

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SCOTT T. MERRILL, ROBERT L. FORSLUND
and RONALD M. CROSS

Appeal No. 98-2097
Application No. 08/670,320¹

ON BRIEF

Before COHEN, NASE, and CRAWFORD, Administrative Patent Judges.

COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 9 and from the refusal of the examiner to allow claims 10 through 13, as amended subsequent to the final rejection.

¹ Application for patent filed August 22, 1996.

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These claims constitute all of the claims in the application.

Appellants' invention pertains to a fishing reel assembly. An understanding of the invention can be derived from a reading of exemplary claim 1, a copy of which appears below.

1. A fishing reel assembly, comprising:
 - a frame having a spindle;
 - a spool supported on said spindle;
 - a snap-fitted end cap mounted to said spool to assist in retaining said spool to said spindle.

As evidence of obviousness, the examiner has applied the single document specified below:

Hardy	658,472	Oct. 10, 1951
(Great Britain)		

The following rejection is before us for review.

Claims 1 through 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hardy.

The full text of the examiner's rejection and response to

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the argument presented by appellants appears in the answer (Paper No. 13), while the complete statement of appellants' argument can be found in the main and reply briefs (Paper Nos. 12 and 14).

OPINION

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

We reverse the examiner's rejection of appellants' claims under 35 U.S.C. § 103(a).

This panel of the board focuses upon claim 1, the sole independent claim in the application. An express limitation set forth in this claim is a "snap-fitted cap" mounted to a spool to assist in retaining the spool to a spindle.

As to the significance of this particular limitation, we

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note that the title of the present invention is "SNAP-ON CAP."
Appellants inform us in the "BACKGROUND OF THE INVENTION"
section of the specification (page 2) that "[i]n prior
designs, end caps

that had been used in fly fishing reels to secure the assembly
of
the spool to a shaft have been screwed to the spool hub." ²
According to appellants (specification, page 3), an "object of
the present invention" is "to supply a snap-on end cap which
requires no separate fasteners." As further explained in the
detailed description of the preferred embodiment
(specification, page 4),

It should be noted that the snap-acting
feature of the cap 40 makes it simple to
remove and replace and eliminates a

² Of record in the application file, is the patent to
Visockis (U.S. Patent No. 3,241,788). The plastic fishing
reel of this patent (Fig. 4) includes a "snap-on retaining
ring in the form of a split washer 48 received in groove 46
for retaining spool 22 on the frame" (column 2, lines 10
through 12).

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threaded connection which can become hard to make up after periods of use and exposure to the elements. Additionally, by using the snap feature of the cap 40, a fastener is eliminated and a neater design is presented which is easier for the fisherman to use.

To address the subject matter of claim 1 with its "snap-fitted end cap," the examiner has applied as evidence of obviousness the fishing reel drum teaching of Hardy, with its "cover element 3 being fixed to the drum by means of rivets 6" (page 1, lines 85, 86). Based upon the sole applied teaching of Hardy, the examiner has concluded that "it would have been

obvious to one having ordinary skill in the art at the time the invention was made, to snap fit the cap 3 onto the side of the reel by providing a rib on the spool and a circumferential opening on the cap, in place of the rivets 6" (answer, page 6).

Appellants point out (main brief, page 5) that the examiner has failed to find any other reference, alone or in

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combination with the Hardy document, which would teach the use of a snap-fitted end cap. The argument is then made, in effect, that it seems incorrect to state that the claimed snap-fitted end cap would have been obvious in light of a cap that is permanently affixed to a spool with rivets. We agree.

To fairly assess the obviousness of the claimed subject matter in light of the Hardy disclosure under 35 U.S.C. § 103, we set aside in our minds what appellants have informed us of in the present application. Having done so, we are at a loss to understand how one having ordinary skill in the art would have derived any suggestion whatsoever from the riveted end cap teaching of Hardy for a snap-fitted end cap, as now claimed. The examiner has simply failed to provide evidence in support of the conclusion made that a fishing reel assembly, as claimed,

with a snap-fitted end cap, would have been obvious, at the time of appellants' invention. Absent such supporting evidence in the

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rejection itself,³ a rejection of appellants' claims under
35 U.S.C. § 103 is unsound.

The decision of the examiner is reversed.

REVERSED

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IRWIN CHARLES COHEN))
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
JEFFREY V. NASE)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
MURRIEL E. CRAWFORD)	
Administrative Patent Judge)	

ICC/sld

³ In the answer (page 7), the examiner refers to so-called "well known" teachings which were never set forth in the statement of the rejection. Prior art evidence that is relied upon must be positively set forth in the statement of a rejection. See In re Hoch, 428 F.2d 1341, 1342, 166 USPQ 406, 497 (CCPA 1970).

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