

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* KURT L. GROSSMAN

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Appeal No. 98-0026  
Application 08/536,304<sup>1</sup>

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ON BRIEF

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Before COHEN, ABRAMS and CRAWFORD, *Administrative Patent Judges*.

ABRAMS, *Administrative Patent Judge*.

**ON REQUEST FOR REHEARING**

This case comes before us again on request by the appellant for rehearing of our decision mailed September 17, 1998, wherein we refused to sustain the examiner's Section 112

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<sup>1</sup> Application for patent filed September 26, 1995. According to appellant, the application is a division of Application 08/192,171, filed February 4, 1994.

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rejection of the

thirteen claims before us and the Section 103 rejection of claim 13, but sustained the Section 103 rejection of claims 1-3 and 7-12. It is the appellant's primary position that there would have been no suggestion to combine the teachings of Mikkelson and Varney in the manner set forth in the Section 103 rejection that we sustained. While we have carefully considered all of the appellant's arguments, we maintain our position that the subject matter recited in the rejected claims would have been obvious to one of ordinary skill in the art in view of the combined teachings of Mikkelson and Varney. This being the case, while we have reconsidered our decision in the light of the arguments set forth by the appellant in the request under 37 C.F.R. § 1.197(b), we shall not modify it.

As revealed in column 1 of the Mikkelson reference:

It is known to clear conduits of ice by inserting flexible tubing or hosing into frozen conduits and forcing steam through the tubing to melt the ice in

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the conduit. See ancient U.S. Pat. No. 77, 857,  
granted to Young on May 12, 1868.

Cited in Mikkelson for this same principle are three other  
patents which issued in 1891, 1894, and 1920. These are  
consistent with the appellant's information disclosure  
statement

(Paper No. 2), wherein he cites U.S. Patent No. 501,744  
(issued in 1893 to D.H. Streeper), in which steam is passed  
through a flexible hose that is unreeled from a coil and "run  
into the frozen pipe" to melt the ice, with the coil being  
further unreeled and pushed into the pipe until it is  
completely thawed out (page 2, line 41 *et seq.*). We therefore  
view Mikkelson as being directed to improving upon the well-  
known technique of applying heat to an ice blockage in a pipe  
in order to melt it. A most important teaching presented in  
Mikkelson is that of introducing the source of heat through an  
aperture in the pipe through which water normally flows.  
Regardless of the fact that Mikkelson teaches that the  
apparatus disclosed also can be used to convey a suitable

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dissolving material to restrictions in the pipe caused by scale, the conclusion is inescapable that one of ordinary skill in the art would have been taught by the prior art, including Mikkelson, to thaw ice blockages in pipes by applying heat directly at the frozen point by inserting a hose with heat issuing from the end of it through an aperture opened in the pipe and pushing it through until it reaches the blockage. The difference between this system and that recited in the appellant's independent claim 1 is that the claim calls for the heat to be supplied by means of an electric micro heater attached to the end of a support. However, melting ice in a pipe by the use of an electric micro heater that is pushed through the pipe to the point of blockage is taught by Varney, which operates exactly like that of the appellant's invention except for its manner of insertion into the pipe. As explained in our decision, it therefore is our opinion that the combined teachings of these two references would have rendered obvious the invention recited in claim 1.

Although the rejection is set forth on the basis of Mikkelson in view of Varney, approaching the issue from the

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opposite perspective results in the same conclusion.<sup>2</sup>

Considering that Varney teaches using an electric micro heater as the means for applying heat directly to the ice blockage, the only difference between the method of Varney and that of claim 1 is that Varney installs a connection in the pipe run through which the support and the heater are inserted and advanced,

whereas the claims require that the insertion be through an aperture through which water flows in normal use. Mikkelson teaches an alternative manner of introducing the heater into the pipe, which is the same as that required by the appellant's claims.

We stand by our conclusion that the combined teachings of the two references would have suggested the method recited in

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<sup>2</sup> Where a rejection is predicated upon two references, each containing pertinent disclosure which has been pointed out to the applicants, it is merely a matter of exposition that the rejection is stated to be A in view of B instead of B in view of A; such differing forms of expression do not constitute different grounds of rejection. See *In re Bush*, 296 F.2d 491, 496, 131 USPQ 263, 267 (CCPA 1961).

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the claim 1 to one of ordinary skill in the art. Our reasoning with regard to the remaining claims is set forth in the decision, and this has not been challenged by the appellant in the request for rehearing.

The arguments advanced by the appellant focus upon details of the structure and operation of the Mikkelson device which, in the appellant's view, would have mitigated against combining the references in the manner that has been done. We find them not to be persuasive insofar as the basic tenet of the rejection is concerned, which is that it would have been obvious to one of ordinary skill in the art to introduce an electric micro heater through an aperture opened in the pipe through which water normally flows to provide heat to impinge upon an ice blockage, in view of the combined teachings of the two primary references.

Conceptually, the rejection is very simple. Mikkelson provides the teaching of applying heat to an ice blockage in a pipe by means of an element introduced through the particular route recited in the claims. Varney provides the teaching of applying heat to an ice blockage in a pipe by means of the particular heating element required by the claims. Suggestion

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to combine these teachings in the manner proposed is found in the self evident advantages of utilizing an electric micro heater in place of the more cumbersome heated water system.

The appellant's request that we alter our decision is denied.

**DENIED**

	IRWIN CHARLES COHEN	)	
	Administrative Patent Judge	)	
		)	
		)	
		)	
	NEAL E. ABRAMS	)	BOARD OF
PATENT	Administrative Patent Judge	)	APPEALS AND
		)	INTERFERENCES
		)	
		)	
	MURRIEL E. CRAWFORD	)	
	Administrative Patent Judge	)	

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