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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* KEVIN J. GREEN

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Appeal 2010-012006  
Application 11/944,995  
Technology Center 3700

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Before JOHN C. KERINS, BRADFORD E. KILE, and  
BART A. GERSTENBLITH, *Administrative Patent Judges*.

GERSTENBLITH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Kevin J. Green (“Appellant”) appeals under 35 U.S.C. § 134 from the Examiner’s decision rejecting claim 13. We have jurisdiction under 35 U.S.C. § 6(b).

*The Claimed Subject Matter*

Claim 13 is reproduced below.

13. A tool holder for use with a stump cutting apparatus comprising:  
a body, said body including an inner face and an outer face;  
a throughbore extending through said body between said inner face and said outer face; and  
said throughbore including a countersunk portion, said a countersunk portion including a conical surface.

*References*

The Examiner relies upon the following prior art references:

Ritchey	US 6,024,143	Feb. 15, 2000
Barazani	US 6,299,389 B1	Oct. 9, 2001

*Rejections*

The Examiner makes the following rejections:

- I. Claim 13 is rejected under 35 U.S.C. § 102(b) as anticipated by Ritchey; and
- II. Claim 13 is rejected under 35 U.S.C. § 103(a) as unpatentable over Ritchey and Barazani.

SUMMARY OF DECISION

We AFFIRM.

OPINION

*Rejection I – Anticipation*

The Examiner found that Ritchey disclosed each and every element of claim 13. Ans. 3-4. In particular, the Examiner found that Ritchey discloses a tool holder for use with a stump cutting apparatus comprising “a body (36) said body including an inner face and an outer face; a through bore (44, 68) extending through said body between said inner face and said outer face[;] and said through bore including a countersunk portion (57, 58, 59, 60; col. 3, lines 30-42; fig. 11).” *Id.* at 3. The Examiner found that “the differences [in] diameter of the surface (58) and (59) result[] in a beveled or conical surface.” *Id.* at 4. Further, the Examiner found that Ritchey “discloses a tool holder comprising a body (36); a through bore (68); and said through bore including a countersunk portion (col. 3, lines 43-51), said countersunk portion including a conical surface (fig. 11, 12).” *Id.*

Appellant contends that Ritchey does not disclose “a through bore including a countersunk portion with said countersunk portion including a conical surface.” App. Br. 4. Appellant asserts that “[t]o the contrary, Ritchey explicitly discloses a flat shoulder 60, see FIG. 2, formed by the exterior portion 58 of the hole 57 having a larger diameter than the diameter of the interior portion 59 of the hole 57.” *Id.*

We agree with the Examiner that Ritchey discloses a through bore including a countersunk portion with said countersunk portion including a conical surface, and thus anticipates claim 13. The Examiner explicitly found that through bore 68 meets this claim limitation. *See* Ans. 3 (“a

through bore (44, 68)"); Ans. 4 ("a through bore (68)"). The Examiner further provided an annotated version of Figure 11 of Ritchey, identifying through bore 68 as the bore relied upon. *Id.* at 5. Appellant's entire argument focuses on whether hole 57 has a countersunk portion including a conical surface, rather than whether through bore 68 has a countersunk portion including a conical surface. *See* App. Br. 3-4. Even in Appellant's Reply Brief, the argument remains focused on hole 57 and shoulder 60. *See* Reply Br. 1-3. In fact, Appellant acknowledges that "Ritchey specifically identifies the frusto-conical surfaces related to the bore 68." *Id.* at 3. And, we agree that Ritchey does in fact disclose that through bore 68 has a countersunk portion including a conical surface. *See* Ritchey, col. 3, ll. 43-52 ("Pocket **36** further includes an integral holder portion **66**. Holder portion **66** contains a bore **68**. Holder portion **66** has a leading face **70** and a trailing face **72**. Bore **68** includes a leading bore portion **73** and a trailing bore portion **74**. The leading bore portion **73** is of a diameter that is larger than [sic] the diameter of the trailing bore portion **74**. A bore shoulder **75**, joins the leading and trailing bore portions (**73**, **74**). A frusto-conical surface (or mouth) **76** surrounds the bore **68** at the leading face **70** of the holder portion **66**"); *see also* Ritchey, Fig. 3.

Accordingly, Appellant has not apprised us of error with respect to the Examiner's findings and determination of anticipation.

#### *Rejection II – Obviousness*

The Examiner further found that, even assuming arguendo that Ritchey does not anticipate claim 13, the combination of Ritchey and

Barazani render obvious the subject matter of claim 13.<sup>1</sup> Ans. 4. The Examiner found that Barazani “discloses countersunk bores (74, fig. 4) having conical surfaces for use with mating conical screws/fasteners (24; col. 6, lines 23-26) so as to efficiently mate/connect at least two elements.” *Id.* The Examiner determined that it would have been obvious to one of ordinary skill in the art at the time of invention “to construct or replace Ritchey’s countersunk bore with a countersunk bore having conical surfaces used with a fastener having . . . mating conical surfaces so as to efficiently mate the fastener to the bore as taught by Barazani” because “the references are concerned with [a] similar problem, i.e. fasteners used in conjunction with a countersunk bore.” *Id.*

Appellant makes three arguments in response to the Examiner’s determination of obviousness. First, Appellant asserts that “Barazani does not disclose the use of a countersunk head screw 24 and a matching countersunk through bore 74 to efficiently mate/connect at least 2 elements.” App Br. 5. Second, Appellant disagrees with the Examiner’s finding that Ritchey and Barazani are concerned with a similar problem—fasteners used in conjunction with a countersunk bore. *Id.* Third, Appellant contends that the Examiner’s determination that it would have been obvious to replace the countersunk bore of Ritchey with, what Appellant refers to as, “the three-point contact arrangement” of Barazani “disregards the function and operation of Barazani.” *Id.* at 6; *see also* Reply Br. 3-5.

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<sup>1</sup> Given that the Examiner found that Ritchey discloses all elements of claim 13 in Rejection I, the Examiner appears to have been made Rejection II simply as an alternative rejection.

We address each of Appellant's arguments. First, we agree with the Examiner that Barazani discloses "countersunk bores . . . for use with mating conical screws/fasteners." *See* Ans. 4 (citing Barazani, col. 6, ll. 23-26 ("As the countersunk head screw **24** is tightened its conical head **82** abuts an upper portion of the matching countersunk through bore **74** of the securing member **22** . . . .")). Barazani also discloses that

[d]ue to the three-point contact arrangement and the trapezoidal shape of the securing member, the more the countersunk head screw **24** is tightened, the greater the securing force applied by the securing member on the insert retaining member via the rear face **66** of the securing member as it abuts the rear face **72** of the recessed region **68**.

Barazani, col. 6, ll. 29-34.

Second, even if Ritchey and Barazani have substantial differences, as alleged by Appellant, we agree with the Examiner that the specific differences identified by Appellant do "not negate the fact that both Ritchey and Barazani utilized threaded fasteners in conjunction with countersunk bores/openings wherein the threaded fastener extends into the countersunk bore/opening." Ans. 7.

Finally, we agree with the Examiner that the combination of Ritchey and Barazani renders the subject matter of claim 13 obvious because "the combination of a known fastener and bore with that of a reference teaching the use [of] another known fastener and bore" yielded no more than predictable results, and Appellant has not contended otherwise.<sup>2</sup> *See*

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<sup>2</sup> We note that, contrary to Appellant's argument, the Examiner does not propose replacing the bore of Ritchey with the "three-point contact arrangement" of Barazani; rather, the Examiner proposed using Barazani's countersunk bore having conical surfaces with a fastener having a mating

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Ans. 7-8; *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007) (“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).

Accordingly, Appellant has not apprised us of error with respect to the Examiner’s findings and conclusion of obviousness.

#### DECISION

We affirm the Examiner’s decision rejecting claim 13 as anticipated by Ritchey under 35 U.S.C. § 102(b) as reflected in Rejection I, and the Examiner’s decision rejecting claim 13 as unpatentable under 35 U.S.C. § 103(a) over Ritchey and Barazani as reflected in Rejection II.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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conical surface. *See* Ans. 4 (“it would have been obvious . . . to construct or replace Ritchey’s countersunk bore with a countersunk bore having conical surfaces used with a fastener having a mating conical surface[]”).