

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(2) is not binding precedent of the Board.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 HORST KNOCH, NORBERT NIESEMEYER
and WILFRIED REISSENWEBER

Appeal No. 95-0072
Application 07/922,796¹

HEARD: March 7, 1997

Before STONER, *Chief Administrative Patent Judge*, and CALVERT and
CRAWFORD, *Administrative Patent Judges*.

STONER, *Chief Administrative Patent Judge*.

DECISION ON APPEAL

Horst Knoch, Norbert Niesemeyer and Wilfried
Reissenweber ("appellants") appeal from the final rejection of

¹ Application for patent filed July 31, 1992.

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claims 1 through 5, 7, 8 and 10 through 19, all of the claims now pending in this application. We reverse.

Claim 1, the sole independent claim before us, defines the claimed invention as follows:

1. In an apparatus for filling the interspaces between leads and a sheath of an optical and/or electrical cable with a filling compound, said apparatus including a filling head that has a pre-filling chamber and a main filling chamber, the improvements comprising the pre-filling chamber having a common admission channel for receiving a plurality of leads, which are loosely bundled together to form a bundle having a bundle diameter, said common admission channel having a diameter of the through-opening thereof slightly larger than said bundle diameter, said admission channel being followed by the pre-filling chamber into which said bundle of loosely bundled leads enters, said apparatus including a coating nozzle having a diminished cross section positioned to receive the bundle leaving the pre-filling chamber and discharging the bundle into the main filling chamber, a bypass interconnecting the pre-filling chamber and the main filling chamber, said pre-filling chamber having openings for said admission channel, said coating nozzle and said bypass and being otherwise closed and pressurizable, the main chamber being connected to a reservoir containing the filling compound and pump means for maintaining said filling compound pressurized in said main chamber and in said pre-filling chamber.

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The references relied upon by the examiner are:

Ollis	4,033,800	July 5, 1977
Allan et al (Published UK application)	2 085 324	April 28, 1982

Claims 1 through 5, 7, 8, and 13 through 19 stand rejected under 35 U.S.C. § 103 as unpatentable over Ollis.

The examiner characterizes the teachings of Ollis in the following manner:

The Ollis patent discloses an apparatus for applying a filling compound or shielding composition to electrical cables wherein a composition, 12, (col. 1, line 66) is introduced into a main filling chamber, 26, and a bypass or branch opening, 30, carries composition from main filling chamber to pre-filling chamber, 22, (col. 2, lines 51-58). The pre-filling chamber is provided with a common admission channel having a diameter only slightly greater than that of the bundle of cables, as illustrated in Figure 2. The cylindrical passage connecting the pre-filling chamber to the main filling chamber functions as does Appellants' coating nozzle, and cylinder opening, 24, (col. 2, line 48) calibrates the diameter of the coated bundle exiting the main filling chamber [answer, p. 3].

In the examiner's view, Ollis discloses an apparatus corresponding to that claimed by the appellants except that Ollis utilizes "a single channel or opening, 22, which functions both to receive loose strands and to 'pre-fill' voids between the strands, as opposed to Appellants' separate admission and pre-filling channels" (answer, pages 3-4). On the basis of this

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assessment, the examiner concludes, "[I]t would have been obvious . . . to provide separate admission and pre-filling channels, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179 [(Bd. Pat. Int. 1969)]" (answer, p. 4). The examiner additionally observes,

[T]he entry **22** taught by Ollis performs the dual function of (1) receiving loose strands and (2) receiving filling compound from a bypass channel **30**. Accordingly, it would have been obvious to one having ordinary skill in the art to have separated the entry **22** taught by Ollis into (1) a funnel-shaped entry for receiving loose strands, and (2) a pre-filling chamber for receiving filling compound from bypass channel **30** [answer, p. 6].

Claims 10, 11, and 12 stand rejected under 35 U.S.C. § 103 as unpatentable over Ollis in view of Allan. Rather than reiterate the examiner's statement of this rejection, we direct attention to pages 4-5 of the answer.

We shall not sustain these rejections. As the appellants have correctly argued (brief, pp. 8-9), Ollis simply teaches a funnel-shaped, i.e., conical, entrance 22 to a cylinder opening or bore 24. The funnel-shaped opening of Ollis neither corresponds to nor renders obvious, within the meaning of § 103, the admission channel and pre-filling chamber structure recited in detail in claim 1, from which all of the other claims on

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appeal depend. For that reason, all of the examiner's rejections fail.

The examiner's arguments notwithstanding, we do not believe that the worker having ordinary skill in this art would find in Ollis any teaching or suggestion of a "pre-filling chamber having a common admission channel for receiving a plurality of leads, which are loosely bundled together to form a bundle having a bundle diameter, said common admission channel having a diameter of the through-opening thereof slightly larger than said bundle diameter," with the "pre-filling chamber having openings for said admission channel, said coating nozzle and said bypass and being otherwise closed and pressurizable," all as recited in claim 1. Unlike the structure disclosed and claimed by the appellants, Ollis' conical opening is not a "chamber"² within the customary meaning of that term, i.e., "a compartment or enclosed space" or "cavity". Nor is it reasonable to construe the upstream end of that conical opening as a channel having a diameter slightly larger than a bundle of loosely bundled leads. Indeed, the leads entering the upstream end are illustrated as

² Jess Stein (Editor), *The Random House College Dictionary*, 223 (Revised Ed., New York, Random House, Inc., 1982); Margery S. Berube (Editor), *The American Heritage Dictionary*, 257 (2d College Ed., Boston, MA, Houghton Mifflin Company, 1982).

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being separated from one another, with any bundling of the leads occurring as a result of further travel along the narrowing funnel shaped entry to the cylinder 24.

We have reviewed the teachings of Allan, relied upon in connection with the rejection of dependent claims 10, 11 and 12, but find nothing in that reference which makes up for that which is missing from Ollis.

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The decision of the examiner is reversed.

REVERSED

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BRUCE H. STONER, JR., Chief)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
IAN A. CALVERT)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
MURRIEL E. CRAWFORD)	
Administrative Patent Judge)	

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