

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENT L. EARLE
and GREG L. LAURIANO

Appeal No. 98-1354
Application 08/218,507

ON BRIEF

Before CALVERT, COHEN and STAAB, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the refusal of the examiner to allow claims 22 through 26 and 28, as amended subsequent to the final rejection. Claim 27 stands objected to but otherwise is considered to be allowable by the examiner. Claims 29 through 33, all of the other claims remaining in the

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application, stand allowed.

Appellants' invention pertains to a portable cutter for cutting conduit. An understanding of the invention can be derived from a reading of exemplary claim 22, a copy of which appears in the APPENDIX to the revised brief on appeal (Paper No. 16).

As evidence of obviousness, the examiner has applied the document specified below:

Hanaway	3,449,992	Jun. 17, 1969
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The following rejection is before us for review.

Claims 22 through 26 and 28 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hanaway.

The full text of the examiner's rejection and response to the argument presented by appellants appears in the answer (Paper No. 19), while the complete statement of appellants'

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argument can be found in the revised appeal brief (Paper No. 16). We also note appellants' grouping of claims in the brief (page 9).

OPINION

In reaching our conclusion on the obviousness issue raised in this appeal, this panel of the board has carefully considered appellants' specification and claims, the applied patent,¹ and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determination which follows.

We reverse the examiner's rejection of appellants' claims under 35 U.S.C. § 103.

At the outset, we note that independent claim 22 is drawn to a portable cutter for cutting conduit comprising, in combination, inter alia, a housing , a carriage slidably

¹ In our evaluation of the applied patent, we have considered all of the disclosure thereof for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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mounted on the

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housing, a saw blade rotatably supported on the carriage, a motor mounted on the carriage for rotating the saw blade, a battery supported by the housing for supplying power to the motor, gripping members carried on the housing and movable between an open position and a closed position for firming gripping an object to be cut, means for actuating the gripping members to closed positions where they firmly grip the object to be cut, and a manually operable actuator carried by the housing and operatively connected with the carriage for moving the carriage from a retracted inoperative position to a advanced operative position.

We turn now to the evidence of obviousness.

The patent to Hanaway teaches a manually-held power-driven pipe cutter (Figure 1) which is indicated to be readily portable (column 2, lines 5,6). A secondary frame 19, slidably mounted on a main frame 11, is moved by rotation of a clamping screw 34 threadedly received in the main frame. A drive motor 57, slidably received in the main frame and the secondary frame, includes an

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adjustable chuck clamped onto the input shaft 51 of a right angle drive slide 44 (column 3, lines 11 through 18). The output shaft 52 of the slide 44 receives a circular cutter 53 for cutting a tube held between notches 28 and 33 on the main and secondary frames, respectively.

Unlike appellants (brief, page 11), we are of the view that one having ordinary skill in the art would have understood the pipe cutter of Hanaway as being operable and not merely a concept. Clearly, those versed in the art would have fairly understood the right angle drive slide as being any known device for converting a rotary input into a right angle rotary output.

We note that appellants acknowledge the use of batteries to drive motors as well known, but question where such a battery could be placed on the pipe cutter of Hanaway (brief, page 11). We have no doubt, however, but that those having ordinary skill in this art would have been quite capable of mounting a battery to the main frame of Hanaway to supply power to the drive motor,

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as broadly claimed. We note that the examiner took official notice in the final rejection that battery operated tools are old and well known (page 5 of Paper No.6).

It is also appellants' view that there is no carriage at all in the Hanaway document for carrying a motor and cutter (brief, pages 11 and 12). We disagree. The secondary frame 19 can appropriately be viewed as a carriage since it supports the drive motor at cylinder bore 59 and the cutter at grooves 48, 49.

We are not, however, in accord with the examiner's assessment (answer, page 4) that the cylinder 57 (or frame 11) reads on the claimed carriage. The cylinder 57 is the cylindrical housing 57 of the drive motor. If this drive motor housing 57 were considered to be a carriage, as per the examiner's view, then the drive motor, also claimed, would have to be inappropriately read on the same component. The examiner also refers to the frame 11, i.e., the main frame, as the carriage. However, the main frame is taught as a stationary component, while appellants' claimed

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carriage is slidably mounted for slidable movement. Thus, each of the components referenced by the examiner cannot fairly be considered to be a carriage.

Claim 22 requires gripping members carried on the housing and movable between an open position and a closed position for firmly gripping an object to be cut. In our opinion, the Hanaway patent would not have been suggestive of the movable gripping members as now claimed. More specifically, Hanaway discloses, at best, a single, fixed, gripping member on the main frame (housing) 11 comprising a horizontally extending recess with face plates to define a generally V-shaped notch 28. It follows that Hanaway would also have not been suggestive of the "means for actuating said gripping members to closed positions where they firmly grip said object to be cut", a 35 U.S.C. § 112, sixth paragraph, means recitation. The specification (page 13) describes the structure for effecting movement of the gripper members (upper jaws 94, 96) to firmly grip a conduit.

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The pipe cutter of Hanaway does include a clamping screw 34 (manually operable actuator) carried by the main frame (housing) and operatively connected with the secondary frame (carriage) for moving the carriage, as claimed. However, Hanaway does not provide a suggestion for the movement of the secondary frame (carriage) by the manually operable actuator to an advanced position where the saw is moved into cutting engagement with an object held by movable gripping members, as set forth in claim 22.

For the reasons given above, we have determined that the portable cutter of claim 22 would not have been obvious based upon the evidence of obviousness before us.

In summary, this panel of the board has reversed the rejection of claims 22 through 26 and 28 under 35 U.S.C. § 103 as being unpatentable over Hanaway.

The decision of the examiner is reversed.

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REVERSED

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

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APPENDIX

22. A portable cutter for cutting conduit comprising, in combination, a housing, a carriage slidably mounted on said housing for sliding movement relative thereto, a saw blade rotatably supported on said carriage, a motor mounted on said carriage and operatively connected to said saw blade for rotating said saw blade, a battery supported by said housing and connected to said motor for supplying power to said motor, gripping members carried on said housing and movable between an open position and a closed position for firmly gripping an object to be cut, means for actuating said gripping members to closed positions where they firmly grip said object to be cut, and a manually operable actuator carried by said housing and operatively connected with said carriage for moving said carriage from a retracted inoperative position to an advanced operative position where said saw blade is moved into cutting engagement with an object held by said gripping members.