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FAY SHARPE LLP 1228 Euclid Avenue, 5th Floor The Halle Building Cleveland, OH 44115			BALLMAN, CHRISTOPHER D	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STUART NOBLE, ADAM ZANE, and
TERRANCE W. HOLDER

Appeal 2018-008149
Application 14/742,216
Technology Center 3700

Before: LISA M. GUIJT, PAUL J. KORNICZKY, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

DOUGAL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ appeals under 35 U.S.C. § 134 from a final rejection of claims 1–23. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as SSP Fittings Corp. Appeal Br. 1.

CLAIMED SUBJECT MATTER

The claims are directed to a gland and packing assembly for ball valves and an associated process of assembly. Claims 1, 12, and 19 are independent. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A valve assembly comprising:

a housing has at least first and second flow passages that communicate with a cavity;

a valve member received in the housing cavity and adapted for selective rotation relative to the housing between open and closed positions;

a packing received around the valve member has at least first and second openings in a sidewall thereof that communicate respectively with the at least first and second flow passages in the housing, and a third opening has an original unstretched opening dimension smaller than a cross-sectional dimension of the valve member forcibly inserted through the third opening and thereby enlarges the third opening to a stretched opening dimension; and

a packing gland that operatively engages the packing, at least one of the packing gland, valve body, and packing has a non-planar surface that urges the stretched opening dimension of the third opening of the packing toward the original unstretched dimension after the valve member is assembled in the packing.

REFERENCES

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

Spock	US 5,326,074	July 5, 1994
Timko	US 7,887,024 B2	Feb. 15, 2011
Tulaskar	US 2005/0104026 A1	May 19, 2005

REJECTIONS

Claims 1–16, 18–21, and 23 are rejected under 35 U.S.C. § 103 as being unpatentable over Timko and Spock.

Claim 17 is rejected under 35 U.S.C. § 103 as being unpatentable over Timko, Spock, and Tulaskar.

Claim 22 is rejected under 35 U.S.C. § 103 as being unpatentable over Timko, Spock, and the knowledge of a person of ordinary skill in the art (POSA).

OPINION

Appellant argues the rejections of claims 1–16, 18–21, and 23 together. We select independent claim 1 as representative. *See* 37 C.F.R. § 41.37(c)(1)(iv) (permitting the Board to select a single claim to decide the appeal as to a single ground of rejection of a group of claims argued together).

The Examiner finds that Timko teaches a valve assembly including most of the features of claim 1, including a housing, a valve member, a packing, and a packing gland. Final Act. 3–4. However, the Examiner finds that Timko does not teach “at least one of the packing gland, valve body, and packing has a non-planar surface that urges the stretched opening dimension of the third opening of the packing toward the original unstretched dimension after the valve member is assembled in the packing.” *Id.* at 4.

The Examiner finds that Spock “teaches that it is known to use a non-planar, V-shaped, sealing relationship between sealing components 68, 70, 76, 78 in order to increase the sealing effectiveness” and similarly that “it is

known in the art to use non-planar surfaces on adjacent sealing components to increase the sealing force of a sealing element by using a V-shaped geometry.” *Id.* at 4, 12. The Examiner determines that “it would have been obvious . . . to modify Timko by making one of the packing gland, valve body, and packing have a non-planar surface, as taught by Spock Jr, for the purpose of increasing the sealing effectiveness between the packing gland, valve body, and packing.” *Id.* at 4.

Appellant argues that in Spock the sealing assembly with the V-shaped features does not contact the gland. Appeal Br. 5–6; *see also id.* at 7 (further arguing over the positioning of the sealing assembly). Though this is true, the Examiner does not rely on Spock to teach the sealing assembly in contact with the gland. Ans. 12. The Examiner relies on Timko for teaching the packing in contact with the packing gland. *Id.*; *see also* Final Act. 3–4.

Appellant also argues that Spock’s sealing assembly does not have the same purpose as the claimed invention to urge the stretched opening dimension of the third opening of the packing toward the original unstretched dimension. Appeal Br. 6–7; *see also id.* at 8. However, it is not necessary that Spock have the same purpose if the modification would provide the same result, which is the situation here. As noted by the Examiner, “[i]t is not until the proposed combination occurs that the packing 32 of Timko is shaped non-planar and thus the stretching of the third opening can be counteracted by the packing gland which operatively engages the packing, urging the third opening toward the unstretched dimension.” Ans. 13. Thus, the combination provides the same result, even though the purpose as specified by the Examiner is “to use non-planar

surfaces on sealing elements in order to increase the sealing effectiveness.”
Id. at 12–13.

Appellant argues that the only reason to modify Timko in view of Spock is impermissible hindsight. Appeal Br. 8. In making this argument, and the arguments above, Appellant does not address the Examiner’s reason for combining Timko and Spock. As noted by the Supreme Court “if 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). The Examiner has provided a reason (to increase the sealing effectiveness) why the non-planar surfaces would be used on the packing and packing gland and Appellant does not assert or offer evidence that the combination of Timko and Spock is beyond the skill of one of skill in the art. *See id.*; *see also id.* at 421 (“A person of ordinary skill is also a person of ordinary creativity, not an automaton.”). Thus, we are not informed of error in the Examiner’s rejection.

Appellant argues that claims 17 and 22 are also patentable for the same reasons discussed above. Appeal Br. 9–10. Thus, we are not informed of error in these Examiner rejections for the same reasons.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/ Basis	Affirmed	Reversed
1-16, 18-21, 23	103	Timko, Spock	1-16, 18-21, 23	
17	103	Timko, Spock, Tulaskar	17	
22	103	Timko, Spock, POSA	22	
Overall Outcome			1-23	

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED