

The opinion in support of the decision being entered
today is not binding precedent of the Board

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Paper No. 81

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

FRED D. MOORE, JR., ROBERT L. CONNEEN,
and CHARLES M. KRUGER, JR.,

Junior Party,
(Patent 6,024,175),

v.

GORAN SUNDHOLM,

Senior Party,
(Application 09/367,972).

Patent Interference No. 104,678

Before LEE, SPIEGEL, and MEDLEY, Administrative Patent Judges.
MEDLEY, Administrative Patent Judge.

**DECISION ON JOINT RULE 633(b) PRELIMINARY MOTION
FOR NO INTERFERENCE-IN-FACT AND JUDGMENT**

A. Introduction

This interference was declared on 27 April 2001. Oral argument regarding the parties preliminary motions was held on April 4, 2002. During oral argument, counsel for the respective parties agreed that, absent Sundholm claim 12, there is no interference-in-fact between Sundholm's remaining claims 6, 10,

13, 14, and 17-24 and any one of Moore's involved claims 1-10.

Sundholm was authorized to cancel its claim 12 and Moore and Sundholm were authorized to file a joint preliminary motion for no interference-in-fact (Paper 77). Sundholm's unopposed miscellaneous motion to cancel its claim 12 was granted (Paper 79). On 6 May 2002, Moore and Sundholm filed a paper for no interference-in-fact between the remaining Sundholm claims 6, 10, 13, 14 and 17-24 and all of Moore's claims 1-10 (Paper 80). A decision on the joint preliminary motion for no interference-in-fact is now before us.

B. Findings of fact

The record supports the following findings, and any additional findings made throughout the opinion, by at least a preponderance of the evidence.

1. Moore is involved on the basis of patent 6,024,175, granted 15 February 2000, based on application 09/062,242, filed 17 April 1998.

2. Sundholm is involved on the basis of application 09/367,972, filed 7 September 1999.

3. Sundholm has been accorded benefit for the purpose of priority of application PCT/FI99/00007, filed 7 January 1999.

4. Sundholm has been accorded benefit for the purpose of priority of Finnish application 980034, filed 9 January 1998.

5. Sundholm real party in interest is Goran Sundholm

(Paper 12).

6. Moore real party in interest is Fred. D. Moore, Jr., Robert L. Conneen and Charles M. Kruger, Jr. (Paper 6).

7. Count 1, the sole count, is Claim 5 of Moore.

8. Moore claim 5 is as follows:

A sprinkler head adapter for use in a fire protection sprinkler system, comprising:

a housing, said housing being adapted to receive in a first opening a sprinkler head and being adapted to connect to a fire protection sprinkler system via a second opening;

a valve within said housing between said first and second openings;

said valve being maintained in an open condition enabling fluid flow from said fire protection sprinkler system via said second opening to said first opening when said sprinkler head is received within said first opening and said valve being closed when said sprinkler head is removed from said first opening;

wherein said valve comprises a valve sealing member connected to a sprinkler head sensing member, a biasing member for biasing said valve sealing member to a closed position and said sprinkler head sensing member holding said valve sealing member in said open condition when said sprinkler head is sensed by said sprinkler head sensing member to be received in said first opening; and

wherein said first opening for receiving said sprinkler head is internally threaded.

10. The following claims were originally designated as corresponding to count 1:

Moore: 1-10

Sundholm: 6, 10, 12-14¹ and 17-24

11. The claims of the parties which do not correspond to either Count 1 are:

Moore: none

Sundholm: 1-5, 7-9, 11, 15, 16 and 25-32

12. The count is directed to a sprinkler head adapter for receiving a sprinkler head.

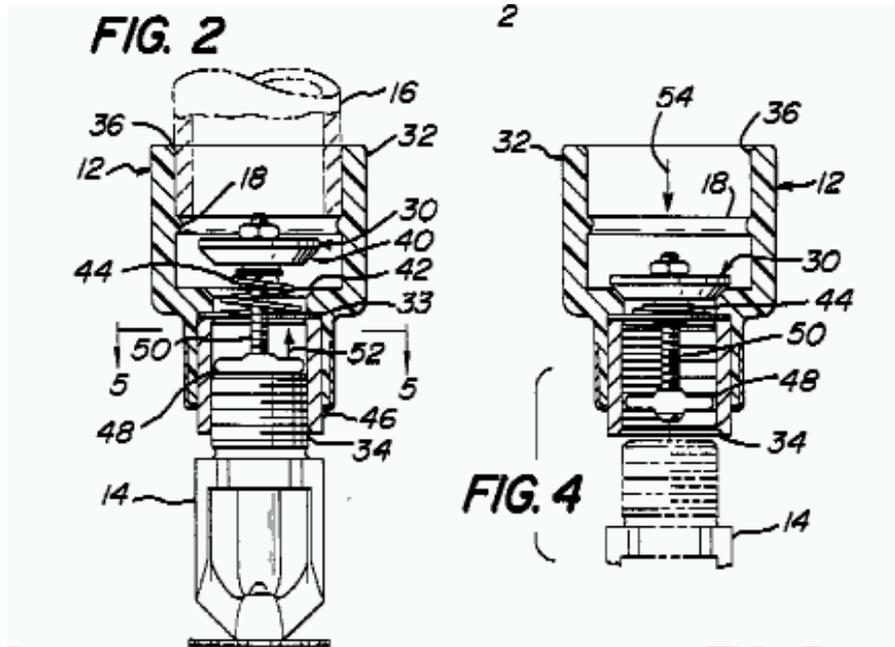
13. When the sprinkler head is not inserted in the adapter, a valve prevents fluid from flowing.

14. When the sprinkler head is inserted in the adapter the valve is opened to allow fluid flow.

15. The valve thus allows the replacement of a sprinkler head without having to shut off the fluid flow.

¹ Sundholm's miscellaneous motion to cancel its claim 12 was granted (Paper 79).

16. The following are Fig. 2 and Fig. 4 from Moore.



17. Fig. 2 shows the "open" position of valve 30 when the sprinkler head 14 is inserted into opening 34.

18. Fig. 4 shows the "closed" position of valve 30 when the sprinkler head 14 is not inserted into the adapter.

19. Valve 30 comprises a valve sealing member 40 connected to a sprinkler head sensing member 48.

20. Biasing member 44 biases the valve sealing member 40 to a closed position.

21. The sealing member 40 is in the open position when the sprinkler head 14 is sensed by the sensing member 48.

22. All of Moore's independent claims recite a valve comprising a valve sealing member connected to a sprinkler head

sensing member and a biasing member for biasing the valve sealing member to a closed position, where the sprinkler head sensing member holds the valve sealing member in the open condition when the sprinkler head is sensed by the sprinkler head sensing member (Moore Ex. 2009, claims 1 and 4-10).

23. No one of Sundholm's claims 6, 10, 13, 14 and 17-24 recite, in combination, a valve sealing member connected to a sprinkler head sensing member and a biasing member for biasing the valve to a closed position (Moore Ex. 2004 and Moore Ex. 2017).

C. Discussion

Moore and Sundholm jointly move under 37 CFR § 1.633(b) for no interference-in-fact between any one of Moore's claims 1-10 and any one of Sundholm's claims 6, 10, 13, 14 and 17-24. As stated in the 4 April 2002 order (Paper 77), the parties need demonstrate that (1) no one claim of Sundholm anticipates or renders obvious a claim of Moore or (2) no one claim of Moore anticipates or renders obvious a claim of Sundholm.

Moore and Sundholm seek to demonstrate that no one claim or Sundholm anticipates or renders obvious a claim of Moore (Paper 80 at 9). The joint preliminary motion sets forth the differences between Sundholm's claims and Moore's claims and sufficiently demonstrates that no one of Sundholm's claims anticipates any one of Moore's claims.

The joint preliminary motion also sets forth and discusses the differences between the Moore and Sundholm claims and the prior art known by the parties, and presents a sufficient analysis of why no one claim of Sundholm's in view of the cited prior art, would render obvious any one of Moore's claims.

The joint preliminary motion is granted. Since there is no interference-in-fact between any one of Moore's claims and any one of Sundholm's remaining claims, all other preliminary motions filed during the interference are dismissed.

Upon consideration of the record, it is

ORDERED that the "JOINT RULE 633(b) PRELIMINARY MOTION (for judgment of no interference-in-fact)" is granted;

FURTHER ORDERED that Moore preliminary motions 1-6 and Sundholm preliminary motions 1-4 are dismissed;

FURTHER ORDERED that Moore claim 12 be cancelled²;

FURTHER ORDERED that in view of the three-judge merits panel decision that there is no interference-in-fact, final judgment is entered that there is no interference-in-fact between (1) Moore claims 1-10 and (2) Sundholm claims 6, 10, 13, 14 and 17-24;

FURTHER ORDERED that the subject matter of Moore claims 1-10 is no impediment under the law to the issuance of a patent to Sundholm;

² The examiner shall enter the amendment filed by Moore, cancelling Moore claim 12.

FURTHER ORDERED that the subject matter of Sundholm claims 6, 10, 13, 14 and 17-24 is no basis for cancellation of any of Moore claims 1-10;

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 09/367,972 and U.S. Patent 6,024,175; and

FURTHER ORDERED that the files of application 09/367,972 and U.S. Patent 6,024,175 be returned to the examiner for further action consistent with this opinion.

_____)	
JAMESON LEE)	
Administrative Patent Judge)	
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_____)	BOARD OF PATENT
CAROL A. SPIEGEL)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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