

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte ARTHUR F. YEAGER

Appeal 2008-2355
Application 10/841,437
Technology Center 3700

Decided: August 14, 2008

Before ERIC GRIMES, RICHARD M. LEBOVITZ, and
FRANCISCO C. PRATS, *Administrative Patent Judges*.

PRATS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 involving claims to a utility knife. The Examiner has rejected the claims as anticipated and obvious. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm one of the anticipation rejections, but reverse the other. We affirm all of the obviousness rejections.

STATEMENT OF THE CASE

Claims 1-3, 5-14, and 16-22 are pending and on appeal (App. Br. 2).¹
Claims 1 and 13, the appealed independent claims, are representative and read as follows:

1. A utility knife comprising:
a handle comprising:
body having a first end and a second end;
a lever arm extending from the body, wherein at least a portion of the lever arm rests on the back of a user's hand during use of the utility knife; and
a grip connected to the body and located perpendicular to the body, wherein the grip extends outwardly from both sides of the body thereby forming a T-grip with the body; and
a blade attached to the body.

13. A utility handle comprising:
a body having a first end and a second end;
a lever arm extending from the second end of the body, wherein at least a portion of the lever arm is configured to rest on the back of a user's hand during use of the handle; and
a grip connected to the body and located perpendicular to the body, wherein the grip extends outwardly from both sides of the body thereby forming a T-grip with the body.

The Examiner applies the following documents in rejecting the claims:

Calef	US 407,571	Jul. 23 1889
Matthey	US 978,387	Dec. 13, 1910
Pfister	US 2,710,571	Jun. 14, 1955
Lundqvist	US 4,157,616	Jun. 12, 1979
Kloosterman	US 4,393,587	Jul. 19, 1983
Ziegler	US 4,660,875	Apr. 28, 1987

¹ Appeal Brief filed June 14, 2007.

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Honsa	US 5,031,323	Jul. 16, 1991
Wiese	US 5,455,981	Oct. 10, 1995
Asterino	US 6,122,828	Sep. 26, 2000
Elliott	US 6,598,266 B1	Jul. 29, 2003
Feng	US 6,668,460 B2	Dec. 30, 2003

The following rejections are before us for review:

Claim 1 stands rejected under 35 U.S.C. § 102(b) as anticipated by Ziegler (Ans. 4).

Claims 1, 2, 5-7, 12, 13, 16-19, 21, and 22 stand rejected under 35 U.S.C. § 102(b) as anticipated by Calef (Ans. 4-9).

Claims 3 and 14 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and either of Wiese or Pfister (Ans. 9).

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and any one of Kloosterman, Asterino, or Matthey (Ans. 9-10).

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and Lundqvist (Ans. 10-11).

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef (Ans. 11).

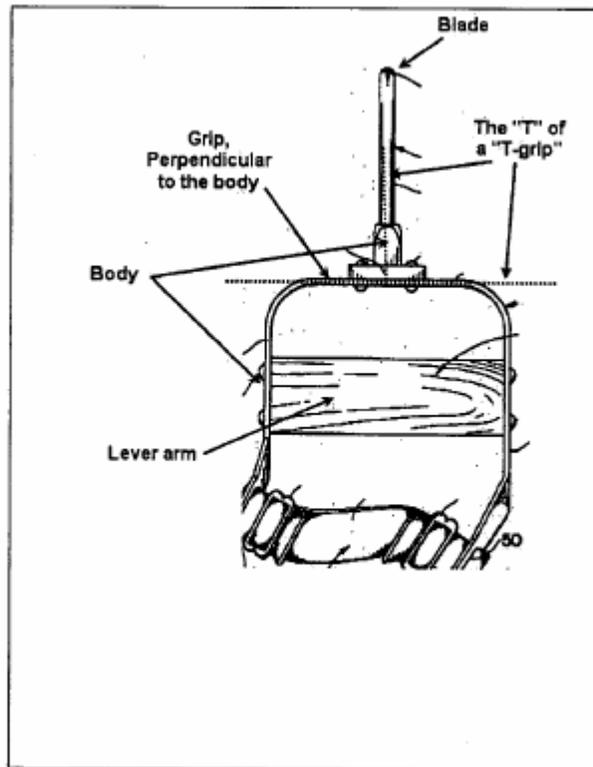
Claims 11 and 20 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and Honsa (Ans. 11-12).

Claims 11 and 20 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and Elliott (Ans. 12).

ANTICIPATION -- ZIEGLER

ISSUE

To demonstrate that Ziegler discloses all of the elements of claim 1, the Examiner provides an annotated version of Ziegler's Figure 3, reproduced below (Ans. 4):



The Examiner's annotated version of Ziegler's Figure 3 shows the blade portion of Ziegler's device extending vertically from an attached portion designated as the body of the device, which in turn is attached to a horizontal element designated as the "T" of a "T-grip," along with a portion of the blade (Ans. 4). Two parallel bracket elements, also designated by the Examiner as being part of the device's body, extend away from the horizontal element and blade, with a thicker handle piece attached to the bracket elements being designated as the lever arm (*id.*). To meet the

limitation requiring the lever arm to rest against the back of a user's hand when in use, the Examiner contends that "[a] user could slip their hand between the grip and the lever arm such that the lever arm rests on the back of the user's hand" (*id.*).

Appellant contends that "Ziegler does not disclose a handle comprising a grip connected to a body and located perpendicular to the body, wherein the grip extends outwardly from both sides of the body thereby forming a T-grip with the body, as recited in independent Claim 1" (App. Br. 6). Specifically, Appellant contends that it is unclear how the blade base and the side walls of the frame in Ziegler's device can form a body without also including the device's front wall (*id.*). In this regard, Appellant contends that the Examiner is unreasonable in interpreting claim 1 as encompassing a body element that has portions which are separate from one another (Reply Br. 5).

The issue with respect to this rejection, then, is whether the Examiner erred in interpreting claim 1 as encompassing Ziegler's device.

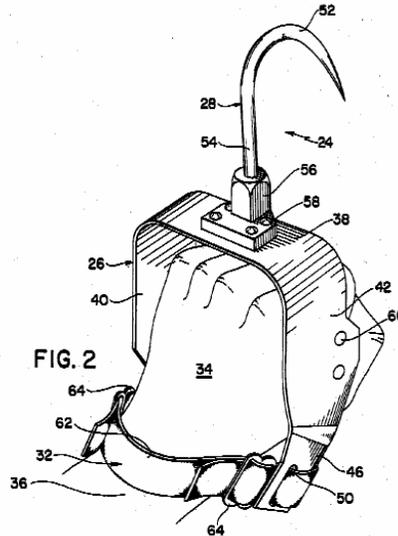
FINDINGS OF FACT ("FF")

1. Claim 1 recites a utility knife that has a blade attached to a handle. The handle has a body with a first end and a second end. The handle also has a lever arm extending from the body, and at least a portion of the lever arm must rest on the back of a user's hand when the knife is used.

The handle also has a grip that is connected to the body and located perpendicular to the body. The grip must extend outwardly from both sides of the body thereby forming a T-grip with the body.

side walls 40 and 42 which extend rearwardly from opposite ends of the front wall 38” (*id.* at col. 3, ll. 38-41).

4. Figure 2 of Ziegler, reproduced below, shows “a perspective view of the hook construction . . . held in the hand of an operator” (Ziegler, col. 2, ll. 57-58):



The figure shows the operator’s hand within frame 26 and sidewalls 40 and 42, with the operator’s fingers grasping handle 30, the view of handle 30 being blocked by the operator’s hand.

PRINCIPLES OF LAW

For a reference to anticipate a claim “[e]very element of the claimed invention must be literally present, *arranged as in the claim.*” *Richardson v. Suzuki Motor Co., Ltd.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989) (emphasis added). During examination, the PTO must interpret terms in a claim using “the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may

be afforded by the written description contained in the applicant's specification." *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

ANALYSIS

We agree with Appellant that the Examiner erred in interpreting claim 1 as encompassing Ziegler's device. Claim 1 recites that the utility knife's handle has "a lever arm extending from the body." Claim 1 also recites that the handle has "a grip connected to the body and located perpendicular to the body, wherein the grip extends outwardly from both sides of the body thereby forming a T-grip with the body."

We therefore interpret claim 1 as requiring the utility knife's body to have two features: (1) a lever arm that extends from it, and (2) a grip perpendicularly connected to it that forms a T-grip configuration with the body. That is, as arranged in the claim, both of these features must be associated with the same "body" of the utility knife's handle.

In the instant case, referring to Ziegler's Figure 3, the Examiner finds that one could reasonably consider handle 30 to be a lever arm that extends from the body of Ziegler's device, if one considers sidewalls 40 and/or 42 to be the body, as shown in the Examiner's annotated drawing (Ans. 4). The Examiner similarly finds that one could consider front wall 38 to be a grip that extends from the body in a T-grip configuration, if one considers hook base 56 to be the body (*id.*). Thus, the Examiner's finding of anticipation requires an interpretation of claim 1 in which the device's "body" can consist of separate non-contiguous parts.

However, claim 1 requires both the lever arm and grip to extend from "the body." Thus, as discussed above, claim 1 by its terms requires the lever arm and grip to extend from the same piece of the device. We therefore do

not agree with the Examiner that it is reasonable to interpret claim 1 as encompassing a “body” that consists of separate non-contiguous parts.

Therefore, because we do not agree that the Examiner’s finding of anticipation is based on a reasonable interpretation of claim 1, we reverse the Examiner’s rejection of claim 1 as being anticipated by Ziegler.

ANTICIPATION -- CALEF

ISSUE

Claims 1, 2, 5-7, 12, 13, 16-19, 21, and 22 stand rejected under 35 U.S.C. § 102(b) as anticipated by Calef (Ans. 4-9). The Examiner contends:

Regarding claim 1, Calef discloses a utility knife (figure 1) comprising a handle (the unitary structure up to the blade may be considered a handle), the handle comprising a body (the unitary structure is a single body) the body having a first and second end (b and c are first and second ends, as are opposite ends of the D portion, as are the ends between the C and D portions; many other ‘first’ and ‘second’ ends may be seen throughout the apparatus). B may be considered to be a lever arm extending from the body (the portion of the body from E rearward to C), and a portion of the lever B may rest on the back of a users [sic] hand: when a user inserts their hand through the opening in D the part of B proximal to the E’s will contact the back of a users [sic] hand.

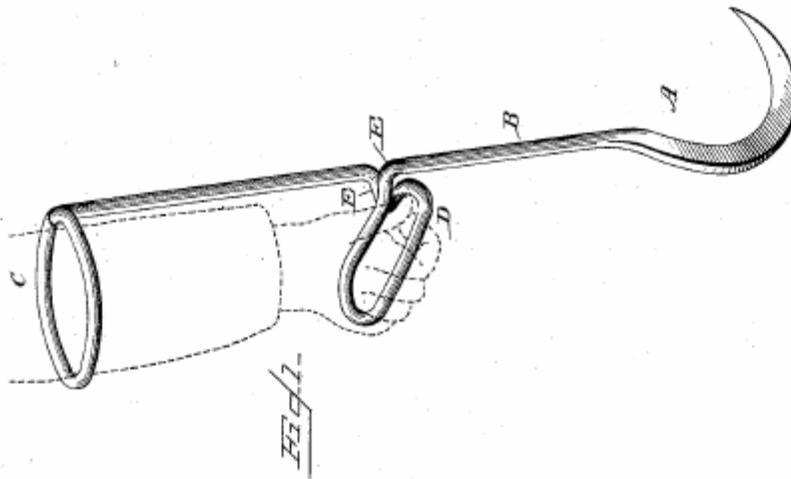
(Ans. 5.) The Examiner lists of a number of ways that the tool can be used (*id.* at 5), and contends that many of these “meet the current claim wording” (*id.* at 5-6).

Appellant contends Calef does not disclose the claimed T-grip or lever arm (App. Br. 8-9), and that the Examiner has failed to make a “*prima facie* showing that the knife of Calef is capable of functioning such that ‘at least a portion of the lever arm rests on the back of a user's hand during use of the utility knife’” (*id.* at 9-10).

The issue with respect to this rejection, then, is whether the Examiner erred in finding that Calef meets all of the limitations in the rejected claims.

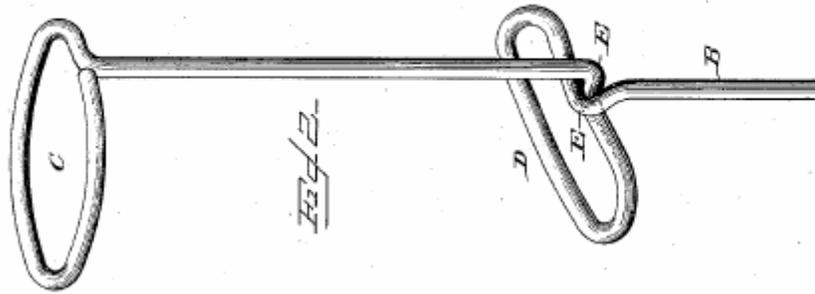
FINDINGS OF FACT

5. Calef discloses a knife for cutting corn (*see* Calef, Title). Figure 1 of Calef, reproduced below, shows “a perspective view” of Calef’s knife (*id.* at l. 15):



The Figure shows blade A, which is formed as a single piece with, or “suitably fastened” to, metal rod B, which is “of suitable length and thickness, the upper end of which is bent at right angles and turned to form circle C, forming an armhole of such size that a man’s arm may be readily inserted through it up to the elbow” (*id.* at ll. 36-42). The figure also shows a hand gripping the device in phantom.

6. Figure 2 of Calef’s knife, reproduced below, “is a similar view of the handle of the [knife], on an enlarged scale to show the twist of the handle (Calef, ll. 16-18):

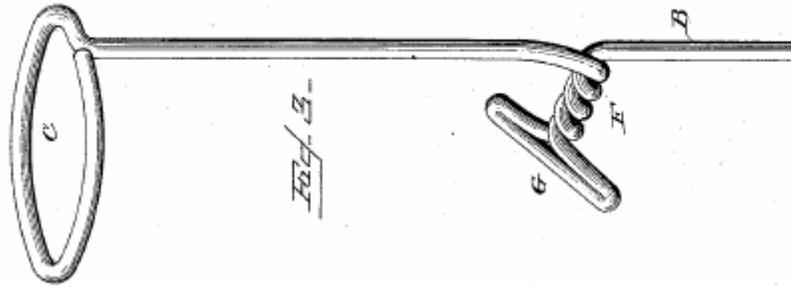


The figure shows:

The rod B is bent or twisted about midway of its length to form an oblong loop or handhold D, which forms a convenient grip for the hand after the arm has been inserted through circle C at the upper end of the device. This loop or grip has two shoulders or offsets E E, bearing against each other in such a manner that they will mutually support each other and yet give a certain amount of spring or elasticity to the lower part of the rod to which the blade is affixed.

(Calef, ll. 43-53.) Calef discloses that in practice “it is desirable to have this spring or give at that point, as it permits the knife-blade to yield a little in cutting the cornstalk as the sharp edge of the knife passes through the hard membrane or bark with which the stalk is surrounded” (*id.* at ll. 54-59).

7. Figure 3 of Calef, reproduced below, shows an embodiment in which the handhold loop “is flattened, so as to form the T-shaped grip G” (Calef, ll. 64-65):



The figure shows rod B “twist[ed] . . . a number of times upon itself, as shown at F” to yield T-grip G (Calef, ll. 62-63). Calef discloses that this embodiment is useful for making the rod rigid, and that the T-grip “should be turned at a convenient angle for holding it with the hand after the arm has been inserted through the circle” (*id.* at ll. 65-68).

PRINCIPLES OF LAW

It is well settled that “[t]o anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently.” *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). It is also well settled that “[a] patent applicant is free to recite features of an apparatus either structurally or functionally.” *Id.* at 1478.

However, “[f]unctional’ terminology may render a claim quite broad . . . [.] a claim employing such language covers *any and all* embodiments which perform the recited function.” *In re Swinehart*, 439 F.2d 210, 213 (CCPA 1971). Thus, a functional limitation directed to an intended method of use in the body of a product claim does not serve to distinguish the claimed product from prior art products inherently capable of performing the claimed function. *See Schreiber*, 128 F.3d at 1478-79 (holding that a prior art apparatus meeting all claimed structural limitations was anticipatory because it was inherently capable of performing the claimed function).

Moreover, as stated in *In re Best*, 562 F.2d 1252, 1255 (CCPA 1977) (quoting *In re Swinehart*, 439 F.2d at 212-13):

[W]here the Patent Office has reason to believe that a functional limitation asserted to be critical for establishing novelty in the claimed subject matter may, in fact, be an inherent characteristic of the prior art, it possesses the authority to require the applicant to prove that the subject matter shown to be in the prior art does not possess the characteristic relied on.

ANALYSIS

We do not agree with Appellant that the Examiner erred in finding that Calef meets all of the limitations in the rejected claims. With respect to claim 1, Appellant argues that Figures 1 and 2 of Calef “do not disclose a grip connected to the body and located perpendicular to the body, wherein the grip extends outwardly from both sides of the body thereby forming a T-grip with the body” (App. Br. 8).

Specifically, Appellant urges that loop D in Calef’s Figure 1 projects laterally from only one side of rod B, and that loop D in Calef’s Figure 2 has offsets E-E which bear against each other in a manner to provide spring or elasticity to the lower part of the knife, and that offsets E-E therefore “do not disclose a T-grip” (*id.*; *see also* Reply Br. 7). Appellant further urges that, while Calef’s Figure 3 discloses a T-grip, it is not perpendicular to the body as recited in claims 1 and 13, but instead is turned at a convenient angle for holding it with the hand (App. Br. 9; *see also* Reply Br. 7-8).

Appellant’s arguments do not persuade us that the Examiner’s finding of anticipation is erroneous. Appellant does not refer to any specific definition of a “T-grip” in the Specification or in the prior art. We therefore interpret the grip element in claim 1 as encompassing any generally T-

shaped set of elements that are perpendicular to the body and extend outwardly from both sides of the body, and which can function as a grip.

Regarding Calef's Figure 1, we do not agree with Appellant that loop D extends only from one side of rod B. Rather, loop D appears to extend laterally away from rod B, but more on one side than the other (*see* FF 5). Because this configuration is generally T-shaped, we agree with the Examiner that it is encompassed by claim 1's grip limitation.

Moreover, loop D in Calef's Figure 2 clearly extends laterally from both sides of rod B, and does so in a perpendicular fashion (*see* FF 6). While the offsets E-E may result in a less than perfect "T" configuration, one of ordinary skill, in our view, would consider the relationship between loop D and rod B to be generally T-shaped. We therefore agree with the Examiner that the embodiment shown in Calef's Figure 2 meets claim 1's requirements for a T-shaped grip.

With respect to Calef's Figure 3, we agree with Appellant that Calef discloses the T-grip as being turned to "a convenient angle for holding it with the hand after the arm has been inserted through the circle" (Calef, ll. 65-68 (FF 7)). However, because Figure 3 shows the T-grip in a generally perpendicular orientation (FF 7), we do not agree with Appellant that Calef's disclosure of a "convenient angle" for the T-grip would lead one to conclude that the T-grip was not perpendicular to the body as required by claim 1.

Appellant argues that "Calef does not disclose a handle comprising a lever arm extending from the body, wherein at least a portion of the lever arm rests on the back of a user's hand during use of the utility knife, as recited in Claims 1 and 13" (App. Br. 9). Specifically, Appellant urges that this limitation "*structurally* defines the handle as a hand-based part, i.e.,

configured to fit within the hand. Further, this structural feature defines the **lever** arm as allowing the handle to pivot around the claimed T-grip (i.e., a fulcrum)” (*id.*). In contrast, Appellant urges, Calef’s handle is a unitary rod that extends from blade A to arm circle C and “is operated by the arm and cannot fit within a hand. Further, in Calef, the fulcrum is the hand and the lever is the forearm. Contrary to the Examiner’s assertion, no part of Calef’s metal rod B rests on the back of a user’s hand” (*id.*; *see also* Reply Br. 6).

We are not persuaded by these arguments. Calef discloses that its device, for example as shown in Figure 2, has “oblong loop or handhold D, which forms a convenient grip for the hand after the arm has been inserted through circle C” (Calef, ll. 44-47 (FF 6)). We therefore do not agree with Appellant that a hand cannot fit in the grip of Calef’s device.

Moreover, as pointed out by the Examiner and undisputed by Appellant, rod B “may be considered to be a lever arm extending from the body (the portion of the body from E rearward to C)” (Ans. 5). Given this interpretation, we agree with the Examiner that it was reasonable to find that “when a user inserts their hand through the opening in D the part of B proximal to the E’s will contact the back of [the user’s] hand” (*id.*; *see also* FF 5, 6). We therefore also agree with the Examiner that it was reasonable to find that Calef meets the limitation requiring “at least a portion of the lever arm [to] rest[] on the back of a user’s hand during use of the utility knife.”

We do not agree that Appellant has met the burden of rebutting the Examiner’s reasonable finding that Calef meets this functional limitation, nor do we agree that *In re Schreiber*, 128 F.3d 1473, is inapplicable to the instant situation. It may be true that Calef’s preferred method of using the

knife does not result in the lever arm contacting the user's hand (*see* FF 5). However, claim 1 is directed to a product, not its method of use.

In the instant case, as discussed above, Calef discloses a device having all of the structural elements recited in claim 1. We see nothing in Calef that would prevent it from being used in the manner proposed by the Examiner. We therefore agree with the Examiner that one of ordinary skill in the art viewing Figures 1-3 of Calef would have recognized that Calef's device was configured such that it could be used in a manner to achieve the relationship between the user's hand and lever arm required by claim 1.

Appellant has provided no persuasive evidence in support of his rebuttal argument that the device cannot be used to achieve the result in claim 1. It is well settled that argument by counsel cannot take the place of evidence. *In re Cole*, 326 F.2d 769, 773 (CCPA 1964); *In re Geisler*, 116 F.3d 1465, 1471 (Fed. Cir. 1997).

Therefore, because the Examiner has made out a *prima facie* case of anticipation which Appellant has not adequately rebutted, we affirm the Examiner's rejection of claim 1 as anticipated by Calef. Because claims 2, 5, 6, 13, 16, 17, and 19 were argued in the same grouping as claim 1 (App. Br. 8), those claims fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

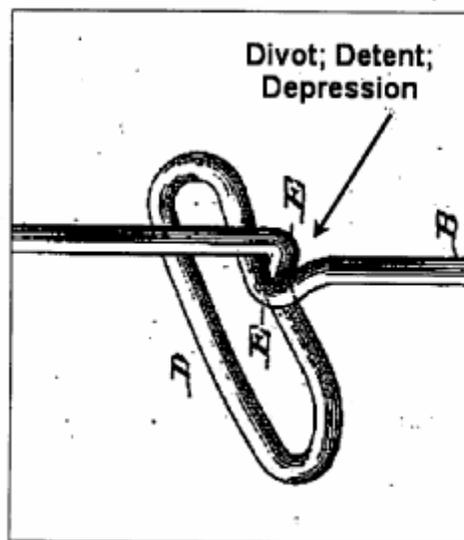
Appellant separately argues that Calef does not anticipate claims 7 and 18 (App. Br. 10). We select claim 7 as representative of this claim grouping. *See* 37 C.F.R. § 41.37(c)(1)(vii). Claim 7 depends from claim 6. Claims 6 and 7 read as follows:

6. The utility knife of Claim 1, wherein the body comprises an orifice through which at least one human finger fits.

7. The utility knife of Claim 6, wherein the body comprises a top portion and a body portion, and the top portion of the handle comprises a detent for placing a human finger therein.

Appellant argues that Calef does not meet claim 7's limitation that the handle's body "comprises a detent for placing a human finger therein" because, "[c]ontrary to the assertion of the Examiner, there is no 'divot' between E,E for placing a human finger" (App. Br. 10). Instead, Appellant urges, Calef discloses that offsets E,E are configured to provide elasticity to the knife, whereas "[a]s clearly illustrated in Calef, oblong loop D (FIGS. 1-2) and grip G (FIG. 3) are for the hand. Thus, offsets E,E do not form [a] detent for placing a human finger therein" (*id.*; *see also* Reply Br. 8-9).

The Examiner responds that Calef's device does have a detent that can accommodate a human finger, and provides an annotated version of Calef's Figure 2 to support that assertion (Ans. 18):



The Examiner's annotated version of Calef's Figure 2 shows an arrow labeled "Divot; Detent; Depression" pointing to an indentation where the rod B is twisted about itself at position E-E of Calef's device.

We agree with the Examiner that it was reasonable to find that the detent or indentation in Calef's device can accommodate a human finger. While Calef's preferred method of using the device may not include placing a finger at the location indicated by the Examiner (*see* FF 5) claim 7 is directed to an apparatus, not its method of use. Thus, the device need not be actually used in the manner claimed, it need only be capable of such use. *See In re Schreiber*, 128 F.3d at 1478-79. Appellant points to nothing in Calef that would prevent one from placing a finger in the indicated indentation.

Therefore, because we agree with the Examiner that Calef discloses a device having the claimed structural feature, and because the device can be used in the manner claimed, we affirm the Examiner's anticipation rejection of claim 7 over Calef. Because claim 18 was argued in the same grouping as claim 7 (App. Br. 8), it falls with claim 7. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Appellant separately argues that Calef does not anticipate claims 12 and 21 (App. Br. 10-11). We select claim 12 as representative of this claim grouping. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Claim 12 recites "[t]he utility knife of Claim 1, wherein the handle is adjustable to accommodate hands of different sizes." The Examiner contends that Calef meets that limitation:

The adjustment being that the portion D may be rotated to provide a smaller aperture. To close the aperture required 3 turns, therefore the aperture would be smaller after 1 and 2 rotations, (and even 1.5 and 2.5 rotations) which would cause

the aperture to be smaller, which would be adjusted to accommodate smaller hands. The structure of Figure 2 is fully capable of being adjusted to accommodate users with different sized hands, depending on what size they are most comfortable using.

(Ans. 6-7.)

Appellant's argument does not persuade us that the Examiner erred in finding that Calef meets the limitations of claim 12. Calef discloses that rod B can be "twist[ed] . . . a number of times upon itself, as shown at F" to yield T-grip G (Calef, ll. 62-63 (FF 7)).

While it may be true that Calef's reason for twisting the loop is to render the rod rigid (*see* FF 7), Appellant does not dispute that the rod can be twisted in the manner posited by the Examiner. Because the rod can be twisted in the manner advanced by the Examiner, the size of the loop D is capable of being adjusted to accommodate different sized hands, which is all that claim 12 requires. We therefore agree with the Examiner that Calef's device meets the limitations of claim 12, and affirm the anticipation rejection of that claim. Claim 21 falls with claim 12. 37 C.F.R. § 41.37(c)(1)(vii).

Appellant argues that Calef does not anticipate claim 22 because "Calef does not disclose that the knife permits operation without the use of a thumb or a closed hand" (App. Br. 11; *see also* Reply Br. 9).

Claim 22 recites "[t]he utility knife of Claim 1, wherein the knife permits operation without the use of a thumb or a closed hand."

The Examiner contends:

Regarding claim 22, [Calef's] knife permits operation without the use of a thumb. The fingers can be inserted into the aperture at D. Alternatively the tool could be gripped between

the teeth, as around B or the back of D. It is noted that appellant has not required that the tool be operable without a thumb AND a closed hand, but merely recites the limitations in the alternative. So a tool could require the use of a closed hand OR a thumb, and still meet the limitations of claim 22.

(Ans. 8-9.)

Appellant contends that because Calef discloses its device as being grasped by a closed hand and thumb, and because the device requires significant power for its use, “the knife of Calef requires the use of a closed hand and a thumb. The structure of Calef’s forearm-based knife does not recognize or appreciate a hand-based knife that can be used without a thumb or a closed hand” (App. Br. 11). Moreover, Appellant urges, the claimed knife is advantageous in being useful for individuals of limited dexterity and motion, and is therefore “beneficial for individuals suffering from arthritis, stroke, cerebral palsy, thumb amputation, nerve damage, amyotrophic lateral sclerosis, or multiple sclerosis” (*id.*).

Appellant’s arguments do not persuade us that the Examiner erred in finding that Calef’s knife meets the limitations of claim 22. Claim 22 is directed to a device, not its method of use. Thus, the device need not be actually used in the manner claimed, it need only be capable of such use. *See In re Schreiber*, 128 F.3d at 1478-79.

In the instant case, for the reasons discussed above, we agree with the Examiner that Calef’s knife meets all of the structural limitations recited in claim 1. We also agree with the Examiner that one of ordinary skill viewing Calef would have reasonably concluded that the device could be operated by simply placing a hand through the grip at loop D without closing the fingers or thumb on the grip, particularly given the fact that the device has bracing

at the forearm (circle C) to provide leverage to the user (*see* FF 6). We therefore find that the Examiner has made a prima facie case of anticipation of claim 22.

Appellant has not, in our view, provided evidence sufficient to rebut the Examiner's prima facie case. Because claim 22 does not require any specific type of "operation," we do not agree with Appellant that one need use any particular amount of force to operate Calef's device. Moreover, Appellant has not provided evidence that Calef's device could not be used for the purpose described in the reference without a thumb or closed hand. As noted above, argument by counsel is not an adequate substitute for evidence. *See In re Cole*, 326 F.2d at 773; *see also In re Geisler*, 116 F.3d at 1471. We therefore affirm the Examiner's rejection of claim 22 as anticipated by Calef.

In sum, we affirm the Examiner's rejection of claims 1, 2, 5-7, 12, 13, 16-19, 21, and 22 under 35 U.S.C. § 102(b) as anticipated by Calef.

OBVIOUSNESS -- CLAIMS 3 AND 14

ISSUE

Claims 3 and 14 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and either of Wiese or Pfister (Ans. 9).

Claim 3 recites "[t]he utility knife of Claim 1, wherein the lever arm is padded." Claim 14 recites "[t]he utility handle of Claim 13, wherein the lever arm is padded."

Conceding that Calef's device does not have padding, the Examiner contends that "[e]ach reference of Wiese or Pfister clearly shows padding in the figures, where a users [sic] hands are gripping or otherwise contacting the tool" (Ans. 9). The Examiner concludes that one of ordinary skill in the

art would have considered it obvious “to modify Calef by coating the body including any portions used to grip or contact the user with padding as taught by any one of the references Wiese or Pfister” (*id.*). The Examiner reasons that the reason for combining the references’ teachings would have been that “[p]adding is comfortable, and is desirable to a user (known in the prior art, see specifically Wiese column 3 lines 46 and 47). It is desirable to provide [p]adding to distribute force and reduce pressure points where a tool contacts a user” (*id.*).

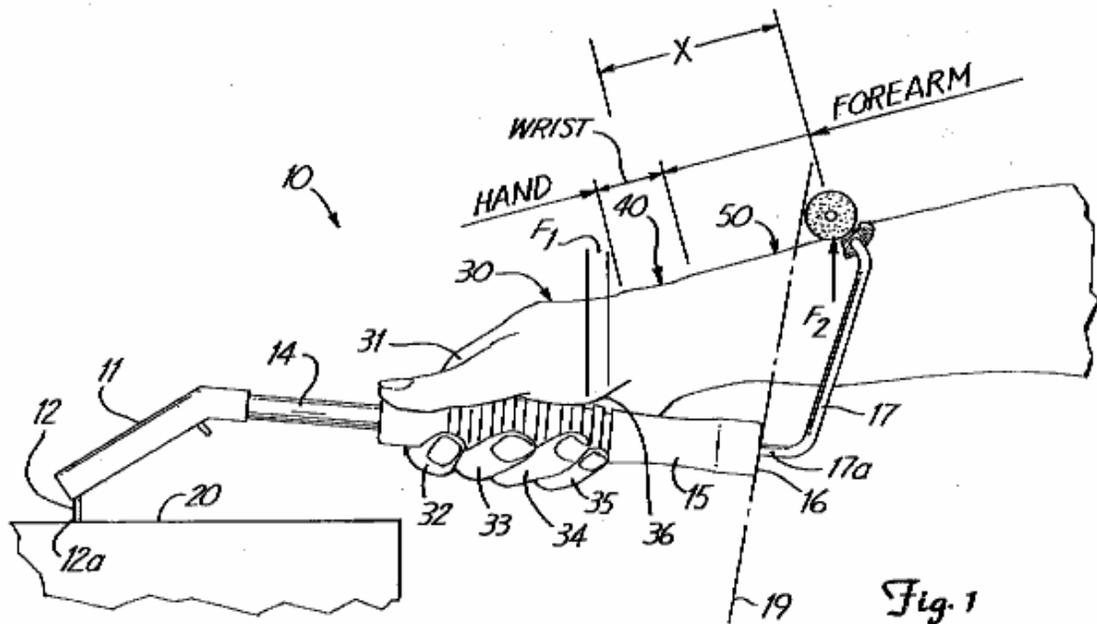
Appellant contends that the only padding used in Wiese and Pfister is to cradle the user’s forearm, and that therefore, “[a]t best, any combination of Wiese or Pfister with Calef would have led one of ordinary skill in the art to add some type of cushion to arm circle C of Calef, not for a lever arm” (App. Br. 12). Therefore Appellant urges, “it would not have been obvious for one of ordinary skill in the art to make the claimed utility knife or the claimed handle in view of the combined teachings of Calef and at least one of Wiese or Pfister” (*id.*).

The issue with respect to this rejection, then, is whether the Examiner erred in concluding that one of ordinary skill in the art, advised by Wiese or Pfister that padding on hand tools distributes force and pressure points, would have considered it obvious to place padding on the lever arm of Calef’s knife.

FINDINGS OF FACT

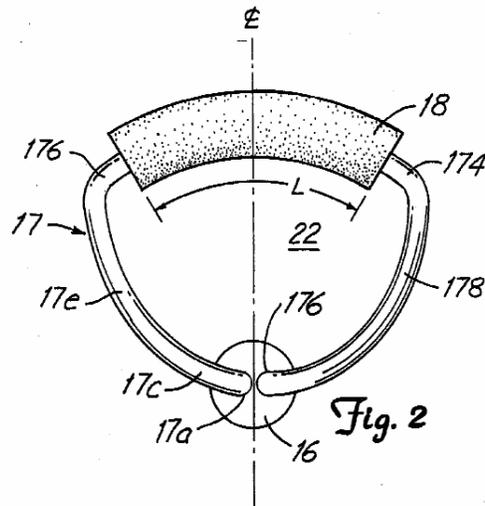
8. Calef differs from claims 3 and 14 in that Calef does not disclose using padding on its corn-cutting knife.
9. Wiese discloses a paint scraper designed to “allow a user to reposition his or her hand on the scraper, apply greater pressure to the paint scraper as

well as permit the paint scraper to be effectively used in removing paint from surfaces regardless of their angular location with respect to the user” (Wiese, col. 1, ll. 7-11). Figure 1 of Wiese, reproduced below, “shows a side view of the paint scraper . . . with a user engaging the hand and forearm support of the paint scraper” (*id.* at col. 3, ll. 9-11):



The Figure shows paint scraper 10 with “lever arm 17 as a continuous member extending from end 16 of handle 14 and 15. The lever arm 17 is shown extending substantially at a right angle to handle 15 and having an opening therein sufficiently large so as to permit insertion of a user’s forearm therein” (Wiese, col. 3, ll. 32-36).

10. Figure 2 of Wiese, reproduced below, “shows a rear view of the paint scraper” (Wiese, col. 3, l. 12):

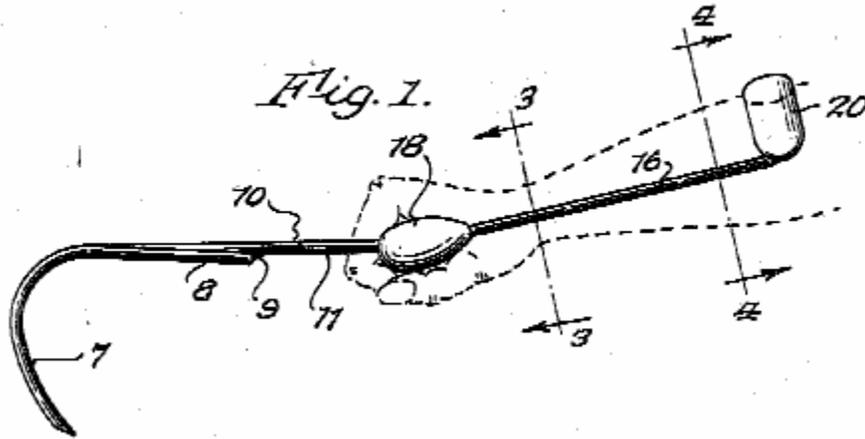


The figure is said to show symmetrical lever arm 17 comprised of “[s]ymmetric members 17c and 17d [which] extend upward to respectively engage symmetric members 17e and 17f which in turn engage symmetric members 17g and 17h which connect to each other to form an arcuate shaped arm cradle with a resilient foam arm cradle cushion 18 located thereon” (Wiese, col. 3, ll. 39-44).

11. Wiese discloses that “[c]ushion 18 extends over a distance L which is sufficiently long so as to engage an extended arcuate portion of the user's arm to thereby eliminate pressure points by distributing pressure forces over an extended area of the users [sic] arm” (Wiese, col. 3, ll. 44-48). Wiese discloses that “[t]ypically, cushion 18 should have a minimum length of about 2 inches and a diameter of about 1/2 inch to ensure that the pressure from the lever arm is distributed over an extended area in both the lateral and longitudinal portions of the user's forearm” (*id.* at col. 3, ll. 48-52).

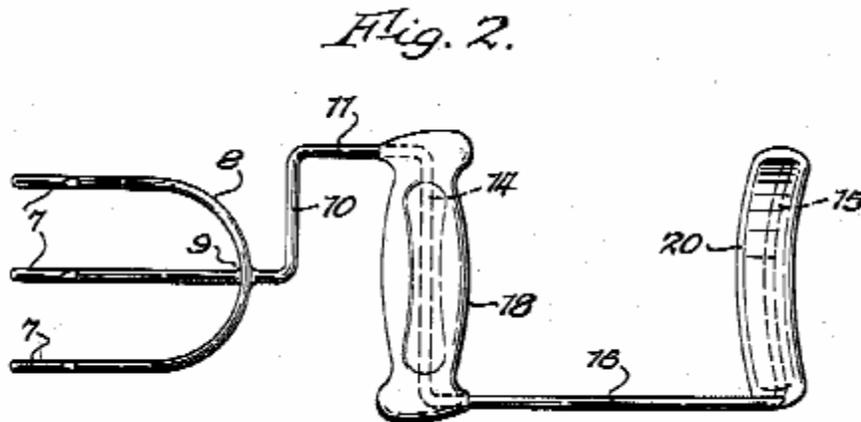
12. Pfister discloses a ground working or garden tool (Pfister, title). Figure 1 of Pfister, reproduced below, shows “a side elevation of a ground

working gardening tool embodying this invention and showing broken lines the hand and arm of a user of the tool” (*id.* at col. 1, ll. 42-44):



The figure shows Pfister’s tool with cultivating portion 7 attached to handle 18, held in the user’s hand, the handle 18 being connected by a single rod 16 to a piece 20 that lies across the user’s forearm.

13. Figure 2 of Pfister, reproduced below, shows “a bottom plan view of the tool shown in Fig. 1” (Pfister, col. 1, l. 45):



The figure shows handle 18 connected by rod 16 to leg 15 which is “arc-shaped . . . to correspond approximately to the curvature of the upper surface

of the forearm” (Pfister, col. 2, ll. 40-42). Pfister’s Figure 2 also shows leg 15 with pad or enlargement 20 “made of greater dimension horizontally than vertically so as to form an extended bearing surface against the forearm of the user” (*id.* at col. 2, ll. 48-50).

PRINCIPLES OF LAW

Recently addressing the question of obviousness, the Supreme Court reaffirmed that under the controlling inquiry, “the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007) (quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966)).

The Court also reaffirmed that it is obvious to apply a known solution to an art-recognized problem:

When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under § 103.

Id. at 1742. The Court cautioned, however, that “a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *Id.* at 1741.

While holding that some rationale must be supplied for a conclusion of obviousness, the Court nonetheless rejected a “rigid approach” to the obviousness question, and instead emphasized that “[t]hroughout this Court’s

engagement with the question of obviousness, our cases have set forth an expansive and flexible approach” *Id.* at 1739. The Court also rejected the use of “rigid and mandatory formulas” as being “incompatible with our precedents.” *Id.* at 1741; *see also* 1742-43 (“Rigid preventative rules that deny factfinders recourse to common sense, however, are neither necessary under our case law nor consistent with it.”).

The Court thus reasoned that the analysis under 35 U.S.C. § 103 “need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *Id.* at 1741. The Court further advised that “[a] person of ordinary skill is . . . a person of ordinary creativity, not an automaton.” *Id.* at 1742.

Regarding hindsight reasoning, the Court stated that “[a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. Rigid preventative rules that deny factfinders recourse to common sense, however, are neither necessary under our case law nor consistent with it.” *Id.* at 1742-1743 (citations omitted).

ANALYSIS

We agree with the Examiner that one of ordinary skill in the art would have considered it obvious to place padding on the lever arm of Calef’s knife. As discussed above, Wiese discloses that having a cushion on a significant portion of the forearm-engaging portion of its paint scraper’s lever arm “eliminate[s] pressure points by distributing pressure forces over an extended area of the user’s arm” (Wiese, col. 3, ll. 47-48 (FF 11)). As also discussed above, Pfister discloses that putting padding on the forearm-

engaging portion of the lever arm of its garden tool provides “an extended bearing surface against the forearm of the user” (Pfister, col. 2, ll. 49-50 (FF 13)).

Moreover, we agree with the Examiner that one of ordinary skill in the art, being a person of ordinary creativity and common sense, *see KSR*, 127 S. Ct. at 1742-43, would have reasonably inferred that applying padding to Calef’s knife in the locations that engage a person’s forearm and hands would have rendered it more comfortable to use. We therefore agree with the Examiner that one of ordinary skill would have been prompted to include padding on the lever arm of Calef’s knife.

We note that Wiese and Pfister explicitly disclose placing the padding only on the forearm-engaging portions of the disclosed tools’ lever arms (*see* FF 9-13). However, because one of ordinary skill would have reasoned that adding padding to any of the hand and arm-engaging portions of Calef’s knife would add to its comfort, we do not agree with Appellant that one of ordinary skill viewing the cited references would have added padding only to the non-lever-arm portions of Calef’s knife.

Therefore, because we agree with the Examiner that one of ordinary skill would have been prompted to include padding on the lever arm of Calef’s knife, we affirm the Examiner’s obviousness rejection of claims 3 and 14.

OBVIOUSNESS -- CLAIM 8

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and any one of Kloosterman, Asterino, or Matthey (Ans. 9-10).

Claim 8 recites “[t]he utility knife of Claim 1, further comprising: a safety guard for covering the blade when the utility knife is not being used.” The Examiner cites Kloosterman, Asterino, or Matthey as evidence that placing a safety guard over the blade of Calef’s knife would have been desirable and therefore obvious to one of ordinary skill in the art (*id.* at 10).

Appellant states that “Claim 8 is grouped with Claims 1-2, 5-6, 13, 16-17, and 19 as argued in section (B)(1) above and stands or falls with those claims” (App. Br. 12).

As discussed above, we agree with the Examiner that Calef anticipates claim 1. Because we detect no deficiency in the Examiner’s prima facie case of obviousness with respect to its dependent claim 8, we affirm the Examiner’s obviousness rejection of claim 8.

OBVIOUSNESS -- CLAIM 9

ISSUE

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and Lundqvist (Ans. 10-11). Claim 9 reads as follows:

9. The utility knife of Claim 8, further comprising:
a tension spring in communication with the safety guard;
a release actuator; and
a release arm connected to the release actuator and the safety guard, such that engaging the release actuator causes the release arm to move the safety guard thereby exposing the blade.

Conceding that Calef does not disclose the elements recited in claim 9, the Examiner cites Lundqvist as disclosing “a hand tool with a safety guard 7, a release actuator (8) and a release arm (the extension proximal 11 figure 3). As is seen from figure 1, the release arm is connected to the release actuator (via spring 10) and the safety guard (they are formed

integrally)” (Ans. 10). The Examiner contends that “[w]hen the release actuator is engaged (moved, as in figure 3), the release arm is moved (see figure 3) allowing the guard to pivot revealing the blade” (*id.*). Based on these teachings, the Examiner concludes that one of ordinary skill in the art would have considered it obvious “to add a safety mechanism covering the blade as taught by Lundqvist, since it would provide for user safety (which is known to be desirable)” (*id.* at 11).

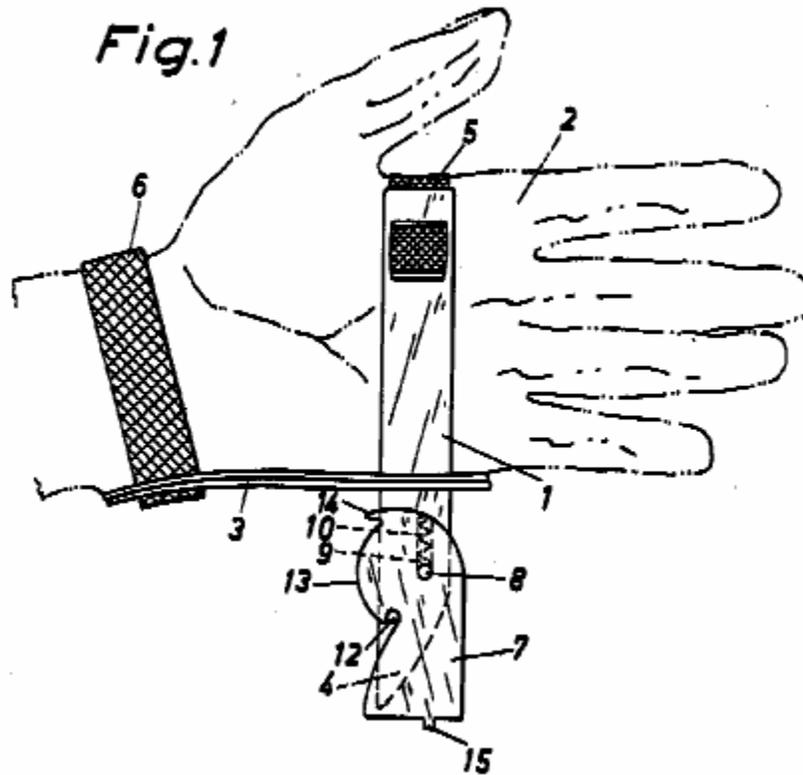
Appellant contends that Lundqvist “does not teach or suggest a release arm connected to (1) a release actuator and (2) a safety guard, such that engaging the release actuator causes the release arm to move the safety guard thereby exposing the blade” (App. Br. 13; *see also* Reply Br. 10). Moreover, Appellant contends, “as Lun[d]qvist discloses a hand tool, there would be no motivation to apply any safety cover to the forearm-based cutting implement of Calef in which the blade is much farther away from the hand” (App. Br. 13).

The issue with respect to this rejection, then, is whether the Examiner has established a *prima facie* case of obviousness for claim 13 based on the cited references.

FINDINGS OF FACT

14. Lundqvist discloses a device that covers the sharp or pointed member of a hand tool, “whereby the cover may be swung from a position where it protects said member to a position exposing said member” (Lundqvist, col. 1, ll. 9-11).

15. Figure 1 of Lundqvist, reproduced below, shows “a side view of a hand on which is attached the tool according to the embodiment of the invention” (Lundqvist, col. 1, ll. 47-48):



The figure shows “handle portion 1 which projects through a support rail 3 extending along the little finger side of the hand 2 in abutting relationship therewith, and which below this rail merges into a chisel-like spike 4” (Lundqvist, col. 1, ll. 63-67). Also shown is “cover 7 [which] is pivotally connected to the spike. The cover 7 is arranged to turn about a pivot shaft 8 from a position wherein it encloses the spike 4 to a position exposing the latter” (*id.* at col. 2, ll. 1-5).

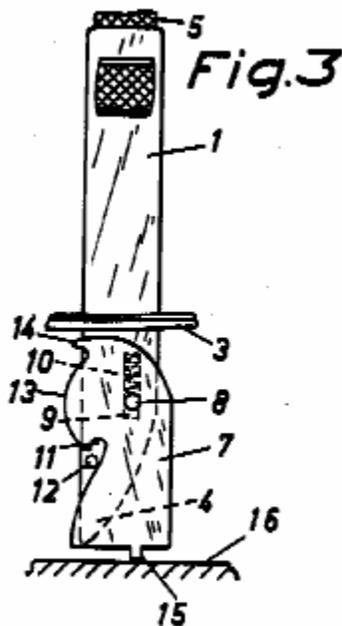
16. Lundqvist discloses that its tool functions as follows:

[T]he swinging movement of the cover is possible only after displacement of the cover 7 from a locked position in a direction inwards, towards the spike 4, at right angles to the pivot shaft 8 of the cover. This shaft is rigidly secured to the cover and passes freely through an elongated notch or aperture 9 formed in the spike 4. The notch houses a compression

spring 10 which in its neutral position (FIG. 1) is somewhat biased so as to exert a pressure on the pivot shaft 8.

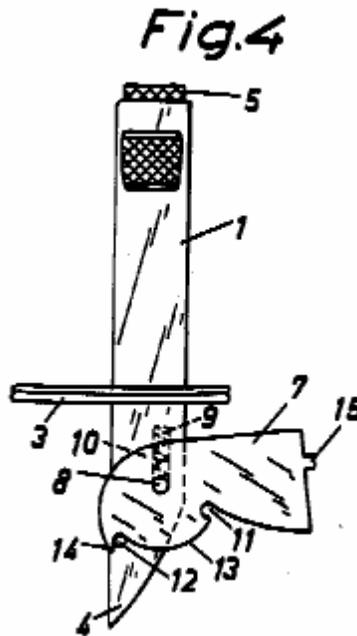
(Lundqvist, col. 2, ll. 6-14.)

17. Figure 3 of Lundqvist, reproduced below, shows Lundqvist's device in the closed position, but with the cover disengaged from its locked position:



The figure shows notch 11 of the safety cover 7 disengaged from catch pin 12, which projects from the spike.

18. Figure 4 of Lundqvist, reproduced below, shows Lundqvist's device in an open position, with the spike exposed:



The figure shows cover 7 rotated away from and exposing spike 4. “As soon as the cover has reached its extreme outer position . . . , the stop shoulder 14 prevents the cover from moving further in the same direction, thus facilitating return of the cover to the locked position thereof” (Lundqvist, col. 2, ll. 57-61).

ANALYSIS

We agree with the Examiner that one of ordinary skill in the art viewing Calef and Lundqvist would have considered claim 9 prima facie obvious. One of ordinary skill in the art, being a person of ordinary creativity and common sense, *see KSR*, 127 S. Ct at 1742-43, would have reasoned that it would be desirable to cover the blade of Calef’s tool with the safety guard of Lundqvist’s device for safety purposes.

We do not agree with Appellant that Lundqvist’s device lacks the elements recited in claim 9 in the claimed configuration. Specifically, as the

Examiner points out, Lundqvist discloses that its tool has a tension spring in communication with the safety guard (*see* Lundqvist, col. 2, ll. 12-14 (FF 16) (“The notch [in the spike 4] houses a compression spring 10 which in its neutral position (FIG. 1) is somewhat biased so as to exert a pressure on the pivot shaft 8.”)).

Moreover, because safety cover 7 pivots about pivot shaft 8 (*see* FF 16) we agree with the Examiner that it was reasonable to find claim 9’s “release actuator” to encompass the pivot shaft. Further still, engaging the device and moving the projection or appendage adjacent to notch 11 past its catch pin 12 as shown in Figure 3 (FF 17) allows the attached safety guard 7 to move about the attached release actuator 8, thereby exposing the blade as shown in Figure 4 (FF 18). We therefore agree with the Examiner that it was reasonable to interpret “the extension proximal 11” (Ans. 10) to be encompassed by claim 9’s release arm.

Thus, because we agree with the Examiner that one of ordinary skill in the art would have been prompted to use Lundqvist’s protective mechanism on Calef’s knife, we affirm the Examiner’s obviousness rejection of claim 9.

OBVIOUSNESS -- CLAIM 10

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef (Ans. 11).²

Claim 10 recites “[t]he utility knife of Claim 1, wherein the blade is comprised of stainless steel.” The Examiner reasons that making the blade of Calef’s knife of stainless steel would have been obvious “[s]ince stainless

² The Examiner also cites Feng as evidence of the unpatentability of claim 10 (*see* Ans. 11).

steel is well known, and [A]ppellant has not shown the material to be of significance or have any unexpected result” (*id.*).

Appellant states that “Claim 10 is grouped with Claims 1-2, 5-6, 13, 16-17, and 19 as argued in section (B)(1) above and stands or falls with those claims” (App. Br. 13).

As discussed above, we agree with the Examiner that Calef anticipates claim 1. Because we detect no deficiency in the Examiner’s prima facie case of obviousness with respect to its dependent claim 10, we affirm the Examiner’s obviousness rejection of claim 10.

**OBVIOUSNESS -- CLAIMS 11 AND 20 -- CALEF AND HONSA
*ISSUE***

Claims 11 and 20 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and Honsa (Ans. 11-12). Claim 11 is representative of these claims and recites “[t]he utility knife of Claim 1, wherein the blade is replaceable.”

Conceding that Calef does not disclose that its knife has a replaceable blade, the Examiner cites Honsa to meet that limitation (*id.* at 12). Specifically, the Examiner contends that Honsa’s “Figure 1 shows that the tool can be disassembled to the point where the blade would be removable and re-attachable” (*id.*).

The Examiner concludes that one of ordinary skill in the art would have considered it obvious “to make the blade replaceable as taught by Honsa. The motivation is that over time a blade will dull, and it becomes desirable to replace the blade with a new, more efficient blade” (*id.*).

Appellant contends that “[t]here is no recognition or appreciation in Ho[ns]a that a blade of a utility knife is replaceable, as recited in Claim 11”

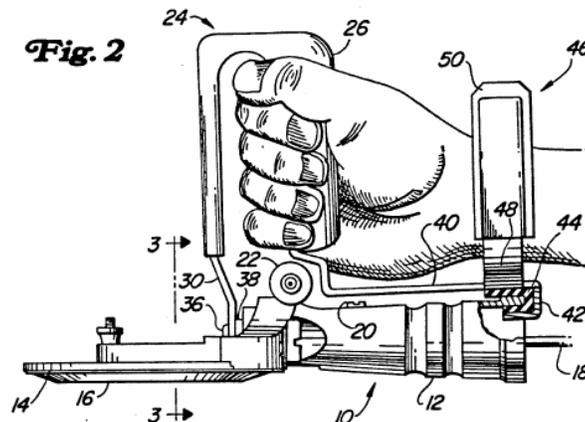
(App. Br. 13). Appellant further contends that the cited references would not have rendered the claimed device obvious to a person of ordinary skill in the art because no motivation exists with respect to “why one of ordinary skill in the art would apply the teachings of a rotary blade of a hand-based power tool (i.e., a meat slicer) as disclosed in Ho[ns]a to the forearm-based cutting implement of Calef in which the blade is much farther away from the hand” (*id.* at 13-14).

The issue with respect to this rejection, then, is whether the Examiner erred in concluding that one of ordinary skill in the art, aware that blades on tools dull over time, would have considered it obvious to provide the corn-cutting knife of Calef with a replaceable blade.

FINDINGS OF FACT

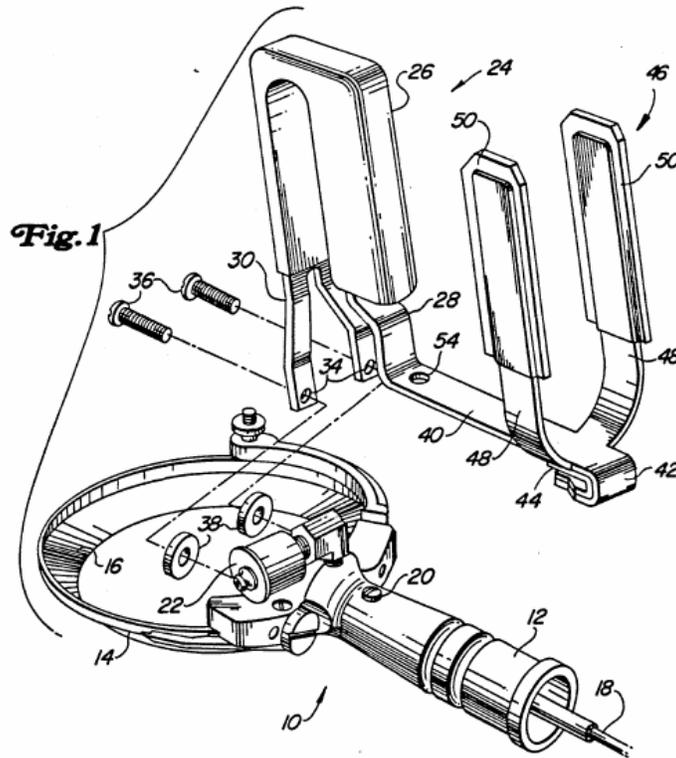
19. While Calef discloses that blade A of its device can be formed as a single piece with, or “suitably fastened” to, metal rod B (Calef, l. 35 (FF 5)), Calef does not explicitly disclose that the blade of its device is replaceable.

20. Honsa discloses an improved grip configuration for rotary slicers used to remove excess fat from pieces of meat (Honsa, col. 1, l. 43). Figure 2 of Honsa, reproduced below, shows Honsa’s device held by a user’s hand:



The figure shows blade 16 extending horizontally away from the user's hand.

21. Figure 1 of Honsa, reproduced below, shows a perspective view of a typical slicer with Honsa's grip attached:



The figure shows Honsa's device in a disassembled configuration, with the bolts 36 indicating the attachment point of hand grip 26 to the slicer portion 14 of the tool. Also shown is circular knife blade 16 in the cutting portion of the tool.

ANALYSIS

We agree with the Examiner that one of ordinary skill, being a person of ordinary creativity and common sense, *see KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. at 1742-43, aware that knife blades can become dull, would

have reasoned that it would be desirable to make the blade on Calef's knife replaceable. We note that Honsa's device is a power tool (FF 20, 21), whereas Calef's device is not.

However, as the Supreme Court recently advised, the analysis under 35 U.S.C. § 103 "need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *Id.* at 1741. The Court also advised that "[a] person of ordinary skill is . . . a person of ordinary creativity, not an automaton." *Id.* at 1742.

As noted above, we agree with the Examiner that one of ordinary skill in the art viewing Calef and Honsa would have reasonably inferred that it would be desirable to make Calef's blade replaceable. We therefore affirm the Examiner's rejection of claim 11.

Appellant states that "claim 20 is grouped with Claims 1-2, 5-6, 13, 16-17, and 19 as argued in section (B)(1) above and stands or falls with those claims" (App. Br. 14). Thus, because Appellant did not argue claim 20 separately from claim 11, claim 20 falls with claim 11. *See* 37 C.F.R. § 41.37(c)(1)(vii).

**OBVIOUSNESS -- CLAIMS 11 AND 20 -- CALEF AND ELLIOTT
ISSUE**

Claims 11 and 20 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Calef and Elliott (Ans. 12). The Examiner cites Elliott as disclosing "a tool with replaceable blades. The Blade 25 may be replaced by a different kind of blade 27 as seen in figures 6, 7, and 1" (*id.*). The Examiner concludes that one of ordinary skill in the art would have considered it obvious "to make the blade of Calef replaceable as taught by

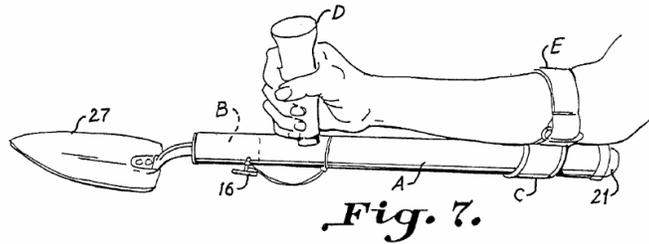
Elliot[t], to allow for multiple blade configurations to be used with the same handle structure. The motivation to combine is that providing a handle multi-functionality is desirable to save resources, and make a product marketable” (*id.*).

Appellant contends that “Elliott does not teach or suggest that a blade of a utility knife is replaceable, as recited in Claim 20. Elliott merely discloses swapping different types of tools having the same type of shank onto a handle” (App. Br. 14). Appellant contends that the claimed replaceable blade would not have been obvious to a person of ordinary skill in the art in view of the cited combination of references because “[t]here is no recognition or appreciation that a blade of a utility knife is replaceable” (*id.*).

The issue with respect to this rejection, then, is whether the Examiner erred in concluding that one of ordinary skill in the art, aware that tools having different configurations could be affixed to a single handle structure, would have considered it obvious to provide the corn-cutting knife of Calef with a replaceable blade.

FINDINGS OF FACT

22. Elliott discloses “a handle for facilitating manual operation of a variety of tools or implements including those relating to gardening and household tasks” (Elliott, col. 1, ll. 6-8). Figure 1 of Elliott, reproduced below, shows one embodiment of Elliott’s handle, held by a user:



The figure shows the tool's handle A strapped to the user's forearm with strap E, with handle A extending from the user's elbow past the user's hand to a small garden trowel 27, and the user's hand grasping a grip D extending from handle A.

23. Elliott discloses that its handle "is versatile in that a wide variety of tools or implements may be positioned on one end of [the] elongated frame for receiving leveraged forces" (Elliott, col. 1, ll. 57-60).

ANALYSIS

We agree with the Examiner that one of ordinary skill, being a person of ordinary creativity and common sense, *see KSR Int' l Co. v. Teleflex Inc.*, 127 S. Ct. at 1742-43, advised by Elliott of the advantages of having a hand tool capable of attachment to a variety of differently configured implements (FF 23), would have reasoned that it would be desirable to make the blade on Calef's knife replaceable. We note that Elliott discloses switching its handle between different garden or household implements, rather than explicitly using a corn-cutting blade like Calef's corn-cutting knife.

However, as noted above, the obviousness analysis is not limited to the explicit teaches in the cited prior art, but instead "can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR* 127 S. Ct. at 1741. In the instant case, we agree with the

Examiner that one of ordinary skill in the art, advised by Elliott of the desirability of configuring a hand tool to accept a variety of different implements (FF 23), would have been prompted to make the blade on Calef's device replaceable so as to enhance its versatility.

Therefore, because we agree with the Examiner that one of ordinary skill in the art would have recognized the desirability of making Calef's blade replaceable, we affirm the Examiner's rejection of claim 11.

Appellant states that "claim 20 is grouped with Claims 1-2, 5-6, 13, 16-17, and 19 as argued in section (B)(1) above and stands or falls with those claims" (App. Br. 14). Thus, because Appellant did not argue claim 20 separately from claim 11, claim 20 falls with claim 11. *See* 37 C.F.R. § 41.37(c)(1)(vii).

SUMMARY

We reverse the Examiner's rejection of claim 1 under 35 U.S.C. § 102(b) as anticipated by Ziegler.

We affirm the Examiner's rejection of claims 1, 2, 5-7, 12, 13, 16-19, 21, and 22 under 35 U.S.C. § 102(b) as anticipated by Calef.

We affirm the Examiner's rejection of claims 3 and 14 under 35 U.S.C. § 103(a) as being obvious in view of Calef and Wiese or Pfister.

We affirm the Examiner's rejection of claim 8 under 35 U.S.C. § 103(a) as being obvious in view of Calef and Kloosterman, Asterino, or Matthey.

We affirm the Examiner's rejection of claim 9 under 35 U.S.C. § 103(a) as being obvious in view of Calef and Lundqvist.

We affirm the Examiner's rejection of claim 10 under 35 U.S.C. § 103(a) as being obvious in view of Calef.

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We affirm the Examiner's rejection of claims 11 and 20 under 35 U.S.C. § 103(a) as being obvious in view of Calef and Honsa.

We affirm the Examiner's rejection of claims 11 and 20 under 35 U.S.C. § 103(a) as being obvious in view of Calef and Elliott.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

Ssc:

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