

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MASARU AKIBA, MASAYUKI NAKAGAWA, TOMOYOSHI TSURUFUJI,
SHUNJI SUNAGA, and KOICHI ITO

Appeal No. 2000-0530
Application No. 08/811,192

HEARD: NOVEMBER 28, 2000

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

DECISION ON APPEAL

This is an appeal from the final rejection of claims 27, 28, and 35 through 46. These claims constitute all of the claims remaining in the application.

Appellants' invention pertains to a fishing rod and to an inter-line fishing rod. A basic understanding of the invention can be derived from a reading of exemplary claims 27

Appeal No. 2000-0530
Application No. 08/811,192

and 36, copies of which appear in the APPENDIX to the main brief (Paper No. 19).

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

Vance 1980	4,209,931	Jul. 1,
Carabasse 21, 1970 (Great Britain)	1,209,513	Oct.
Trifonov 1992 (Soviet Union) (SU '045) ¹	1,717,045	Mar. 7,

The following rejections are before us for review.

Claims 27-28, and 35-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vance in view of SU '045.

Claims 45-46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vance, as applied to claims 27 and 36 above, further in view of Carabasse.

¹ Our understanding of this document is derived from a reading of a translation thereof prepared in the United States Patent and Trademark Office. A copy of the translation is appended to this opinion.

Appeal No. 2000-0530
Application No. 08/811,192

The full text of the examiner's rejections and response to the argument presented by appellants appears in the final rejection and answer (Paper Nos. 14 and 20), while the complete statement of appellants' argument can be found in the main and reply briefs (Paper Nos. 19 and 22).

OPINION

In reaching our conclusion on the obviousness issues raised in this appeal, this panel of the board has carefully considered appellants' specification and claims, the applied teachings,² and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determinations which follow.

² In our evaluation of the applied prior art, we have considered all of the disclosure of each document 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).

Appeal No. 2000-0530
Application No. 08/811,192

The rejection of claims 27-28 and 35-44

We reverse the examiner's rejection of claims 27-28, and 35-44 under 35 U.S.C. § 103 based upon the combined teachings of Vance and SU '045. Our reasoning follows.

Independent claim 27 is drawn to a fishing rod in which a fishline is at least partially passed through a rod pipe, with the rod pipe comprising, inter alia, a rod pipe main body layer having an inner peripheral surface, a thin layer comprising a water-repellant material disposed on the inner peripheral surface, and a wear resistant annular fishline guide member fixed to the thin layer and having a substantial portion extending radially inwardly beyond the water-repellant surface, wherein said main body layer, said thin layer, and said guide member are integrally thermoformed. Independent claim 28 addresses a fishing rod in which a fishline is at least partially passed through a rod pipe comprising, inter alia, a rod pipe main body layer having an inner peripheral surface, a thin layer comprising a water-repellant material on the inner peripheral surface, and a high strength wear resistant member fixed to the thin layer at a radial innermost

Appeal No. 2000-0530
Application No. 08/811,192

portion of the thin layer, wherein said main body layer, said thin layer, and said high strength wear resistant member are integrally thermoformed. Independent claim 36 sets forth an inter-line fishing rod comprising, inter alia, a rod pipe main body layer defining an inner peripheral surface, a thin layer comprising a water-repellant material disposed on the inner peripheral surface, and at least one fishline guide member fixed to the thin layer so that a portion of the guide member is projected radially inwardly from the water-repellant surface, wherein said main body layer, said thin layer, and said guide member are integrally thermoformed. Independent claim 37 is drawn to an inter-line fishing rod comprising, inter alia, a rod pipe main body layer defining an inner peripheral surface; and a thin layer disposed on the inner peripheral surface, the thin layer comprising a water-repellant material and a high-strength material mixed together, the high-strength material being more wear resistant than the water-repellant material, wherein the main body layer and the thin layer are integrally thermoformed.

Independent claim 38 sets forth an inter-line fishing rod comprising, inter alia, a rod pipe main body layer defining an

Appeal No. 2000-0530
Application No. 08/811,192

inner peripheral surface; and a thin layer disposed on the inner peripheral surface, the thin layer defining a plurality of closely spaced recessed portions defined by high strength members embedded in the layer and projecting radially inward between the recessed portions so that the recessed portions are adapted to receive water-repellant material, the high strength members being more wear resistant than the water-repellant material, wherein the main body layer, the thin layer, and the high strength members are integrally thermoformed. Independent claim 40 is drawn to an inter-line fishing rod comprising, inter alia, a rod pipe main body layer defining an inner peripheral surface; and a thin layer defining an internal surface and disposed on the inner peripheral surface, at least one fishline guide member embedded within the thin layer so that a portion of the fishline guide member is projected radially inwardly from the internal surface, wherein the main body layer, the thin layer, and the guide member are integrally thermoformed.

We turn now to the evidence of obviousness.

Appeal No. 2000-0530
Application No. 08/811,192

The patent to Vance provides an eyeless fishing rod 10 wherein fishing line passes through the hollow bore of the rod (Fig. 1). A cylindrical tip member 11A fits over the end of the rod and includes a cavity 14 with a ceramic bushing 15 bonded therein. As explained by the patentee, the bushing prevents snagged lines and reduces to a minimum the drag of the fishing line passing over the surface thereof (column 2, lines 54 through 64). Vance also teaches (column 4, lines 36 through 51) that the interior of the rod may be coated with a low friction material (TFE) to reduce the drag on the line.

The SU '045 reference discloses a fishing rod whose fishing line passes through pass-through rings fixed in the cavity of the fishing rod. A stated object of the invention is indicated as increasing the elasticity of a whip-like part and precluding adhesion of wet fishing line to the whip-like part (translation, page 2). The fishing rod includes three telescopically connected fishing rod sections 1, 2, and 3 and an elastic or flexible fourth section 4 consisting of at least two parallel whip-like elements. Porcelain passing-through rings 12 are removably mounted by wire fittings 13, 14, and 15

Appeal No. 2000-0530
Application No. 08/811,192

in rod sections 2 and 3. Rod-section 4 has three pass-through rings 12 and a butt-end ring 16 fixed in place.

Contrary to the view of the examiner, it is our opinion that the collective teachings of Vance and SU '045 would not have suggested the present invention to one having ordinary skill in the art. As we see it, each of Vance and SU '045 clearly reveal distinct, alternative configurations for passing a line through a hollow bore fishing rod. As such, absent reliance upon impermissible hindsight, it is not apparent to us that one having ordinary skill in the art would have been motivated to selectively alter the fishing rod of Vance in light of the SU '045 teaching, as proposed by the examiner, to thereby yield the fishing rod of independent claims 27, 28, 36, 37, 38, and 40. We also perceive that each of these reference teachings would not have been suggestive of a fishing rod structure with components thereof being

Appeal No. 2000-0530
Application No. 08/811,192

"integrally thermoformed" as claimed.³ It is for this reason that the rejection must be reversed.

The rejection of claims 45-46

We reverse the rejection of claims 45-46 under 35 U.S.C. § 103.

As to dependent claims 45 and 46, the examiner relies upon the earlier described teachings of Vance and SU '045, taken with the disclosure of spiral line guide 5 by Carabasse (Fig. 2). In the examiner's view, it would have been obvious to provide the modified fishing rod of Vance with a spiral line guide based upon the Carabasse teaching.

Notwithstanding the referenced teaching of a spiral line guide by Carabasse, we conclude that the Carabasse document, as it is applied by the examiner, does not overcome the

³ Consistent with appellants' specification (page 47), we understand the recitation of "integrally thermoformed" in each of the independent claims to denote that the assembly of components of the fishing rod was subjected to a thermoforming procedure that encompassed heating, burning, and pressurization.

Appeal No. 2000-0530
Application No. 08/811,192

deficiencies of the Vance and SU '045 references discussed, supra. Thus, the rejection of claims 45 and 46 must be reversed.

In summary, this panel of the board has not sustained each of the examiner's rejections of appellants' claims under 35 U.S.C. § 103.

Appeal No. 2000-0530
Application No. 08/811,192

The decision of the examiner is reversed.

REVERSED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
LAWRENCE J. STAAB)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
JEFFREY V. NASE)	
Administrative Patent Judge)	

Appeal No. 2000-0530
Application No. 08/811,192

BIRCH STEWART KOLASCH & BIRCH
8110 GATEHOUSE ROAD
SUITE 500 EAST
FALLS CHURCH, VA 22042

COHEN

APPEAL NO. 2000-0530 - JUDGE

APPLICATION NO. 08/811,192

APJ COHEN

APJ NASE

APJ STAAB

DECISION:

Prepared By:

DRAFT TYPED: 19 Mar 02

FINAL TYPED: