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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/009,175	01/17/2008	Dennis Coleman	WEAT/1062USD1	3723
36735	7590	11/02/2016	EXAMINER	
PATTERSON & SHERIDAN, L.L.P. / Weatherford 24 Greenway Plaza, Suite 1600 HOUSTON, TX 77046			FAYYAZ, NASHMIYA SAQIB	
			ART UNIT	PAPER NUMBER
			2856	
			NOTIFICATION DATE	DELIVERY MODE
			11/02/2016	ELECTRONIC

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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* DENNIS COLEMAN and TODD COLEMAN

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Appeal 2015-007016  
Application 12/009,175  
Technology Center 2800

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Before PETER F. KRATZ, BEVERLY A. FRANKLIN, and  
JENNIFER R. GUPTA, *Administrative Patent Judges*.

KRATZ, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 26–30, 32, and 33. We have jurisdiction pursuant to 35 U.S.C. § 6.

Appellants' claimed invention is directed to a gas sample extraction assembly.

Claim 26 is illustrative and reproduced below:

26. A gas sample extraction assembly for accessing a gas sample container having a self-sealing valve, the sample extraction assembly comprising:  
a coupler body having a coupler bore and a coupler end for engaging the gas sample container;  
a stem disposed in the coupler bore, the stem having a stem bore and a first stem end and a second stem end, wherein the stem is movable along a

longitudinal axis of the coupler bore to open the self-sealing valve of the gas sample container; and

a penetrable septum for sealing the stem bore at the first stem end;  
whereby, when the septum is penetrated and the self-sealing valve is opened by the movement of the stem, a gas sample may be removed from the gas sampling container.

The Examiner relies on the following prior art reference as evidence in rejecting the appealed claims:

Patzer	US 5,578,059	Nov. 26, 1996
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The Examiner maintains the following grounds of rejection:

Claims 26–30, 32, and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patzer. Final Act. 2.

After review of the opposing positions articulated by Appellants and the Examiner and the evidence of obviousness adduced by the Examiner, we determine that the Appellants' arguments are insufficient to identify reversible error in the Examiner's obviousness rejection. *In re Jung*, 637 F.3d 1356, 1365 (Fed. Cir. 2011).

Accordingly, we affirm the stated obviousness rejection for substantially the fact findings set forth by the Examiner in the Examiner's Answer and in the Final Office Action. We offer the following for emphasis.

Appellants argue the rejected claims together as a group. Accordingly, we select claim 26 as the representative claim on which we decide this appeal.

The Examiner has determined that Patzer teaches or suggests an apparatus (assembly) that can inject or withdraw a fluid from a sample

container that corresponds to Appellants' gas sample extraction assembly as required by representative claim 26 including a housing 16, an actuator 26, and a web 48 that the Examiner has determined to correspond to the coupler body, stem, and penetrable septum, respectively, as required by claim 26 (Ans. 2–3; Final Act. 2–3).

Appellants argue that the actuator 26 of Patzer is not a part of an extraction assembly as maintained by the Examiner but is a component part of a disc valve 14 together with a resilient disc 28 (App. Br. 7–8).<sup>1</sup>

Appellants do not specifically dispute that the web 48 of Patzer corresponds to a penetrable septum as claimed as determined by the Examiner and that the housing 16 of Patzer corresponds to a coupler body as claimed as determined by the Examiner. *See id.* Moreover, Appellants do not argue that the actuator 26 of Patzer does not correspond to a stem as the Examiner maintains. *See id.* Rather, Appellants urge that Patzer's disc valve 14 requires actuator 26 and disc 28 to be employed in combination as a valve; consequently, the actuator 26 cannot be “a component of an extraction assembly” for accessing a gas sample container as required by the appealed claims for the claimed stem (actuator) (App. Br. 7; Reply Br. 2–3).

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<sup>1</sup> While claim 33 is drawn to a gas sample assembly that includes a gas sample container, Appellants have not separately and substantively argued claim 33 and articulated why Patzer's teachings including the provision of a housing (container) 17 projecting into actuator housing 18 and seating a disc (check valve) 28 that is opened by movement of actuator (stem) 26 would not have served to satisfy or suggest the container, valve, and stem features required by the gas sample assembly of claim 33. Rather, Appellants limit their argument to an extraction assembly as required by representative claim 26 (App. Br. 7–8; Patzer, col. 3, ll. 3–17). Thus, we do not separately consider claim 33.

Appellants' argument does not identify reversible error in the Examiner's obviousness rejection. In particular, representative claim 26 does not require a container to be part of the claimed device that is connected to or part of the claimed gas sample extraction assembly apparatus and which container includes a valve that is opened by operation of the stem. Nor does representative claim 26 exclude the presence of a valve that can be operated by the stem that may be located at least partially within or adjacent to a gas sample extraction assembly coupler (housing) bore. Thus, the disc (check valve) 28 of Patzer, which is located within Patzer's housing 16 (including sub-housings 17 and 18) and which disc is capable of being opened by movement of actuator (stem) 26 along a bore has not been shown by Appellants' arguments as being excluded by and or otherwise not suggesting/satisfying the required functional limitations for the claimed stem as set forth in representative claim 26 (Reply Br. 2-3; *see* Ans. 3-6; Patzer, col. 3, ll. 6-17). Thus, Appellants have not established that representative claim 26 requires a structural relationship or functionality for the extraction assembly stem that would not have been implicitly or obviously possessed by the actuator (stem) 26 of Patzer. In this regard, representative claim 26 merely requires the stem to be moveable along a longitudinal axis of the bore such that it may be capable of opening a gas sampling container self-sealing valve and may remove a gas sample from a gas sampling container, if such a container and its opening valve were appropriately arranged and attached to the assembly (Spec. 17, ll. 6-12). Of course, limitations concerning the attachment of a gas sampling container from the Specification are not subject to importation into representative claim 26.

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It follows that we shall sustain the Examiner's obviousness rejection.

#### CONCLUSION

The Examiner's decision to reject the appealed claims is affirmed.

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