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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* MICHAEL GAHLERT

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Appeal 2017-002305  
Application 13/228,642  
Technology Center 3700

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Before STEFAN STAICOVICI, LYNNE H. BROWNE, and  
ANNETTE R. REIMERS, *Administrative Patent Judges*.

BROWNE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the rejection of claims 1 and 3–15. Appellant’s representative presented oral arguments on November 6, 2018. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

### CLAIMED SUBJECT MATTER

Claim 1, reproduced below, is representative of the claimed subject matter:

1. A one-part dental implant comprising:
  - an anchoring part for anchoring within bone and having a threaded section with a longitudinal axis; and
  - a mounting part having a frustoconical or conical shape and lying in an extension of the longitudinal axis of the threaded section of the anchoring part, the mounting part including a flattened portion that has a smaller outer diameter than a remainder of the one-part dental implant, wherein:
    - the mounting part is configured to receive an element selected from the group consisting of a crown, a bridge, and a prosthesis;
    - an upper end of the anchoring part transitions via an enlarged conical section into the mounting part, the enlarged conical section having a larger outer diameter than a remainder of the one-part dental implant;
    - the anchoring part and the mounting part are integrally made of a material based on zirconia;
    - the anchoring part at its outer surface is at least partially roughened; and
    - the one-part dental implant facilitates osteogen[e]sis with the bone.

### REFERENCES

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

Driskell	US 4,547,157	Oct. 15, 1985
Mochida	US 5,642,996	July 1, 1997
Klardie	US 5,782,918	July 21, 1998
Reiger	US 6,165,925	Dec. 26, 2000
Steinemann	US 2003/0176927 A1	Sept. 18, 2003

## REJECTIONS

- I. Claims 1, 5–10, and 13–15 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Driskell, Machida, and Rieger.
- II. Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Driskell, Machida, Rieger, and Klardie.
- III. Claims 11 and 12 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Driskell, Machida, Rieger, and Steinemann.

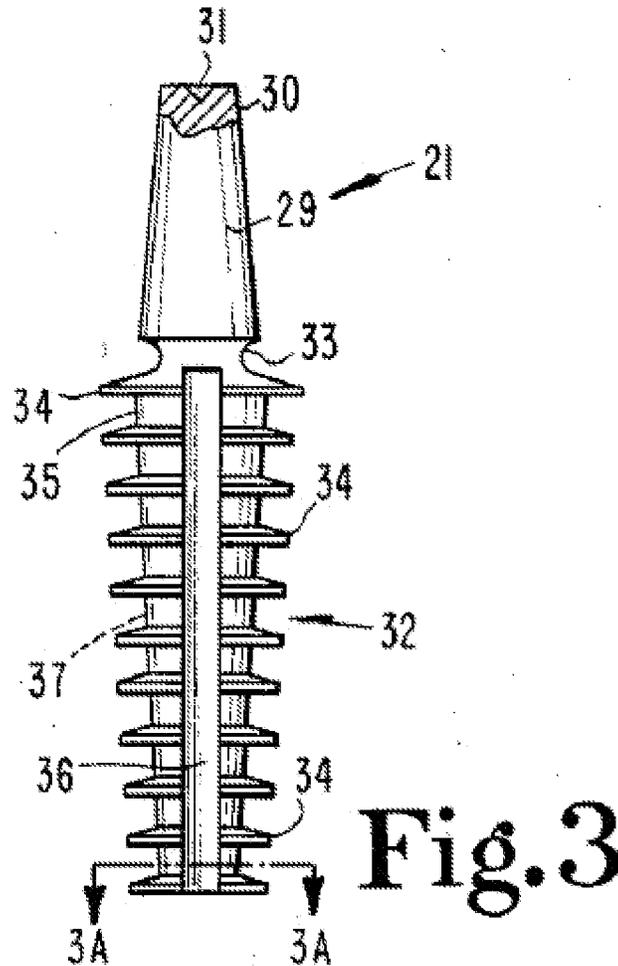
## DISCUSSION

### *Rejection I: Obviousness of Claims 1, 5–10, and 13–15*

The Examiner determines that Driskell, Machida, and Reiger disclose or suggest all of the limitations of claim 1. *See* Final Act. 2–4. In particular, the Examiner finds that Driskell discloses a dental implant having an anchoring part wherein “an upper end of the anchoring part transitions via an enlarged conical section which has a larger outer diameter than remainder of the implant.” *Id.* at 3.

Appellant contends that “the root structure 21 of Driskell does not comprise an anchoring part that transitions at its upper end into a mounting part via an enlarged conical section having a larger outer diameter than a remainder of the implant, as recited by claim 1.” Appeal Br. 12. In support of this contention, Appellant argues that in Driskell “the undercut and the internally radiused surface 33 through which the root structure 21 of Driskell transitions from the insertion portion 32 into the top tapered portion 29 does not have a larger outer diameter than the remainder of the root structure 21 or the final two-part implant.” *Id.*

As shown in Driskell's Figure 3, reproduced below<sup>1</sup>, Driskell's root structure transitions at its upper end from insertion (anchoring) portion 32 via a reduced diameter portion (at 33), rather than an enlarged conical section. Thus, Appellant is correct and the Examiner's finding is in error.



For this reason, we do not sustain the Examiner's decision rejecting claim 1, and claims 5–10 and 13–15, which depend therefrom

<sup>1</sup>Driskell's Figure 3 "is a fragmentary, front elevation view of a root structure [of a dental implant] comprising a portion of and according to a typical embodiment of the present invention." Driskell, col. 4, ll. 5–7.

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*Rejections II and III: Obviousness of Claims 3, 4, 11, and 12*

Rejections II and III rely on the same erroneous finding as Rejection I. *See* Final Act. 4–5. The Examiner’s use of the Klardie and Steinemann disclosures does not remedy the deficiency of Driskell discussed *supra*. *Id.* Accordingly, we do not sustain the Examiner’s decisions rejecting claims 3, 4, 11, and 12, for the same reason we do not sustain the rejection of claim 1.

DECISION

The Examiner’s rejections of claims 1 and 3–15 are REVERSED.

REVERSED