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JOHN C. MCMAHON Erickson Kernell 8900 State Line Rd. Suite 500 Leawood, KS 66206			PANCHOLI, VISHAL J	
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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* THOMAS M. GARRETT and RICHARD W. POSIVIATA

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Appeal 2019-002453  
Application 14/452,953<sup>1</sup>  
Technology Center 3700

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Before MICHAEL C. ASTORINO, PHILIP J. HOFFMANN, and  
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

ASTORINO, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), the Appellants appeal from the Examiner's decision rejecting claims 1, 2, and 4–22. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> “The real party in interest is Purosil LLC.” Appeal Br. 2.

## STATEMENT OF THE CASE

### *Claimed Subject Matter*

Claims 1, 10, and 14 are the independent claims on appeal. Claim 1, reproduced below, is illustrative of the claimed subject matter.

1. A hose and pipe structure comprising:
  - (a) an elongated tubular hose member having an outer surface, an inner surface, and a tubular axis; the hose member having opposite ends;
  - (b) a pipe member with first and second ends and a circumferential groove on an outer surface of the pipe, in spaced relationship to both the first and second ends of the pipe;
  - (c) the hose member including a radially outwardly projecting circumferential clamp guide to position a clamp on the hose member and formed on the outer surface of the hose member in axially spaced relation to an end of the hose member; and
  - (d) an inwardly projecting circumferential sealing rib formed on an inner surface of the hose member and positioned in axially inward relation to the clamp; during use the rib being positioned directly beneath the clamp and within the groove so as to be located between the groove and the clamp; the rib being sized and shaped to be received in the groove in the pipe so as to be adapted to seal about the pipe when pressure is applied to the rib by the clamp applying pressure axially directly from above the rib.

### *Rejections*

I. Claims 1, 2, and 4–13 are rejected under 35 U.S.C. § 103 as unpatentable over Norton (US 4,172,607, issued Oct. 30, 1979) and Lockhart et al. (US 8,327,887 B2, issued Dec. 11, 2012) (“Lockhart”).

II. Claims 14–18 and 20–22 are rejected under 35 U.S.C. § 103 as unpatentable over Pavlik et al. (US 3,043,612, issued July 10, 1962), Norton, and Lockhart.

III. Claim 19 is rejected under 35 U.S.C. § 103 as unpatentable over Pavlik, Norton, Lockhart, and Dooley (US 4,763,695, issued Aug. 16, 1988).

## ANALYSIS

### *Rejection I*

Independent claim 1 calls for a positional relationship between the hose's radially outwardly projecting circumferential clamp guide and inwardly projecting circumferential sealing rib formed on the hose's inner surface, and the pipe's circumferential groove on the pipe's outer surface. *See* Appeal Br. 9 (Claims App.). Specifically, claim 1 recites, “the [sealing] rib being sized and shaped to be received in the groove in the pipe so as to be adapted to seal about the pipe when pressure is applied to the rib by the clamp applying pressure axially directly from above the rib.” *Id.* Independent claim 10 includes similar requirements as claim 1. *See id.* at 10.

Generally, the Examiner's rejection relies on Norton to teach a hose (coupling 12) including clamp guide (ridges 18, 19) and sealing rib (central annular flange 24 and annular ridges 25), and Lockhart to teach a pipe (tailpiece, hose end 104) having groove (mating groove 105). Final Act. 2–3; *see* Norton, Figs. 1–5; Lockhart, Fig. 1. Based on these findings, the Examiner determines:

It would have been obvious to one of ordinary skill in the art . . . to have used the hose member of Norton to connect with a pipe comprising a circumferential groove such as one taught by Lockhart to connect two tubular components with each other by providing a good seal using a rib and a groove interface. The clamp mechanism compresses the connection area of the rib and the groove and ensures that the coupling of the tubular components is stable and secure.

*Id.* at. 3.

The Appellants argue that the combined teachings of Norton and Lockhart fail to teach or support positioning of an inwardly depending sealing rib in a sealing groove to provide a seal of the type claimed. Appeal Br. 7. The Appellants point out that although Norton’s clamps 18, 19 compress ribs 25 against a pipe, ribs 25 are not positioned within a circumferential groove of a pipe; and, rib 24 is a stop between the two separate pipes. *Id.* at 6. The Appellants point out that Lockhart’s groove 105 is disclosed “as an interconnection for another coupling device located on a truck or the like,” and contends the Lockhart fails to show or suggest “utilization of the groove with a sealing rib.” *Id.* at 7; *see* Lockhart, col. 7, ll. 1–3, col. 13, ll. 50–51. Additionally, the Appellants argue that the combined teachings of Norton and Lockhart fail to teach “a [sealing] rib received in a groove, especially with a clamp also acting to press the rib into the groove.” Reply Br. 2.<sup>2</sup> The Appellants’ arguments are persuasive.

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<sup>2</sup> The Reply Brief lacks page numbers. We designate page 1 as the page that includes the heading “REPLY BRIEF” and number the remaining pages in the Reply Brief consecutively therefrom. Additionally, the header of the Reply Brief mimics the letterhead of the United States Patent and Trademark Office. We understand the inclusion of the header as inadvertent error.

In this case, the Examiner's reasoning assumes — without an adequate explanation — that the position of Norton's sealing rib with respect to the pipe, as modified, would be such that the sealing rib would be positioned in a groove of the pipe. However, Norton teaches positioning a hose's sealing rib at an outside surface of a pipe, but the pipe lacks a groove; and Lockhart teaches a groove at an outside surface of a pipe, but lacks an association of the groove to a hose's sealing rib.

Thus, we do not sustain the Examiner's rejection of claims 1, 2, and 4–13 as unpatentable over Norton and Lockhart (Rejection I).

#### *Rejections II & III*

The Examiner's rejection based on the combined teachings of Pavlik, Norton, and Lockhart, include similar reasoning as discussed above with regard to Rejection I. *See* Final Act. 4–5. The reasoning is inadequately supported for the same reasons as discussed above. The additional findings particular to Pavlik do not cure this deficiency. Thus, we do not sustain the Examiner's rejection of claims 14–18 and 20–22 as unpatentable over Pavlik, Norton, and Lockhart (Rejection II).

The remaining rejections based on Pavlik, Norton, and Lockhart in combination with Dooley relies on the same inadequately supported reasoning as discussed above with regard to Rejection II. This remaining rejection is not cured by additional findings and/or reasoning associated therewith. Thus, we do not sustain the rejection Examiner's rejection of claim 19 as unpatentable over Pavlik, Norton, Lockhart, and Dooley (Rejection III).

Appeal 2019-002453  
Application 14/452,953

DECISION

We REVERSE the Examiner's decision rejecting claims 1, 2, and 4–  
22.

REVERSED