

1           The opinion in support of the decision being entered  
2           today is *not* binding precedent of the Board  
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4           UNITED STATES PATENT AND TRADEMARK OFFICE  
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7           BEFORE THE BOARD OF PATENT APPEALS  
8           AND INTERFERENCES  
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11           *Ex parte* JOSE FEDIDA  
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14           Appeal 2007-2366  
15           Application 09/526,547  
16           Technology Center 3700  
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19           Decided: August 29, 2007  
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22           *Before:* WILLIAM F. PATE, III, MURRIEL E. CRAWFORD and  
23           JENNIFER D. BAHR, *Administrative Patent Judges.*

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25           CRAWFORD, *Administrative Patent Judge.*  
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28           DECISION ON APPEAL  
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30           STATEMENT OF CASE

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32           Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection  
33           of claims 18, 19, and 21 to 30 and 32 to 39. We have jurisdiction under 35  
34           U.S.C. § 6(b) (2002). An oral hearing was held on this case on August 8,  
35           2007.

1       Appellants' invention relates to a structure of a prosthesis intended to  
2 be implanted in a human or animal passage, and to a prosthesis with such a  
3 structure. (Specification 1).

4       Claim 18 under appeal reads as follows:

5           18. A structure of a prosthesis intended to be implanted  
6 in a human or animal passage to provide through-passage along  
7 said passage, said structure comprising:

8               at least one mesh which, at least in part, is approximately  
9 cylindrical and comprises at least one corrugated filament  
10 forming approximately annular units linked together, at least  
11 some corrugations of said corrugated filament of two respective  
12 adjacent units of said annular units being linked together by a  
13 plurality of linking means, wherein at least some of said linking  
14 means comprise links which are made as a rigid piece,

15               wherein each of said links is provided with a sole central  
16 portion and two loops, one loop at each of the ends of said  
17 central portion,

18               wherein each of said two loops allows (a) a first shape of  
19 an arc of a circle prior to linking and (b) a second shape of an  
20 entirely closed loop, in the linking position,

21               wherein each of the two closed loops of each of said links  
22 entraps, in said linking position, with some clearance, a  
23 respective one of two of said corrugations, which are to be  
24 linked together.

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1 The Examiner rejected claims 18, 19, 22, 26, 27, 29, 30, 33, 37 and 38  
2 under 35 U.S.C. § 102(b) as being anticipated by Goicoechea or in the  
3 alternative under 35 U.S.C. § 103 as being unpatentable over Goicoechea.

4 The Examiner rejected claims 23, 28, 34 and 39 under 35 U.S.C.  
5 § 103 as being unpatentable over Goicoechea.

6 The Examiner rejected claims 21, 24, 25, 32, 35 and 36 under 35  
7 U.S.C. § 103 as being unpatentable over Goicoechea in view of Lau.<sup>1</sup>

8 The prior art relied upon by the Examiner in rejecting the claims on  
9 appeal is:

10	Goicoechea	US 5,609,627	Mar. 11, 1997
11	Lau	US 5,873,906	Feb. 23, 1999

Appellant contends that Goicoechea fails to disclose or suggest a link with a sole central portion and two loops, one at each end of the central portion wherein each of the loops entraps, in said linking position with some clearance a respective one of two corrugations which are to be linked together.

## ISSUES

Whether the Appellant has shown that the Examiner erred in finding that Goicoechea discloses or suggests a link with two loops which each entrap one of two corrugations with some clearance.

<sup>1</sup> The Examiner has withdrawn the rejection of claims 29 and 40 under 35 U.S.C. § 112, second paragraph (Answer p. 10).

## FINDINGS OF FACT

2 Appellants' invention relates to a prosthesis which is intended for  
3 implantation into a human or animal passage (Specification p. 7). The  
4 prosthesis includes corrugated units UA to be linked by links 5  
5 (Specification p. 8; Fig. 1). The links comprise two loops B1 and B2 which  
6 when closed entrap and thereby link one of two corrugated units UA with  
7 some clearance so that the corrugated units can move freely (Specification p.  
8 8, Figs. 1 and 2).

9 Goicoechea discloses a prosthesis intended for implantation into a  
10 human or animal passage (col. 1, ll 13 to 15). The prosthesis is comprised of  
11 corrugated units which may be connected by a staple (col. 9, ll 58 to 61; Fig.  
12 4F). Goicoechea does not disclose the structure of the staple. Figure 4F  
13 does not depict the staple as formed by two loops each of which entraps one  
14 of two corrugated units to be connected. In fact, it appears from Figure 4F  
15 that the staple is formed by only one loop. In addition, Goicoechea does not  
16 disclose or depict that the corrugated units are joined with some clearance.

17 Lau does not disclose or suggest links comprised of two loops which  
18 when closed entrap and thereby link one of two corrugated units with some  
19 clearance so that the corrugated units can move freely.

## DISCUSSION

22 We will not sustain the Examiner’s rejections. Each of the  
23 independent claims requires a link with two loops, each loop linking one of  
24 two corrugated units with some clearance. Goicoechea does not disclose,  
25 nor does it suggest such a link. Each of the rejections of the Examiner

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1 relies on Goicochea for teaching the claimed link. Lau does not cure the  
2 deficiencies of Goicochea.

3 The decision of the Examiner is reversed.

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