

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YOSHIYUKI HATTORI

Appeal No. 96-0922
Application 08/251,306¹

HEARD: December 10, 1998

Before CALVERT, COHEN and STAAB, Administrative Patent Judges.

¹ Application for patent filed May 31, 1994. According to appellant, the application is a division of Application 07/840,309, filed February 24, 1992, which is now U.S. Patent No. 5,372,082, issued December 13, 1994.

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COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 17 and 18. These claims constitute all of the claims remaining in the application.

Appellant's invention pertains to a watercraft. An understanding of the invention can be derived from a reading of exemplary claims 17 and 18, copies of which appear in the APPENDIX to the brief (Paper No. 16).

As evidence of anticipation, the examiner has applied the documents listed below:

Hegg et al. (Hegg)	4,548,155	Oct. 22, 1985
Crone 1990	4,896,744	Jan. 30,

The following rejections are before us for review.²

² A final rejection of claim 17 under 35 U.S.C. § 112, first paragraph, was overcome as indicated by the examiner on page 1 of the answer (Paper No. 13).

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Claim 17 stands rejected under 35 U.S.C. §102(b) as being anticipated by Hegg.

Claim 18 stands rejected under 35 U.S.C. § 102 (b) as being anticipated by Crone.

The full text of the examiner's rejections and response to the argument presented by appellant appears in the answer (Paper No. 13), while the complete statement of appellant's argument can be found in the brief (Paper No. 16).³

OPINION

In reaching our conclusion on the anticipation issues raised in this appeal, this panel of the board has carefully considered appellant's specification and claims 17 and 18, the applied patents, and the respective viewpoints of

³ The brief (Paper No. 16) was submitted subsequent to the filing of an earlier appeal brief (Paper No. 12), pursuant to an order for compliance (Paper No. 15). Appellant chose to submit the new brief (Paper No. 16), rather than a supplement to the earlier brief.

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appellant and the examiner. As a consequence of our review,
we make the determinations which follow.

The rejection of claim 17

We affirm the examiner's rejection of claim 17 under
35 U.S.C. § 102(b).

Anticipation under 35 U.S.C. § 102(b) is established
only when a single prior art reference discloses, either
expressly or under principles of inherency, each and every
element of a claimed invention. See In re Schreiber, 128 F.3d
1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997), In re
Paulsen, 30 F.3d 1475, 1478-1479, 31 USPQ2d 1671, 1675 (Fed.
Cir. 1994), In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655,
1657 (Fed. Cir. 1990), and RCA Corp. v. Applied Digital Data
Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.
1984). However, the law of anticipation does not require that
the reference teach specif- ically what an appellant has

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disclosed and is claiming but only that the claims on appeal "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference. See Kalman v. Kimberly Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983); cert. denied, 465 U.S. 1026 (1984).

A consideration of the subject matter of claim 17 relative to the Hegg patent reveals to us that the claimed small watercraft reads on, and is therefore anticipated by, the reference document.

Contrary to the attorney's argument on page 4 of the brief (Paper No. 16) that a rider's hand could not "easily be accommodated" by the seat back of Hegg, we are in accord with the view of the examiner (answer, pages 3 and 4) that the back rest

(seat back) disclosed by Hegg is clearly capable of being grasped (acting as a handle), easily or otherwise. No evidence is before us to the effect that the back rest (seat back) of Hegg (Figures 2 and 3) is incapable of being grasped (acting as a handle) by a swimmer (rider) entering the swim platform 18 from the rear of the boat 10.

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The rejection of claim 18

We reverse the examiner's rejection of claim 18 under 35 U.S.C. § 102 (b).

Claim 18, drawn to a watercraft, requires, inter alia, a hull defining a rider's area, the rider's area being comprised of "a floor having a transversely extending recess," and boarding means for facilitating the entry of a rider into the rider's area from outside of the hull, the boarding means being configured to nest at least in part in the recess when in a storage position within the rider's area. Consistent with the underlying specification (pages 6 and 16), we understand the claimed recitation of a floor having a transversely extending recess to denote, inter

alia, that the floor is transversely recessed to form the transversely extending recess.

The patent to Crone is concerned with boat ladders for use on pontoon boats, party barges, or the like. The

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patentee makes it clear that the component parts, i.e., carrier 30, support assembly 20, and ladder 10 are positioned beneath the undersurface 34 of the deck 36 of a boat 38 (Figure 4).

As we see it, the open space beneath the undersurface of the deck 36 of Crone cannot fairly be considered to be a "recess" in the deck (floor), as the term recess of claim 18 is understood in light of the underlying disclosure. Since a "floor having a transversely extending recess" is not present in the Crone teaching, the subject matter of claim 18 is not anticipated thereby.

In summary, this panel of the board has:

affirmed the rejection of claim 17 under 35 U.S.C. § 102(b) as being anticipated by Hegg, and

reversed the rejection of claim 18 under 35 U.S.C. § 102(b) as being anticipated by Crone.

The decision of the examiner is affirmed-in-part.

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

AFFIRMED-IN-PART

	IAN A. CALVERT)	
	Administrative Patent Judge)	
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PATENT)	BOARD OF
	IRWIN CHARLES COHEN)	APPEALS AND
	Administrative Patent Judge)	INTERFER-
ENCES)	
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	LAWRENCE J. STAAB)	
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