

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* MICHAEL EDWARD LASLEY  
and PETER CHARLES CAMPBELL

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Appeal 2006-3316  
Application 10/265,904  
Technology Center 1700

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Decided: March 21, 2007

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Before PETER F. KRATZ, JEFFREY T. SMITH, and LINDA M. GAUDETTE, *Administrative Patent Judges*.

KRATZ, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the Examiner's final rejection of claims 1-17. We have jurisdiction pursuant to 35 U.S.C. §§ 6 and 134.

Appeal 2006-3316  
Application 10/265,904

Appellants' invention is directed to a filter can assembly including a water collecting bowl and an adaptor extending through an inwardly projecting land of an annular housing of the filter can. The adapter is held in a non-rotating manner relative to the land and is constructed for threading the bowl thereto. Claim 1 is illustrative and reproduced below:

1. A can for containing a filter element, the can having a water collecting bowl attached thereto, the can comprising:

an annular housing for containing a filter element, the annular housing having a first and a second end, the first end being defined by an inwardly projecting land having an opening therethrough defined by a non-circular edge, and

an annular adaptor having a shoulder for positioning inside of the can adjacent to the annular land, the annular adaptor having an externally threaded annular rim disposed about an axis for threadably attaching the bowl thereto, the annular rim being non-circular and complementing the non-circular edge of the annular land to prevent rotation of the adaptor with respect to the can as the bowl is threaded thereon.

The Examiner relies on the following prior art references as evidence in rejecting the appealed claims:

Winters	US 607,316	Jul. 12, 1898
Trageser	US 2,553,342	May 15, 1951
Church	US 4,692,245	Sep. 8, 1987
Stone	US 5,622,623	Apr. 22, 1997

Claims 1-6, 9-14, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stone in view of Trageser or Winters. Claims 7, 8, 15, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stone in view of Trageser or Winters, and further in view of Church. We reverse.

Rejection of Claims 1-6, 9-14, and 17

The Examiner recognizes that Stone does not teach or disclose a filter housing having a non-circular inwardly projecting land edge and an annular adapter possessing a complementary non-circular rim, as claimed. (Answer 3-5 and appealed claims 1 and 9). According to the Examiner, “[i]t would have been obvious to have modified the filter of Stone so as to have included a land ... as suggested by Trageser and Winters in order to prevent rotation of the annular adapter ... with respect to the can as a bowl was threaded thereto.” (Answer 4-5).

However, the Examiner has not established that Stone recognizes any particular problem with the adhesively held adapter described therein being subject to rotation upon securing a bowl thereto as explained by Appellants. (See Reply Br. 2). In this regard, we note that Trageser and Winters are each directed to non-rotating couplings or spuds inserted through a wall of a boiler or water heater for use in securing a pipe thereto. Stone, on the other hand, is directed to a diesel fuel filter assembly including a spin-on element casing (52, Fig. 4), which casing has a lower turned-in edge with an adapter (69, Fig. 4) secured thereto via adhesion. (See Stone, col. 4, ll. 42-59 and Fig. 4). Besides accepting a collection bowl, the casing and adhesively bound adapter of Stone are constructed for holding a filter element with ribs (70, Fig. 4) of the adapter being employed for forming fluid paths and locating the filter element subassembly thereon. (See Stone, col. 4, ll. 59-61). Thus, even if we could regard Trageser and Winters as analogous art as argued by the Examiner, the Examiner has not proffered a persuasive rationale for the proposed modification of the filter assembly of Stone based

solely on the disparate containment devices taught by Trageser and Winters. For example, the Examiner does not rely on any other prior art references to establish that adhesively bound adapters of the type employed by Stone are known to rotate upon attaching a bowl thereto or that such adapters suffer other known deficiencies which would be expected by an ordinarily skilled artisan to be rectified by forming a non-circular portion of the adapter for coupling to a correspondingly modified filter housing casing land edge.

Rejections based on § 103(a) must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967). Our reviewing court has repeatedly cautioned against employing hindsight by using the Appellants' disclosure as a blueprint to reconstruct the claimed invention from the isolated teachings of the prior art. *See, e.g., Grain Processing Corp. v. American Maize-Products Co.*, 840 F.2d 902, 907, 5 USPQ2d 1788, 1792 (Fed. Cir. 1988).

From our perspective, the Examiner's rejection appears to be premised on impermissible hindsight reasoning. On the record of this appeal, it is our view that the Examiner has not carried the burden of establishing a *prima facie* case of obviousness with respect to the subject matter defined by the appealed claims.

Consequently, we do not sustain the Examiner's obviousness rejection over Stone in view of Trageser or Winters.

#### Rejection of Claims 7, 8, 15, and 16

The Examiner has not established that the additionally applied Church reference remedies the deficiencies in the rejection over Stone in view of

Appeal 2006-3316  
Application 10/265,904

Trageser or Winters discussed above. It follows that we shall also reverse this rejection.

ORDER

On this record, the Examiner's decision to reject claims 1-6, 9-14, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Stone in view of Trageser or Winters and to reject claims 7, 8, 15, and 16 under 35 U.S.C. § 103(a) as being unpatentable over Stone in view of Trageser or Winters, and further in view of Church is reversed.

REVERSED

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