

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ABID GHUMAN,  
JAMES WAYNE LOWE, MARSHA J. ROSSO  
and KIRK E. SANBORN

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Appeal 2008-2642  
Application 10/253,169  
Technology Center 3700

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Decided: October 31, 2008

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Before MURRIEL E. CRAWFORD, LINDA E. HORNER, and  
MICHAEL W. O'NEILL, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Ghuman, et al. (Appellants) seek our review under 35 U.S.C. § 134 of the final rejection of claims 11, 12, 14-18, 20-25, and 27-33. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

## SUMMARY OF DECISION

We AFFRIM.<sup>1</sup>

### THE INVENTION

The claimed invention relates to a method of assembling a plurality of discrete assemblies on a common process line. (Specification ¶ 0014.)

Claim 11, reproduced below, is representative of the subject matter on appeal.

11. A method of assembling an assembly on a common manufacturing process line, the method comprising the steps of:

identifying at least one manufacturing process comprising a set of discrete steps to be performed on a workpiece;

identifying a plurality of standardized task stations, each task station having at least one standardized workpiece presenter that supports the workpiece in a predefined spacial<sup>2</sup> orientation and at least one standardized processing tool for performing a manufacturing operation on the workpiece;

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<sup>1</sup> Our decision will make reference to Appellants' Appeal Brief ("App. Br.," filed May 1, 2007), Reply Brief ("Reply Br.," filed Sep. 20, 2007), and the Examiner's Answer ("Answer," mailed Aug. 9, 2007).

<sup>2</sup> Variation of the word "spatial." *Merriam-Webster's Collegiate Dictionary* 1125 (10th ed. 1993).

defining a manufacturing process line that includes a plurality of templates organized in a defined sequence, each template being defined by:

selecting a subset of the set of discrete steps to be performed at a standardized task station and providing the standardized task station for performing the subset of steps; and

repeating the selecting step for additional subsets of steps until each of the discrete steps is assigned to a corresponding standardized task station chosen from the plurality of standardized task stations; and

presenting a workpiece to be operated on by the plurality of standardized task stations of at least one template to form the assembly;

wherein for each task station at least a portion of the at least one standardized workpiece presenter remains stationary relative to the at least one standardized processing tool when the workpiece is moved within and between each task station.

### THE PRIOR ART

The Examiner relies upon the following as evidence of unpatentability:

Okabe	US 3,763,344	Oct. 02, 1973
deCaussin	US 3,955,267	May 11, 1976
Schafer	US 4,621,516	Nov. 11, 1986
Genov	US 5,007,784	Apr. 16, 1991
Moran	US 5,014,901	May 14, 1991
Alborante	US 5,115,115	May 19, 1992
Sekine	US 5,127,569	Jul. 07, 1992
Babel	US 5,225,650	Jul. 06, 1993
Akeel '739	US 5,239,739	Aug. 31, 1993
Helle	US 5,738,564	Apr. 14, 1998
Bullen	US 6,001,181	Dec. 14, 1999
Sato	US 6,334,252 B1	Jan. 01, 2002

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Akeel '190	US 6,378,190 B2	Apr. 30, 2002
Ozaku	US 6,467,675 B1	Oct. 22, 2002
Wind	US 6,515,251 B1	Feb. 04, 2003
Stiers	US 6,642,473 B2	Nov. 04, 2003
Okamoto	JP 04084694	Mar. 17, 1992

### THE REJECTIONS

The following rejections are before us for review:

Claims 11, 12, 14, 15, 28, and 30 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sekine.

Claims 17, 18, 22-25, 29, and 31-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sekine.

Claims 16 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sekine, Babel, Akeel '190, Okabe, Ozaku, Genov, Helle, Moran, Okamoto, Schafer, Sato, Alborante, Wind, Stiers, Akeel '739, and Bullen.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sekine and Genov.

Claim 21 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sekine, Genov, and deCausin.

### ISSUE

The issue before us is whether the Appellants have shown that the Examiner erred in rejecting:

claims 11, 12, 14, 15, 28, and 30 as being anticipated by Sekine.

claims 17, 18, 22-25, 29, and 31-33 as being unpatentable over Sekine.

claims 16 and 27 as being unpatentable over Sekine, Babel, Akeel '190, Okabe, Ozaku, Genov, Helle, Moran, Okamoto, Schafer, Sato, Alborante, Wind, Stiers, Akeel '739, and Bullen.

claim 20 as being unpatentable over Sekine and Genov.

claim 21 as being unpatentable over Sekine, Genov, and deCaussin.

The issue of showing error in the Examiner's rejections turns on the issue of whether the Appellants have proven that the subject matter described in Sekine does not inherently possess the step of identifying a set of discrete steps to be performed on a workpiece and the step of identifying a plurality of standardized task stations, where each task station has at least a standardized workpiece presenter that supports a workpiece in a predefined spatial orientation and at least one standardized processing tool for performing a manufacturing operation on the workpiece.

#### FINDINGS OF FACT

We find that the following enumerated findings of fact are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. Sekine expressly discloses a plurality of standardized assembly sublines (sublines) within a flexible manufacturing system having the capability of assembling various vehicle bodies and parts therefor. For example, sublines 1-6 in Sekine are used to assemble the left hood

- ridge structure (subline 1), the dash lower structure (subline 2), the radiator core support (subline 3), the right hood ridge structure (subline 4), the front floor structure (subline 5), and the rear floor structure (subline 6). (Sekine, col. 3, l. 67 to col. 4, l. 5.) Each subline is configured differently, e.g., subline 1 is configured for the left hood ridge structure, subline 2 is configured for the dash lower structure, subline 3 is configured for the radiator core support, etc.
2. A subline generally consists of a number of stages such as: type switching stage, a workpiece pickup stage, an assembling stage, and a transferring stage. (Sekine, col. 4, ll. 25-52.) Each subline has at least one work presenter, e.g., carrier 25 (along with the associated workpiece positioning device 26, base board 27, three dimensional moving mechanism 29, workpiece holder 30 (the latter three parts being standard structures for moving workpieces in a manufacturing process)), that supports the workpiece, e.g., left hood structure, radiator core support, front floor structure, etc., in a predefined spatial orientation. (Sekine, col. 5, ll. 20-40.) For instance, as shown in Figure 4, work presenter 25 is holding work piece 42 shown in phantom. As shown in Figure 6, work presenter/carrier 25 is holding right side body structure 74 for presentment to subline 16 (body main structure assembly stage) that spot welds the body structure 74 with a spot-welding robot 45 (a standardized processing tool in manufacturing of car bodies) to the main floor structure 68, left side body structure 73, roof panel structure 69, parcel shelf structure 70, air box structure 71, and rear panel structure 72 in order to assemble a body main structure, i.e., a vehicle closure. (Sekine, col. 10, ll. 47-

57.) Each workpiece presenter is configured to accommodate the different workpieces, e.g., the workpiece presenter shown in Figure 4 is configured to hold the rear floor structure, column 5, lines 31-33, while the workpiece presenter shown in Figure 6 is configured to hold a side body structure, column 10, lines 47-57. Other work presenters would be the looped guideways (another standardized processing tool) A-L that carriers 25 would move along. (Sekine, col. 4, ll. 53-56.) At an assembling stage, for example stage 8, the floor main structure assembling stage, multiple work presenter/carriers 25 will meet. The meeting of the carriers 25 positions the separate vehicle structures so that spot-welding robots can process or discretely step through spot-welding the structures together to form one structure. This newly formed structure is then moved to one of the final welding stages 9. (Sekine, col. 9, ll. 27-49.)

3. Sekine expressly discloses a set of steps the work presenter 25 undertakes on a workpiece e.g., the left hood structure, the radiator core support, the front floor structure, etc. This set of discrete steps is disclosed as:

- (a) moving the carrier together with the work piece positioning device to a type switching stage, the type switching stage being capable of actuating the work piece positioning device by using a power source mounted on the type switching stage, (b) connecting the power source on the type switching stage to the work piece positioning device to change the positions of the work piece holders in accordance with a type of work piece which will be subsequently handled by the positioning device, (c) disconnecting the power source from the positioning device upon completion of the position change of the work piece holders, (d) moving the carrier together with the work piece positioning device to

a work piece pick up stage, (e) picking up at least one selected work piece from a work piece storing rack and putting the selected work piece onto the work piece holders of the positioning device; [sic] and (f) moving the carrier together with the positioning device to the certain assembling stage with the selected work piece kept held by the work piece holders and positioned with respect to the carrier.

(Sekine, col. 2, ll. 10-32.)

4. At some point in time prior to implementation of the process above, Sekine first must necessarily identify this set of steps to be performed on the workpiece and then identifies the sublimes and the equipment, i.e., the work presenters and processing tools, within each subline to perform these steps within the set of sublimes (subassembly lines 1 through 16) that are expressly disclosed within Sekine.
5. There is no difference between the claimed task stations and the work presenters and processing tools of Sekine.

#### PRINCIPLES OF LAW

Claims define the subject matter Appellants regard to be their invention. *In re Moore*, 439 F.2d 1232, 1235 (CCPA 1971). In addition, claims are given the broadest reasonable construction consistent with the specification. *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). The Appellants have the burden to precisely define the invention, not the PTO. *Id.* at 1056. Appellants always have the opportunity to amend the claims during prosecution; a broad interpretation by the Examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969).

Words in claims “are generally given their ordinary and customary meaning” to a person of ordinary skill in the art at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-13 (Fed. Cir. 2005) (en banc) (citing *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)). How a person of ordinary skill in the art understands a claim term “is based on the well-settled understanding that inventors are typically persons skilled in the field of the invention and that patents are addressed to and intended to be read by others of skill in the pertinent art.” *Id.* at 1313. When interpreting a claim, unless the inventor has set forth a definition for a term that term will be given its ordinary and customary meaning as understood by one skilled in the pertinent art. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Anticipation is a question of fact. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997).

It is well settled that in order for the Examiner to establish a prima facie case of anticipation, each and every element of the claimed invention, arranged as required by the claim, must be found in a single prior art reference, either expressly or under the principles of inherency. *See generally, Schreiber*, 128 F.3d at 1477; *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677-78 (Fed. Cir. 1988); *Lindemann Maschinenfabrik*

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*GMBH v. American Hoist and Derrick*, 730 F.2d 1452, 1458 (Fed. Cir. 1984).

When relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. *See Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Patent App. & Int. 1990).

After the PTO establishes a prima facie case of anticipation based on inherency, the burden shifts to the Appellants to prove that the subject matter shown to be in the prior art does not possess the characteristics of the claimed invention. *See In re Thorpe*, 777 F.2d 695, 697 (Fed. Cir. 1985); *In re King*, 801 F.2d 1324, 1327 (Fed. Cir. 1986).

Appellants' attorney's arguments in a brief cannot take the place of evidence. *In re Pearson*, 494 F.2d 1399, 1405 (CCPA 1974). *See also In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984).

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 127 S. Ct. at 1734 (“While the

sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations “might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 17-18.

In rejecting claims under 35 U.S.C. § 103(a), the Examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984). It is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). In addition to these factual determinations, the Examiner needs to articulate an apparent reason to combine the known elements in the fashion claimed. *See KSR*, 127 S. Ct at 1740-41. Once the Examiner has established the prima facie case of obviousness with a set of factual determination and an articulates a reason for combining or modifying known elements in the fashion claimed, Appellants have the burden on appeal to the Board to demonstrate error in the Examiner’s position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (“On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.”) (Quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

## ANALYSIS

The term “standardized” is “readily apparent even to lay judges, and [this] claim construction ... involves little more than the application of widely accepted meaning of commonly understood words.” *Phillips*, 415 F.3d at 1314. As such, the term is understood to mean regularly and widely used, available, or supplied equipment. On the other hand, the terms “subline” and “task station” are terms of art. Accordingly, these terms will be given their ordinary and customary meaning as understood by one skilled in the pertinent art. *Paulsen*, 30 F.3d at 1480. To one of ordinary skill in the art there appears to be no difference between the terms when claiming and disclosing such an invention. (Finding of Fact 5.) Moreover, the Appellants have not argued such a difference exists.

The Appellants argue claims 11, 12, 14, 15, 28, and 30 as a group. We select claim 11 as representative of this group. Claims 12, 14, 15, 28, and 30 will stand or fall with claim 11. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

We can dispose of the Appellants’ allegation that Sekine fails to describe the step of defining a manufacturing process line having a plurality of templates that were designed by first selecting a subset of discrete steps to be performed and then providing standardized task stations for performing those subsets by referring to Finding of Facts 1-3. Sekine provides a plurality of process lines (the sublines 1-16) and each subline follows a repetitive process, a template, selected from a subset of discrete steps. The subset of discrete steps is part of the set of steps for assembling an overall vehicle body. One example of a template would be the assembling of the left hood ridge structure. The subset of discrete steps is the set of steps

needed to assemble left hood ridge structure. The template within subline 1 occurs in four stages. A stage would be understood by one of ordinary skill in the art as a task station because a particular task is performed at each stage. For example, the work piece pick up stage 22 is the location where the task of assembling the parts that will form the left hood ridge structure from parts bins 44 occurs. As shown in Figure 2, a robot 43 places the parts in the proper orientation on work presenter/carrier 25. Another example of a task station is the assembling stage 23. The task for this stage is to spot-weld the parts to form the left hood ridge structure that will become part of the front-end vehicle assembly at the next stage of manufacturing. As such, Sekine describes the step of defining a manufacturing process line having a plurality of templates that were designed by first selecting a subset of discrete steps to be performed and then providing standardized task stations for performing those subsets.

The Examiner has found Sekine discloses a manufacturing process line for vehicle closures constituting a set of discrete steps. (Answer 4 and see also Finding of Fact 3.) The Examiner has found Sekine discloses a plurality of standardized sublimes having at least one work presenter holding a workpiece in a predefined spatial orientation. (Answer 4 and see also Finding of Facts 1 and 2.) The Examiner has found Sekine inherently discloses the steps of identifying a set of discrete steps to be performed on a workpiece and a plurality of standardized task stations as recited within claim 11. (Answer 18.)

As stated *supra*, the Examiner has to provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the

applied prior art. In this case, in response to the Appellants' Brief, the Examiner provided the following technical reasoning:

A method of designing is inherent to the provision of not only a manufacturing process line but any product or apparatus unless it involves steps more substantial than mere identification and provision of components. Methods of designing only fall outside the realm of inherency when they incorporate steps such as calculations or comparisons that lead to a more ideal final product than would be produced by simple identification of parts and selection of steps. Appellant[s] cannot hardly be heard to argue that a manufacturing process line can be manifested without the preliminary steps of identifying a process of steps and subsequently designing a process line of suitable work cells having suitable workpiece presenters and suitable processing tools. Such a method is necessary to the provision of every manufacturing process line created. It would be unreasonable to contend that the state of the art of manufacturing lines involves anything less (*e.g.* [,] *indiscriminately picking and placing tools and work cells without regard to a design or plan*).

(Answer 18-19.) (Emphasis added.)

The Examiner's technical reasoning is in accord with our finding of facts. (See Finding of Fact 4.)

As stated *supra*, after the Examiner establishes a prima facie case of anticipation based on inherency, the burden shifts to the Appellants to prove that the subject matter shown to be in the prior art does not possess the characteristics of the claimed invention. In this case, the Appellants have provided a number of arguments. For instance, the Appellants have argued that the Examiner's reliance on the reference is misplaced because Sekine concerns itself with implementation whereas the Appellants' invention relates to design of a manufacturing process line. (App Br. 9-10.)

Moreover, the Appellants provide their understanding of the case law associated with the doctrine of inherency. (App. Br. 10 and Reply Br. 2.) With this understanding, the Appellants argue Sekine does not inherently disclose identifying the subject matter disclosed in Sekine and argue a manufacturer need not engage in the contended steps to implement the assembly line of Sekine. (App. Br. 10.) Further, the Appellants contend the Examiner has offered no evidence to support the conclusion of inherency and that the Examiner has reached outside of Sekine. (Reply Br. 2.)

As stated *supra*, the Appellants' attorney's arguments cannot take the place of evidence. As noted *supra*, the Appellants have provided only arguments to rebut the Examiner's finding of inherency.

In response to the Appellants' contention that the Examiner has not provided evidence of inherency. The Examiner need only provide a basis in fact and technical reasoning to establish anticipation by inherency. The Examiner's technical reasoning has been given in response to the arguments presented by the Appellants. (See Answer 18 and 19.) As such, the burden shifts to the Appellants to provide evidence. The Appellants have instead provided arguments. Again, arguments cannot take the place of evidence. As such, the Appellants have failed to shift the burden back to the Examiner.

We can dispose of the Appellants' contention both in the Appeal Brief on page 11 and in the Reply Brief on pages 2-3 that the Sekine fails to disclose "standardized" task stations and workpiece presenters by referencing our findings. As we find *supra*, the term "standardized" would be applicable to a piece of equipment that is used regularly or widely in the vehicle manufacturing industry. In this case, Sekine discloses spot-welding

robots 45 (Finding of Fact 2). The Appellants have not provided any evidence that the spot-welding robots 45, components that move the carriers 25, or the sublimes are not standard pieces of equipment or stations in a manufacturing assembly line for vehicle bodies. Moreover, the law of anticipation does not require that the prior art reference teach the Appellants' purpose disclosed in the specification, but only that the claims on appeal "read on" something disclosed in the prior art reference. *See Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772 (Fed. Cir. 1983). In this case, the claimed subject matter of the standardized processing tool for performing a manufacturing operation on a workpiece is satisfied by the disclosure of the spot-welding robots 45 that perform the standard tasks of discretely placing spot welds to weld the workpieces together. Likewise, the claimed subject matter of the standardized workpiece presenter is satisfied by the disclosure of the components that move the carriers 25, which in turn, move the workpieces around to the different cells or task stations within the sublimes. Additionally, the claimed subject matter of the standardized task station where the discrete steps of spot welding is performed is at least satisfied by the disclosure of the locations where multiple structures come together that have been carried by carriers 25 and are spot-welded together by spot-welding robots 45 to make one structure that is moved to the next task station.

In view of the foregoing reasons, we will sustain the Examiner's rejection of claims 11, 12, 14, 15, 28, and 30 as being anticipated by Sekine.

Appellants argue claims 17, 18, 22-25, 29, 31, and 33 as a group and argue claim 32 separately against the § 103 rejection of these claims with Sekine. For the group, we select claim 17 as representative. As such, claims

18, 22-25, 29, 31, and 33 will stand or fall with claim 17. We will address claim 32 separately, below.

The Appellants first rely on their arguments with respect to Sekine failing to disclose the “identifying” steps because the “identifying” steps in claim 17 are similar to the “identifying” steps in claim 11. (App. Br. 11-12.) For the same reasons given *supra* with respect to claim 11, we concluded that the Appellants have not shifted the burden back to the Examiner for the finding that Sekine inherently discloses the step of “identifying” a set of discrete steps to be performed on a workpiece and the step of “identifying” a plurality of standardized task stations as these steps are claimed.

Next, the Appellants argue there is no teaching, suggestion, or motivation to modify Sekine so that each member of the task station has a different type of standardized workpiece presenter. (App. Br. 13.) It is not necessary for the Examiner to base a modification on a motivation, teaching, or suggestion within the references themselves, nature of the problem to be solved, or within the general knowledge base of those skilled in the art. What is required of the Examiner is to articulate a reason with rational underpinning. In this case, the Examiner has done so, namely, “Sekine teaches detachable workpiece holders **27** on each workpiece carrier (Col. 2, lines 5-8; Col. 5[,] lines 21-24 & 36-39; Col. 11[,] lines 44-46). This teaches that it is well known to use different types of adapters for holding different types of workpieces as necessary.” (Answer 7.) In our view, the Examiner’s reasoning is rational and permits the Examiner to conclude that one of ordinary skill in the art would have been led to incorporate different types of workpiece presenters for each work cell for the desirability to arrange a manufacturing process cell (Answer 8). As such, the Appellants

have not persuaded us that the Examiner erred in concluding that one of ordinary skill in the art could make this modification to Sekine.

The Appellants then rely on their arguments presented earlier for claim 11 with respect to how Sekine fails to describe “standardized” workpiece presenters or task stations. (App. Br. 14.) Given that we find those arguments unpersuasive as to error in the rejection of claim 11, we reach the same conclusion with regard to the arguments as they apply to the rejection of claim 17; that is, we find them unpersuasive as to error in the rejection.

For the foregoing reasons, we will sustain the Examiner rejection of claims 17, 18, 22-25, 29, 31, and 33 as being unpatentable over Sekine.

For claim 32, the Appellants rely on their previous argument for both “identifying” and “standardized” claimed subject matter. (App. Br. 14.) Again, given that we find those arguments unpersuasive as to error in the rejection of claims 11 and 17, we reach the same conclusion with regard to the arguments as they apply to the rejection of claim 32; that is, we find them unpersuasive as to error in the rejection. Accordingly, we will sustain the Examiner’s rejection of claim 32.

For claims 16 and 27, the Appellants rely on their previous argument for both “identifying” and “standardized” claimed subject matter. (App. Br. 15.) Again, given that we find those arguments unpersuasive as to error in the rejection of claims 11 and 17, we reach the same conclusion with regard to the arguments as they apply to the rejection of claims 16 and 27; that is, we find them unpersuasive as to error in the rejection. In addition, the Appellants argue that none of the other fifteen references cures the

deficiency in Sekine. (App. Br. 15.) Given that we find no deficiency in Sekine to reach the claim subject matter, we are not persuaded by the Appellants' argument that none of the other fifteen references cures the deficiency of Sekine. Accordingly, we will sustain the Examiner's rejection of claims 16 and 27.

For claim 20, the Appellants rely on their previous argument for both "identifying" and "standardized" claimed subject matter. (App. Br. 15-16.) Again, given that we find those arguments unpersuasive as to error in the rejection of claim 17, we reach the same conclusion with regard to the arguments as they apply to the rejection of claim 20; that is, we find them unpersuasive as to error in the rejection. In addition, the Appellants argue that Genov does not cure argued absences within Sekine. (App. Br. 16.) Given that we find no deficiency in Sekine to reach the claimed subject matter, we are not persuaded by the Appellants' argument that Genov does not cure the argued absences within Sekine. Accordingly, we will sustain the Examiner's rejection of claim 20.

For claim 21, the Appellants rely on their previous argument for both "identifying" and "standardized" claimed subject matter. (App. Br. 16.) Again, given that we find those arguments unpersuasive as to error in the rejection of claim 17, we reach the same conclusion with regard to the arguments as they apply to the rejection of claim 21; that is, we find them unpersuasive as to error in the rejection. In addition, the Appellants argue that neither Genov nor deCaussin provides the missing claimed subject matter argued previously. Given that we find no deficiency in Sekine to reach the claimed subject matter, we are not persuaded by the Appellants' arguments that neither Genov nor deCaussin provides the missing claimed

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subject matter argued previously. Accordingly, we will sustain the Examiner's rejection of claim 21.

### CONCLUSIONS

We conclude that the Appellants have not shown that the Examiner erred in rejecting:

claims 11, 12, 14, 15, 28, and 30 as being anticipated by Sekine.

claims 17, 18, 22-25, 29, and 31-33 as being unpatentable over Sekine.

claims 16 and 27 as being unpatentable over Sekine, Babel, Akeel '190, Okabe, Ozaku, Genov, Helle, Moran, Okamoto, Schafer, Sato, Alborante, Wind, Stiers, Akeel '739, and Bullen.

claim 20 as being unpatentable over Sekine and Genov.

claim 21 as being unpatentable over Sekine, Genov, and deCausin.

### DECISION

The decision of the Examiner to reject claims 11, 12, 14-18, 20-25, and 27-33 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

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hh

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