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11/281,526	11/17/2005	Weston F. Harding	P-6538	2555
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WESTON F. HARDING and MARTY LEE STOUT

Appeal 2011-006066
Application 11/281,526
Technology Center 3700

Before JEFFREY N. FREDMAN, STEPHEN WALSH, and
SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

WALSH, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the rejection of claims directed to an access connector. The Patent Examiner rejected the claims for obviousness. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

The invention relates to a connector for accessing patient fluid lines such as intravascular (IV) lines. Claims 1-13 are on appeal. Claim 1 illustrates the subject matter on appeal and reads as follows:

1. An access connector comprising:
 - a housing having a body and a base, the housing having a channel for fluid passage and an upper rim through which a male luer component of a medical device is received; and
 - a septum assembly having a septum and a frame integrally molded with the septum, the frame being bonded to the body, and the septum positioned within the channel and having a resealable slit to allow for insertion of a tubular portion of a medical device;
 - wherein a material used for the frame is rigid with respect to a material used for the septum; and
 - wherein the frame rests on the upper rim of the housing.

The Examiner rejected claims 1-13 under 35 U.S.C. § 103(a) as unpatentable over Harding¹ and Lynn.²

OBVIOUSNESS

The Issue

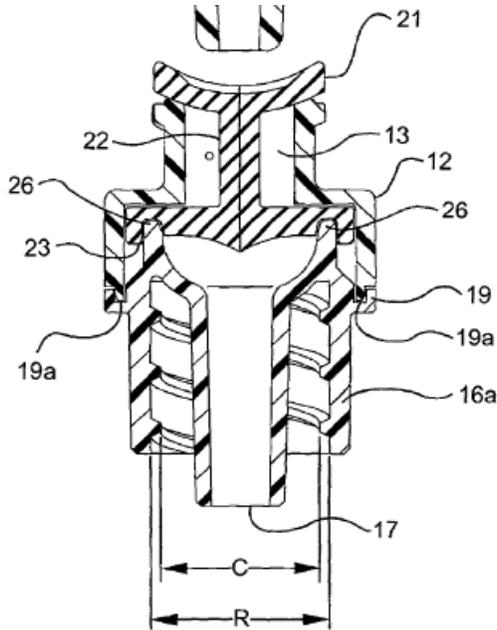
Appellants contend that “the references, whether taken individually or in combination do not disclose . . . (i) a septum and a frame integrally molded with the septum, (ii) the material used for the frame is rigid with respect to a material used for the septum, and (iii) the frame rests on the upper rim of the housing.” (App. Br. 5.)

¹ Weston F. Harding et al., US 2003/0109853 A1, published June 12, 2003.

² Lawrence A. Lynn et al., US 6,171,287 B1, issued Jan. 9, 2001.

Findings of Fact

1. Harding's Figure 2 is reproduced here



- Harding's Figure 2 "is a cross sectional view of the needleless luer access connector of this invention closed to fluid flow and with a male luer taper of another medical device such as a syringe poised for penetration of the connector." (Harding 3, [0024].)
2. The Examiner found that Harding's connector comprised a septum assembly with a septum 22 and a frame 12, and that the frame 12 rested on housing 19. (Ans. 3-4.)
 3. The Examiner found that Harding did not describe its septum and frame as integrally molded. (*Id.* at 4.)
 4. The Examiner found that Lynn described an access connector having an integrally molded septum and frame, in which the material used for the frame had a higher durometer than that used for the septum, yielding a frame rigid with respect to the septum. (*Id.*)
 5. Lynn disclosed:

an embodiment (not shown) for penetration by a male luer can include a combined integral housing and septum comprised of a single elastomer having regions of different durometers wherein the central penetrable portion has a low durometer such as 20-30 and the outside thread-able portion has a high durometer such as 70-80.

(Lynn, col. 19, ll. 37-43.)

6. The Examiner concluded:

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the frame and septum of the septum assembly of Harding et al as a combined integrally molded frame and septum as taught by Lynn et al as both Harding et al and Lynn et al disclose an access connector with a septum assembly having a septum and a frame where the frame material is rigid with respect to the septum material and Lynn et al teach that it is well known to provide the septum assembly with an integrally molded frame and septum as a modification to the septum assembly which has a separately formed septum and frame (as shown in Figure 1 of Lynn et al).

(Ans. 4.)

Principles of Law

“[I]f a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007).

Analysis

Upon consideration of the evidence on this record, and each of Appellants’ contentions, we find that the preponderance of evidence on this

record supports the Examiner's conclusion that the subject matter of Appellants' claims is unpatentable. Accordingly, we sustain the Examiner's rejections for the reasons set forth in the Answer, which we incorporate herein by reference, including the Examiner's responses to Appellants' arguments.

Summarizing, Appellants' argument that the references do not teach a septum and a frame integrally molded with the septum is unpersuasive because Lynn explicitly described an integrally molded septum/frame assembly. (FF 5.) Appellants' argument that the references do not teach an integrally molded septum/frame assembly wherein the material used for the frame is rigid with respect to a material used for the septum is unpersuasive because Lynn taught its frame made of higher durometer material than its septum, i.e., necessarily more rigid. (FF 5.) Appellants' argument that the references do not teach a frame resting on the upper rim of the housing is unpersuasive because that is the arrangement shown in Harding's Figure 2, where frame 12 rests on housing 19. (FF 2.)

Claims 2-13 have not been argued separately and therefore fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii).

SUMMARY

We affirm the rejection of claims 1-13 under 35 U.S.C. § 103(a) as unpatentable over Harding and Lynn.

Appeal 2011-006066
Application 11/281,526

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

AFFIRMED

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