.e., "a medium through which something is achieved" (answer, page 8). Because Oetiker's connector and the tube attached to the connector achieve something, i.e., fluid flow through them, each of those components is properly considered a "vehicle component" according to the broadest reasonable meaning of that term consistent with the appellants' specification.

The appellants argue that Oetiker's annular portion 12 cannot be a main body because it is too small a portion of the overall nipple structure 10 (brief, page 9). Oetiker's nipple portion 30 can be considered to correspond to the appellants' first vehicle component's transversely extending projection defining a longitudinal axis, and the remainder of the connector, which is a substantial part of the connector, can be considered

the main body (fig. 1).

The appellants argue that Oetiker does not disclose a main body having a transversely extending projection (reply brief, page 4). Oetiker's nipple portion (30) projects transversely from the axial abutment surface (15') of the collar (15) which is part of the main body.

The appellants argue that Oetiker's tube, which has an outer diameter less than 5 mm (col. 6, lines 62-66), is too small to be a vehicle component (brief, page 9). This argument is not well taken because it is unsupported by evidence, and arguments of counsel cannot take the place of evidence. See *In re De Blauwe*, 736 F.2d 699, 705, 222 USPQ 191, 196 (Fed. Cir. 1984). The appellants have not established that automobiles, for example, do not have tubes of that size such as vacuum and windshield washer tubes.

The appellants argue that Oetiker's disclosures that the clamp satisfies a pull-off specification of three pounds over a two week period and a blowout specification of 22 psi, and that the silicon tube is satisfactory until it bursts at 35 psi (col. 6, lines 41-48), do not indicate that linear movement of the tube is prohibited but, rather, merely indicate that typical operating pressures do not cause such movement (brief, page 10).

The appellants argue that the tube can be pulled in a longitudinal direction, see *id.*, but the appellants provide no support for that argument. Oetiker's disclosures that the compressibility of the tube is slightly in excess of that required for reliable holding of the tube and that the tube is held sufficiently tightly that it can operate under a pressure up to 35 psi (col. 6, lines 34-48) indicate that linear movement of the tube relative to the connector is prohibited.

The appellants argue that unlocking Oetiker's sleeve requires longitudinal movement of the sleeve and that, therefore, if Oetiker truly prohibited longitudinal movement the structure could not be unlocked (reply brief, pages 4 and 6-7). The longitudinal movement prohibited by the appellants' claim 1 is longitudinal movement of the second vehicle component (Oetiker's tube) relative to the first vehicle component (the main body and nipple portion of Oetiker's connector), not longitudinal movement of the retention member (Oetiker's sleeve). When the sleeve is in the locked position there is no longitudinal movement of the tube relative to the connector (col. 6, lines 20-40).

For the above reasons we affirm the rejection of claims 1-3, 9-12, 24 and 26.

*Claim 25*

The appellants argue that Oetiker achieves locking by moving the sleeve in the axial direction rather than by rotating the sleeve (brief, pages 12 and 15; reply brief, pages 5-8). The appellants are incorrect. Oetiker discloses that the sleeve is moved in the axial direction and then, to achieve the locked clamping position, is rotated to align its notches with the collar's locking members (col. 6, lines 21-31).

We therefore affirm the rejection of claims 25 and 27.

*Claims 4-6, 13 and 14*

Claims 4 and 13 require that the retention member comprises a rotatable locking cap having a central bore with a greater diameter at its inner end adjacent to the first vehicle component's main body than at its outer end.

The examiner argues that "adjacent" does not require contact but, rather includes "not distant nearby" (answer, page 5). Thus, the examiner argues, the end of Oetiker's sleeve farthest from the main body can be considered to be adjacent to the main body and, therefore, correspond to the appellant's inner end, while the end that is closer to the main body and has a relatively small diameter (figures 3A and 4A) can be considered to correspond to the appellants' outer end (answer, page 5). The

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examiner's rationale, therefore, requires that both ends be considered to be adjacent to the main body. That interpretation of "adjacent" does not appear to be reasonable, and the examiner has not provided evidence or reasoning which shows that one of ordinary skill in the art, when giving "adjacent" its broadest reasonable interpretation in view of the appellants' specification, would have interpreted the term that broadly.

Hence, the examiner has not carried the burden of establishing a *prima facie* case of anticipation of the inventions claimed in the appellants' claims 4 and 13. We therefore reverse the rejection of claim 4 and its dependent claims 5 and 6, and claim 13 and its dependent claim 14.

#### *DECISION*

The rejection of claims 1-6, 9-14 and 24-27 under 35 U.S.C. § 102(b) over Oetiker is affirmed as to claims 1-3, 9-12 and 24-27, and reversed as to claims 4-6, 13 and 14.

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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*

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TERRY J. OWENS )  
Administrative Patent Judge )  
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BOARD OF PATENT  
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