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| 120607   | 7590        | 11/02/2016           | EXAMINER            |                  |
| Winstead PC (IF)<br>P.O. Box 131851<br>Dallas, TX 75313-1851 |             |                      | LAMBE, PATRICK F    |                  |
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* PER LILLEJORDET, PHILIP NAMORK,  
ULF LONNEMO, JORUND ENGELAND TORJUSSEN,  
TERJE PEDERSEN, and RONNY HALDORSEN

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Appeal 2015-002043  
Application 13/087,552  
Technology Center 3600

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Before BRETT C. MARTIN, LYNNE H. BROWNE, and  
JEFFREY A. STEPHENS, *Administrative Patent Judges*.

MARTIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 of the Examiner's rejection of claims 1, 2, 4–14, 16, and 18–26. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

## THE INVENTION

The Appellants' claims are directed generally "to a subsea structure for pipes/pipe assemblies." Spec. 1, ll. 4–5. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A subsea structure for pipes/pipe assemblies, said pipes/pipe assemblies being adapted to be connected to one or more sub-sea equipment, the subsea structure comprising:
  - a generally vertical supporting member anchored to a base member;
  - a lifting mechanism connected to the generally vertical supporting member, the lifting mechanism moveable upward and downward on the generally vertical supporting member;
  - a generally horizontal support member to receive on top thereof said pipes/pipe assemblies, wherein said generally horizontal support member is movably engaged with the generally vertical supporting member via the lifting mechanism at an end thereof.

## REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

|         |                    |               |
|---------|--------------------|---------------|
| Tesson  | US 4,218,158       | Aug. 19, 1980 |
| Moe     | US 4,315,702       | Feb. 16, 1982 |
| Reneau  | US 4,728,125       | Mar. 1, 1988  |
| Moody   | US 7,004,682 B1    | Feb. 28, 2006 |
| Mogedal | US 2010/0021238 A1 | Jan. 28, 2010 |

## REJECTIONS

The Examiner made the following rejections:

Claims 1, 2, 4, 5, 11–14, 16, 18–20, 24, and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tesson. Final Act. 2.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tesson and Reneau. Final Act. 5.

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tesson and Moe. *Id.*

Claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tesson, Moe, and Moody. Final Act. 6.

Claim 21 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tesson and Mogedal. *Id.*

Claims 22 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tesson, Mogedal, and Moe. Final Act. 7.

Claim 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tesson, Mogedal, and Moody. *Id.*

#### ANALYSIS

As noted above, all of the Examiner's rejections rely on Tesson. According to the Examiner, Tesson teaches the claimed horizontal support member and "[r]eceiving the pipes on top thereof is functional language that is satisfied by the Tesson disclosure" because "[t]he travel beam is completely capable of having a pipe placed on top thereof." Ans. 4. While we do not disagree that the device disclosed in Tesson is presumably capable of supporting the weight of a pipe thereon, we do not agree that this bare capability satisfies the claim language.

The Examiner's interpretation ignores the broader context of the claim, namely that the subsea structure is intended to be used to lift pipes/pipe assemblies with "said pipes/pipe assemblies being adapted to be connected to one or more sub-sea equipment." In other words, this is not simply a lift, but a lift that is utilized to connect pipes and pipe assemblies to sub-sea equipment. Given this context, we conclude that the lift must be more than simply capable of supporting a pipe thereon. In the context of this

claim, therefore, we interpret “a generally horizontal support member to receive on top thereof said pipes/pipe assemblies” to mean that the support and surrounding structures must be designed to accept and support a pipe for the assembly activities involved in connecting pipes and pipe assemblies to sub-sea equipment.

The Examiner acknowledges that Tesson does not disclose the pipe being received on the top of the horizontal support member. Final Act. 3. As the Appellants point out, “Tesson discloses a mobile pipe handling frame that is dimensioned and configured to repair damage to pipelines that are buried in an ocean floor.” App. Br. 12 (citing Tesson col. 3, ll. 43–47). Tesson places its horizontal supports above the lift mechanism because the device in Tesson is meant to straddle a buried pipe and lift it from the sea floor for further work. In this configuration the device is clear to lift, without obstruction, a buried pipe while sitting above the pipe.

In a similar, but opposite, manner, the present invention places its horizontal supports below the lift mechanism so that the device is open above the lift, thereby allowing work to be performed with the pipe supported from below. According to Appellants, “[t]o be capable of receiving the pipe on top of travel beam 14 the cross-headers must be removed which would mean that Tesson’s frame would no longer be a U-shaped frame and it would no longer support a load as intended.” Reply Br. 3–4. Appellants further argue that, for the intended purpose of connecting pipes to sub-sea equipment, “the travel beam is not capable of receiving on top thereof the pipe without removing the cross-header beams” and that such removal “would render Tesson’s pipe handling frame inoperable as it is disclosed.” *Id.*

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Simply put, Tesson is intended to be used to sit above pipes and lift them from above with the lifting mechanism to then be worked upon. In this context, we find that Tesson is not capable of both lifting and being properly positioned to allow the type of undersea pipeline work to be performed. We agree with Appellants that the Examiner has not articulated sufficient reasoning for modifying Tesson so that the horizontal support member would accept and support the pipe. App. Br. 11. The additional cited references do not cure the noted deficiencies. Accordingly, we do not sustain the Examiner's rejections based upon Tesson.

#### DECISION

For the above reasons, we REVERSE the Examiner's decision to reject claims 1, 2, 4–14, 16, and 18–26.

REVERSED