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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/685,971	04/14/2015	David L. Chapski	67036-812 PUS1; 36137	6182
26096	7590	01/22/2020	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			CHAU, ALAIN	
			ART UNIT	PAPER NUMBER
			3741	
			NOTIFICATION DATE	DELIVERY MODE
			01/22/2020	ELECTRONIC

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* DAVID L. CHAPSKI

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Appeal 2019-004599  
Application 14/685,971  
Technology Center 3700

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Before JOSEPH A. FISCHETTI, MURRIEL E. CRAWFORD, and  
PHILIP J. HOFFMANN, *Administrative Patent Judges*.

HOFFMANN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–9. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as “Hamilton Sundstrand Corporation.” Appellant further explains that “Hamilton Sundstrand Corporation has been merged into a corporation known as UTC Aerospace Systems (UTAS), which is ultimately owned by United Technologies Corporation.” Appeal Br. 1.

According to Appellant, the invention “relates to a system for controlling turbomachine fuel flow.” Spec. ¶ 1. Claim 1 is the sole independent claim on appeal. Below, we reproduce claim 1 as representative of the appealed claims:

1. A fuel control system, comprising:
  - a fuel delivery valve selectively moveable to a closed position to shut off a flow of fuel to a downstream location;
  - a windmill bypass valve; and
  - a shutoff pressure line between the windmill bypass valve and the fuel delivery valve, the windmill bypass valve selectively operable to direct fuel to the shutoff pressure line to assist the movement of the fuel delivery valve to the closed position.

#### REJECTIONS AND PRIOR ART

The Examiner rejects the claims as follows:

- I. Claims 1–3 and 9 under 35 U.S.C. § 102(a)(2) as anticipated by Hansen (US 4,602,479, iss. July 29, 1986) (“Hansen’479”);
- II. Claims 4–7 under 35 U.S.C. § 103 as unpatentable over Hansen’479 and Eick et al. (US 7,252,068 B2, iss. Aug. 7, 2007) (“Eick”); and
- III. Claim 8 under 35 U.S.C. § 103 as unpatentable over Hansen’479 and Hansen (US 4,493,187, iss. Jan. 15, 1985) (“Hansen’187”).

#### ANALYSIS

*Rejection I—Anticipation rejection of independent claim 1 and dependent claims 2, 3, and 9*

As set forth above, independent claim 1, the sole independent claim before us on appeal, recites, in relevant part, “a shutoff pressure line between

the windmill bypass valve and the fuel delivery valve, the windmill bypass valve selectively operable to direct fuel to the shutoff pressure line to assist the movement of the fuel delivery valve to the closed position.” Appeal Br., Claims App. In order to find that Hansen’479 discloses a windmill bypass valve located and operable as claim 1 recites, the Examiner relies on Hansen’479’s sequence valve 175, *rather than* Hansen’479’s windmill bypass valve 160, to disclose the claimed windmill bypass valve. *See, e.g.*, Answer 3–4. Appellant argues that the Examiner errs in doing so, because Hansen’479’s sequence valve 175 is not a windmill bypass valve, as that term is understood by one of ordinary skill and as defined in its Specification. *See, e.g.*, Appeal Br. 5. Based on our review of the record, for the reasons we explain below, the Examiner does not support adequately that Hansen’479’s sequence valve 175 discloses the claimed windmill bypass valve.

As Appellant explains,

[a] windmill bypass valve is a known type of valve in the art. As explained in the [S]pecification, windmill bypass valves are those valves that vary a flow of fuel, which “is directed to one or more actuators via a pressure line . . . to maintain sufficient pressure (sometimes called ‘muscle’ pressure) to position those actuators during windmilling and engine start.” *See* [Spec. ¶ 17].

Appeal Br. 5. This description accurately represents the explanation of a windmill bypass valve as set forth in paragraph 17 of Appellant’s Specification and is precisely worded enough to constitute a definition. Further, both Appellant’s explanation in the Appeal Brief and paragraph 17 of the Specification are consistent with the description of a windmill bypass valve as set forth in the “Background” section of Appellant’s Specification.

*See* Spec. ¶ 1. In particular, the Background of the Specification explains generally that “the windmill bypass valve may maintain sufficient pressure (sometimes called ‘muscle’ pressure) to position fuel control system components as well as various engine actuators during windmilling and start.” Based on the foregoing, Appellant provides evidence sufficiently consistent to establish that the claimed windmill bypass valve is defined as a valve that maintains sufficient pressure in a line to position engine actuators during windmilling and start.

Conversely, the Examiner does not find that Hansen’479’s sequence valve 175 is located or operated to maintain sufficient pressure to position engine actuators during windmilling and start. *See, e.g., generally* Answer. Instead, the Examiner determines that the claimed windmill bypass valve need only disclose what claim 1 expressly recites—i.e., it need only be a valve that is connected to the fuel delivery valve by a shutoff pressure line, which is operable to direct fuel to the shutoff pressure line to assist the movement of the fuel delivery valve to the closed position. *See, e.g.,* Answer 12–13.

As set forth above, we determine that the claimed windmill bypass valve is a valve that maintains sufficient pressure in a line to position engine actuators during windmilling and start, however. Thus, because the Examiner makes no such finding with respect to Hansen’479’s sequence valve 175, the Examiner does not support adequately that Hansen’479’s sequence valve 175 discloses the windmill bypass valve as claimed. Therefore, we do not sustain the Examiner’s anticipation rejection of claim 1. Further, we also do not sustain the Examiner’s anticipation

rejection of claims 2, 3, and 9 that depend on, and the Examiner rejects with, claim 1.

*Rejections II and III—Obviousness rejections of dependent claims 4–8*

Claims 4–8 depend on independent claim 1. The Examiner does not rely on either additional reference to Hansen’ 187 or Eick to remedy the above deficiency in claim 1’s anticipation rejection based on Hasen’ 479. Therefore, we do not sustain either of the Examiner’s obviousness rejections of claims 4–8.

CONCLUSION

We REVERSE the Examiner’s anticipation and obviousness rejections of claims 1–9.

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Basis/Reference(s)</b>	<b>Affirmed</b>	<b>Reversed</b>
1–3, 9	102(a)(2)	Hansen’ 479		1–3, 9
4–7	103	Hansen’ 479, Eick		4–7
8	103	Hansen’ 479, Hansen’ 187		8
<b>Overall Outcome:</b>				1–9

REVERSED