

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL O'SULLIVAN
and PAUL MURPHY

Appeal No. 1999-1624
Application 08/834,080

ON BRIEF

Before THOMAS, KRASS, and BLANKENSHIP, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 24-49.

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Representative claim 32 is reproduced below:

32. An electrical connector for termination to at least one cable that includes an inner conductor, an inner dielectric surrounding at least a portion of said inner conductor, a metallic shield surrounding at least a portion of said inner dielectric and an outer insulating jacket surrounding at least a portion of said metallic shield, a portion of said outer jacket being removed to expose an exposed portion of said metallic shield, said electrical connector comprising:

a dielectric housing having a mating face, a termination face and a plurality of terminal receiving passages between said mating face and said termination face;

a plurality of terminals extending through at least some of said terminal receiving passages;

a conductive shield surrounding at least a portion of said mating face; and

a generally planar metal ground member having a ground plate portion disposed in said housing relative to said terminals, said ground plate portion including a hump projecting from one side of said ground plate portion, said hump having a slot for receiving said cable at a location along said cable in registry with said exposed metallic shield thereof to maintain said exposed metallic shield on said ground plate portion.

The following references are relied on by the examiner:

Maejima	4,978,314	Dec. 18, 1990
Brunker et al. (Brunker)	5,304,069	Apr. 19, 1994

Claims 24-49 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Brunker in view of Maejima.

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Rather than repeat the positions of the appellants and the examiner, reference is made to the briefs and the answer for the respective details thereof.

OPINION

Since we conclude the examiner has not set forth a prima facie case of obviousness within 35 U.S.C. §103, we reverse.

The preamble of independent claims 24 and 32 as well as the first clause of independent claims 38 and 45 recite in some manner that a portion of the outer jacket of a cable is removed to expose an exposed portion of the metallic shield thereof. The end of independent claims 24 and 32 recite that the claimed ground plate, and the end of independent claim 38 on appeal recites that the conductive member's termination portion, have a hump or humps for a single or pair of slots for receiving cables along their length in registry with the exposed metallic shields to maintain the metallic shields on the ground plate portion or the termination portion. Corresponding language is recited near the end of independent claim 45 which states that the exposed portion of the metallic shield is within a slot of a hump projecting from one side of a ground termination portion. This language at

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the end of each independent claim on appeal is reflective of the discussion at page 9, lines 14-22 of the specification as filed.

The examiner's position at the bottom of page four of the answer and the statement of the rejection recognize that Bruner discloses a plurality of vertical walls projecting from one side of a ground plate for receiving the cables, but recognizes that there is no teaching of a hump projecting from that ground plate portion having a slot for receiving the cables. The examiner proposes as obvious to the artisan within 35 U.S.C. §103 to utilize Maejima's Figure 2 press connecting portion 2a similar to the claimed hump with a receiving slot for a cable or wire 5 instead of what he regards as the vertical walls projecting from the side of the ground plate in Figures 7-9 of Bruner. Similar, unlabeled press connecting portions are shown in the second embodiment in Figure 4 in Maejima corresponding to the press connecting portion 2a in Figure 2. Again, similar structures are labeled as the wire press connecting portion 23a within the press connecting terminals 23 and the third embodiment of Figure 6.

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As argued by the appellants in the brief and reply brief the shield portion of the conductive wire 108 in Figures 7 and 8 of Brunker does appear to be unwrapped and unbraided from around the inner dielectric portion of the cable and soldered to an upstanding leg projection from a ground plate portion of a ground terminal. What appellants appear to characterize as the upstanding leg projections from the ground plate in Figures 7 and 8 of Brunker, the examiner characterizes as vertical walls projecting from the ground plate. We make reference to the numerical identifier 116 in Figure 7 and 118 in Figure 8 as indicating the general location of these upstanding or vertical members. An additional showing is to the right of Figure 9 of Brunker. Significantly, however, there is no discussion of these members in Brunker's discussion of Figures 7-9 at columns 5 and 6 of his patent and they are not numerically identified by any particular numerical identifier in these figures.

On the basis of our study of both applied references, we conclude the examiner has not set forth a prima facie case of obviousness. The noted teachings and showings in each of the patents relied upon does not indicate to us any incentive for the artisan to have utilized the wire press connecting portions identified by the examiner as humps

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from Maejima as a means for fastening the shield of the cables 108, for example, of the Figures 7-9 showings in Brunner. There are no noted deficiencies within each of the references of the approach already taken by Brunner for securing the shield to a corresponding ground plate member of the respective connectors.

Indeed, we agree with the appellants' observation that the examiner's reasoning appears to be based upon prohibited hindsight derived from the disclosed and claimed invention rather than from a prospective view of the teachings and suggestions of the references themselves. Although we agree with the examiner's observation that "the hump 2a disclosed by Maejima could fit any type of cables" (Answer, page 5), the fact that the references may be combinable or could have been combinable within 35 U.S.C. § 103 is not the proper test for reaching a conclusion of obviousness. Since we can not conclude that it would have been obvious, the proper analytical approach within 35 U.S.C. §103, for the artisan to have modified Brunner with

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Maejima's teachings, we must reverse the rejection of claims 24-49 under 35 U.S.C. §103.

Therefore, the decision of the examiner is reversed.

REVERSED

James D. Thomas)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
Errol A. Krass)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
Howard B. Blankenship)	
Administrative Patent Judge)	

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Charles S. Cohen
Patent Counsel
Molex Incorporated
2222 Wellington Court
Lisle, IL 60532