

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(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBIN MARTIN

Appeal No. 96-0953
Application 08/014,682¹

ON BRIEF

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

DECISION ON APPEAL

This is an appeal from the final rejection of claims
1 through 19, all of the claims in the application.

¹ Application for patent filed February 8, 1993.

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Appellant's invention pertains to a self-locking blood collecting device. A basic understanding of the invention can be derived from a reading of exemplary claim 17, a copy of which appears in the "APPENDIX" of appellant's brief.

As evidence of obviousness, the examiner has relied upon the references listed below:

Martin	5,201,708	Apr. 13, 1993 (filed Feb. 3, 1992)
Weibel (Published PCT Application)	WO 89/04141	May 18, 1989

The following rejection is before us for review.

Claims 1 through 19 stand rejected under 35 U.S.C. § 103 as being unpatentable over Martin in view of Weibel.

The full text of the examiner's rejections and response to the argument presented by appellant appears in the answer (Paper No. 20), while the complete statement of appellant's argument can be found in the brief (Paper No. 17).

OPINION

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

We cannot sustain the examiner's rejection under 35 U.S.C. § 103.

Independent claim 1 is drawn to a self-locking blood collecting device comprising, *inter alia*, a needle guard provided with an elongated alignment groove extending a distance inwardly from a forwardmost end of the needle guard to allow alignment of the needle guard in relation to a vein of a patient. Similarly, independent claim 17 addresses a self-locking blood collecting device comprising, *inter alia*, a needle guard provided with an elongated groove extending a distance inwardly from the forwardmost tip of

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the needle guard to allow alignment of the needle guard in relation to a vein of a patient.

We understand the above limitations, read in light of the underlying disclosure (specification, page 5), as requiring an elongated alignment groove starting at the forwardmost end or tip of the needle guard and extending a distance inwardly therefrom. This reasonable understanding comports with the showing in the drawing (Figures 2 through 4), as well as with appellant's point of view on the matter (brief, page 5).

Turning to the applied prior art, considered as a whole, we find an absence therein of an elongated alignment groove starting at the forwardmost end or tip of a needle guard and extending a distance inwardly therefrom, as well as a lack of any suggestion therefor.

Accordingly, while we share the examiner's point of view as to the combinability of the applied patents, a position not disputed in the brief (page 5), we agree with appellant, as indicated above, that the combination of the references relied upon would not effect the claimed self-locking blood collecting

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device. The evidence of obviousness before us is simply devoid of disclosure relative to the particularly claimed elongated alignment groove. Accordingly, the rejection on appeal cannot be sustained.

The decision of the examiner is reversed.

REVERSED

	IAN A. CALVERT)	
	Administrative Patent Judge)	
)	
)	
	IRWIN CHARLES COHEN)	BOARD OF
PATENT	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
	JAMES M. MEISTER)	
	Administrative Patent Judge)	

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