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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SHAHN S. SAGE

Appeal 2011-002674
Application 11/799,167
Technology Center 3700

Before TONI R. SCHEINER, DEMETRA J. MILLS, and
JEFFREY N. FREDMAN, *Administrative Patent Judges*.

FREDMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 involving claims to a catheter connection system. The Examiner rejected the claims as obvious. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

Statement of the Case

Background

“The present invention provides catheter connectors, connection systems, and methods in which a catheter is attached to an offset connector such that the catheter is retained on the connector by compression between a tube located within the catheter and a collar fitted over the portion of the catheter containing the tube” (Spec. 2 ¶ 06). “Due to the offset between the tube and the collar passage, the catheter may be differentially compressed on opposing sides of the tube.” (Spec. 2-3 ¶ 07.) “Misalignment of the connector can result in a weakened connection that is more likely to separate and/or develop leaks. Other potential problems include: lack of ability to adequately secure the catheters relative to one another; and inability to provide sufficient strain relief to the connection.” (Spec. 2 ¶ 05.)

The Claims

Claims 1-24, 27, and 28 are on appeal. Claims 1 and 10 are representative and read as follows:

1. A catheter connection system comprising:
 - a connector body;
 - a first tube extending from the connector body, wherein the first tube comprises a bore extending through the first tube, and wherein the first tube defines a first tube axis centered within and extending through the first tube;
 - a first catheter comprising an end portion attached to the first tube, wherein the end portion of the first catheter comprises a lumen that is occupied by the first tube; and
 - a first collar attached to the connector body, wherein the first collar comprises a first passage, wherein the first passage defines a first passage axis centered within and extending through the first passage, and wherein the end portion of the first catheter and the first tube are located

within the first passage, and wherein the first passage axis is offset from the first tube axis when the first collar is attached to the connector body;

wherein the end portion of the first catheter is differentially compressed on opposing sides between a portion of an outer surface of the first tube and a portion of an inner surface of the first passage.

10. A system [according to claim 1, wherein the connector body and the first collar comprise a retention mechanism located between the first collar to the connector body], wherein the retention mechanism comprises a ratchet connection.

The issues

A. The Examiner rejected claims 1-9 and 12-22 under 35 U.S.C. § 103(a) as obvious over Denoth¹ and Gohs² (Ans. 3-6).

B. The Examiner rejected claims 10, 23, 27, and 28 under 35 U.S.C. § 103(a) as obvious over Denoth, Gohs, and Vasek³ (Ans. 6-7).

C. The Examiner rejected claims 11 and 24 under 35 U.S.C. § 103(a) as obvious over Denoth, Gohs, and Feiring⁴ (Ans. 7).

A. *35 U.S.C. § 103(a) over Denoth and Gohs*

The Examiner finds that Denoth teaches:

a connector body 4 and first tube 10a extending from the interior of the connector body which comprises a bore through the first tube and defining a first axis. Also disclosed is a first catheter 5 comprising an end portion capable of being attached to the first tube such that the

¹ Denoth et al., US 2005/0085794 A1, published Apr. 21, 2005.

² Gohs, H., US 3,482,857, issued Dec. 9, 1969.

³ Vasek et al., US 6,971,390 B1, issued Dec. 6, 2005.

⁴ Feiring, A., US 5,163,921, issued Nov. 17, 1992.

lumen of the catheter is occupied by the first tube. A first collar 2 capable of being attached to the connector body is further disclosed that defines a passage in which the end portion of the first catheter and first tube are located.

(Ans. 3.) The Examiner finds that Denoth “does not disclose the first catheter being differentially compressed on opposing sides between the first tube and a portion of the first passage” (Ans. 3-4). The Examiner finds that “Gobs [sic] discloses a conduit connector (figure 1) that uses eccentric/off-center gripping surfaces to connect the conduits together. Figure 2 shows the conduits inserted into the connector before sealing, then figure 3 shows the conduits pressed off-center against connector 11 via collars 21 and 22” (*id.* at 4).

The Examiner finds it obvious to “modify the connector of Denoth to move the tubes off center in order to differentially compress opposing sides as taught by Gohs as such is a known technique to create connections in tube connecting devices” (*id.*).

The issue with respect to this rejection is: Does the evidence of record support the Examiner’s conclusion that Denoth and Gohs render Claim 1 obvious?

Findings of Fact

1. Denoth teaches “a device for a catheter connection, in particular to an implantable connection for connecting two catheters or catheter ends for intravenous access” (Denoth 1 ¶ 0001).

2. Denoth teaches that “the distal catheter end **5** is placed onto the distal joining pipe **10a** whose inner diameter is about equally as large as the inner diameter of the catheter **5**” (Denoth 2 ¶ 0022).

Principles of Law

“In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima face case of obviousness based upon the prior art.” *In re Fritch*, 972 F.2d 1260, 1265 (Fed. Cir. 1992).

To establish a prima facie case of obviousness, the Examiner must find “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR Int’l. Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

Analysis

While we may agree with the Examiner that the offset conduits in Gohs connector will inherently experience some amount of differential compression when a collar is tightened for attachment around the connector (FF 4-6), we are persuaded by Appellants’ argument that “the Examiner has not provided any evidence or reasoning to show how or why one of ordinary skill in the art would necessarily design a connector that provides the differential compression” (App. Br. 17).

That is, the Examiner has not established a reason for combining the disclosures of Denoth and Gohs to obtain the claimed invention. In particular, Gohs teaches that the “cap and bore are relatively cammed into a clamping status to grip the outer diameter surface of conduit **28**, thereby firmly attaching same to connectors **10** or **110**” (Gohs, col. 5, ll. 50-53). So when Gohs attaches the conduit into the connector, Gohs does not teach or suggest compressing the tube at all. Thus, when the Examiner finds that the reason to modify Denoth is “in order to differentially compress opposing sides as taught by Gohs,” this finding is not supported by any evidence. The

Examiner does not identify, and we do not find, any reason to incorporate the offset connection of Gohs into the connector of Denoth. (Ans. 4.)

Conclusion of Law

The evidence of record does not support the Examiner's conclusion that Denoth and Gohs render Claim 1 obvious.

B. 35 U.S.C. § 103(a) over Denoth, Gohs, and Vasek

This rejection relies upon the underlying obviousness rejection over claim 1 by Denoth and Gohs. Having reversed the rejection of claim 1 over Denoth and Gohs, we necessarily reverse the obviousness rejection of claims 10, 23, 27, and 28 further including Vasek, since Vasek does not provide the motivation absent from the initial rejection over Denoth and Gohs.

C. 35 U.S.C. § 103(a) over Denoth, Gohs, and Feiring

This rejection relies upon the underlying obviousness rejection over claim 1 by Denoth and Gohs. Having reversed the rejection of claim 1 over Denoth and Gohs, we necessarily reverse the obviousness rejection of claims 11 and 24 further including Feiring, since Feiring does not provide the motivation absent from the initial rejection over Denoth and Gohs.

SUMMARY

In summary, we reverse the rejection of claims 1-9 and 12-22 under 35 U.S.C. § 103(a) as obvious over Denoth and Gohs.

We reverse the rejection of claims 10, 23, 27, and 28 under 35 U.S.C. § 103(a) as obvious over Denoth, Gohs, and Vasek.

We reverse the rejection of claims 11 and 24 under 35 U.S.C. § 103(a) as obvious over Denoth, Gohs, and Feiring.

REVERSED

cdc