

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ROBIN C. VANNUCCI, JR.

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Appeal No. 1999-2848  
Application No. 08/833,508<sup>1</sup>

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ON BRIEF

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Before CALVERT, ABRAMS and CRAWFORD, Administrative Patent Judges.

CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 35 through 38, and 40 through 42, which are all of the claims pending in this application. Claims 1 through 34 and 39 have been canceled.

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<sup>1</sup> Application for patent filed April 7, 1997.

The appellant's invention relates to a heat exchange manifold. An understanding of the invention can be derived from a reading of exemplary claim 35, which appears in the appendix to the appellant's brief.

The prior art

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Dunlap	2,119,907	Jun. 7,
1938.		

The rejections

Claims 35 through 38 and 40 through 42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Dunlap.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejection, we make reference to the examiner's answer (Paper No. 14, mailed February 1, 1999) for the examiner's complete reasoning in support of the rejection, and to the appellant's brief (Paper No. 13, filed December 8, 1998) and reply brief

(Paper No. 15, filed April 6, 1999) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art reference, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Verdegaal Bros. Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.), cert. denied, 484 U.S. 827 (1987). The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the

claim and what subject matter is described by the reference. As set forth by the court in Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984), it is only necessary for the claims to "'read on' something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or 'fully met' by it."

In explaining the rejection of claims 35 through 38 and 40 through 42 as anticipated by Dunlap, the examiner states:

. . . Note the "heat exchange manifold" 30 comprising a central pipe, a plurality of spoke pipes and a valve 14 (Figure 1). A nozzle or spoke 44 is shown. Concentric heat exchange structure is shown and defined by the cylinder 8. Contrary to applicants remarks, Dunlap in Figure 4 clearly shows the "plurality of spoke pipes" which radiate "... approximately perpendicular from the central pipe and independently define a plurality of spoke pipe sets". The spokes 44 are "approximately perpendicular from..." central pipe 30. A valve 14 is clearly shown. An outer concentric pipe section includes the cylinder 8. A first 12 and second fitting 10 is shown. [final rejection at pages 2-3].

Appellant argues that Dunlap does not disclose spoke pipes which independently define a plurality of spoke pipe sets as required by claim 35.

However, Dunlap does disclose a plurality of spoke pipes which may be considered a plurality of spoke pipe sets as broadly claimed. We note that claim 35 does not recite a plurality of exclusive spoke pipe sets. While the specification may as appellant argues disclose that a spoke pipe plane is defined by two or more spoke pipes, claim 35 does not recite this feature. We will not read limitations in the specification into claim 35. Therefore, we will sustain the rejection as to claims 35 and claims 36 through 38 dependent therefrom because claims 36 through 38 stand or fall with claim 35 (brief at page 3).

In regard to claim 40, Dunlap discloses a valve 14 which regulates steam to the drum (Page 1, line 55 to Page 2, line 2). However, valve 14 is not installed between a first spoke pipe set and a second spoke pipe set and does not prohibit "communication through the central pipe between the spoke pipes in said first spoke pipe set and the spoke pipes of said

second spoke pipe set" as is required by claim 40. Therefore, we will not sustain the rejection as to claim 40.

Claim 41 recites "at least one spoke pipe valve fitted to a downwardly directed spoke pipe." Dunlap does not disclose a valve on any of the spoke pipes 44. As such, we will not sustain the rejection as it is directed to claim 41.

In the examiner's view, the container 8 of Dunlap forms the "outer concentric pipe section" and elements 10 and 12 are the first and second fittings as recited in claim 42. However, elements 10 and 12 do not secure the cylinder 8 to a roller so that the annular passageway of cylinder 8 is in communication with the hollow interior of the roller (See Fig. 1). As such, we will not sustain the rejection as to claim 42.

The examiner's rejection of claims 35-38 is sustained. The examiner's rejection of claims 40-42 is not sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

Affirmed-In-Part

IAN A. CALVERT	)	
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
NEAL E. ABRAMS	)	APPEALS
Administrative Patent Judge	)	AND
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MURRIEL E. CRAWFORD	)	
Administrative Patent Judge	)	

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