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Lennox International Inc. c/o Hubbard Johnston, PLLC P.O. Box 141228 Dallas, TX 75214			KOEHLER, CHRISTOPHER M	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GREGORY RUHLANDER

Appeal 2019-003822
Application 13/662,700
Technology Center 3700

Before EDWARD A. BROWN, WILLIAM A. CAPP, and
BRANDON J. WARNER, *Administrative Patent Judges*.

CAPP, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ seeks our review under 35 U.S.C. § 134(a) of the non-final rejection of claims 1–5, 7–14, 16–18, and 20 as unpatentable under 35 U.S.C. § 103(a) over Gaignard (US 5,683,215, iss. Nov. 4, 1997) and Ordonio (US 7,581,913 B2, iss. Sept. 1, 2009). 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 Lennox International Inc. as the Applicant and real party in interest. Appeal Br. 1.

THE INVENTION

Appellant's invention relates to fastener couplings. *See* Spec. ¶¶ 1–4. Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A system for coupling a first and second item, comprising:
 - a threaded fastener comprising a head portion and a threaded portion;
 - a damper, the damper comprising a flange portion and an elongated portion, the damper adapted to deform and inhibit transfer of vibrational forces, wherein the damper comprises an opening adapted to receive the threaded portion of the threaded fastener; and
 - a nut comprising:
 - a threaded recess adapted to couple with the threaded portion of the threaded fastener;
 - an annular recess disposed about the threaded recess, open toward the head portion, and adapted to receive at least a portion of the damper;wherein the damper can be deformed and coupled to the threaded fastener and the nut such that the elongated portion and the flange portion engage opposing sides of the first item and the flange portion sits between the first item and a first side of the second item, wherein threading the nut on the fastener causes the elongated portion to be deformed by and into the annular recess and causes the head portion to exert force against a second side of the second item and hold the second item against the flange portion.

OPINION

Claim 1

The Examiner finds that Gagnard discloses the invention substantially as claimed except for the nut being a singular component. Non-Final Action 3–4. The Examiner cites to elements 30, 48, 78 of Gagnard as collectively comprising a “nut assembly” that satisfies

Appellant's nut limitation. *Id.* The Examiner relies on Ordonio as teaching forming a plurality of components into a single, unitary nut. *Id.* The Examiner concludes that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to form Gaignard's nut assembly as a single integral nut component, as Ordonio demonstrates that it was known in the art to form multi-component assemblies into singular nut components. *Id.*

Appellant argues that the claimed nut is a single unitary component, whereas Gaignard discloses a separate nut 30, gripping ring 48, and shroud 78, a point already conceded by the Examiner. Appeal Br. 5–8. In response, the Examiner observes that Appellant never challenges the Examiner's interpretation of the components of Gaignard collectively comprising an assembly that is the equivalent of Appellant's claimed nut. Ans. 11.

Gaignard discloses a fastening device that includes a shock absorbing bush interposed between a bolt and a nut assembly. Gaignard, Abstract. Gaignard's bush 38 features an elongated portion and a flange portion. *See Id.* Fig. 1. When bush 38 is axially compressed, it deforms into a recess disposed between shroud 78, ring 48, and carrier plate 24. *Id.* Fig. 4.

The only difference between Gaignard and Appellant's invention is that Appellant discloses a nut with an annular recess to receive a portion of the damper, whereas Gaignard's equivalent recess is formed by nut 30, ring 48, and shroud 78 in combination. It is well settled that the use of one-piece construction instead of a plurality of mechanically connected components is merely a matter of obvious engineering choice. *Application*

of *Larson*, 340 F.2d 965, 968 (CCPA 1965). Appellant's choice to use a unitary structure does not impart patentability to the invention. *Id.*

Next, Appellant argues that Ordonio "presents nothing close to the claimed invention." Appeal Br. 9. Appellant argues that the Examiner relies on Ordonio for the proposition that it is known to form multi-component nut assemblies into singular components. *Id.* Appellant, therefore, concludes that the Examiner's rejection essentially "stands on Gagnard alone with the addition of Ordonio to say one can make various parts into a single unitary nut." *Id.*

In response, the Examiner agrees that Ordonio is primarily cited for its teaching of making various components into a single, unitary nut. Ans. 12. The Examiner otherwise disagrees with Appellant's statement that Ordonio presents "nothing close" to the invention considering that Ordonio is directed to threaded nut fasteners and protective washers. *Id.*

We have already cited case law for the proposition that that using one-piece construction instead of a plurality of components is merely a matter of obvious engineering choice. *Larson*, 340 F.2d at 968. Ordonio merely provides an example of this principle from Appellant's field of endeavor. Thus, Appellant's challenge to Ordonio does not apprise us of error.

In view of the foregoing discussion, we sustain the Examiner's unpatentability rejection of claim 1.

Claim 11

Claim 11 is an independent claim that is substantially similar in scope to claim 1. Claims App. In traversing the rejection, Appellant relies solely on arguments that we previously considered and found unpersuasive with

respect to claim 1 and find equally unpersuasive here. Appeal Br. 12. We sustain the rejection of claim 11.

Claim 18

Claim 18 is an independent claim that is substantially similar in scope to claim 1, except that it recites a method. Claims App. In traversing the rejection, Appellant merely rephrases and repeats the same arguments that we previously considered and found unpersuasive with respect to claim 1. Appeal Br. 13. We sustain the rejection of claim 18.

Claims 2–5, 7–10, 12–14, 16, 17, and 20

These claims depend, directly or indirectly, from either claim 1, 11, or 18 and are not separately argued. Claims App. They fall with their respective independent claims. *See* 37 C.F.R. § 41.37(c)(1)(iv) (failure to separately argue claims).

CONCLUSION

In summary:

Claims Rejected	§	Reference(s)	Aff'd	Rev'd
1-5, 7-14, 16-18, 20	103	Gaignard, Ordonio	1-5, 7-14, 16-18, 20	

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

AFFIRMED