COMMISSIONER'S DECISION

OBVIOUSNESS: Improvements in steam saunas

The sauna comprises a water tank section with a heater means, and a steam section. The improvement is directed to a sealing means between the two sections. The Final Action was withdrawn and the application returned to the examiner because the most pertinent art was not searched.

Final Action: Withdrawn

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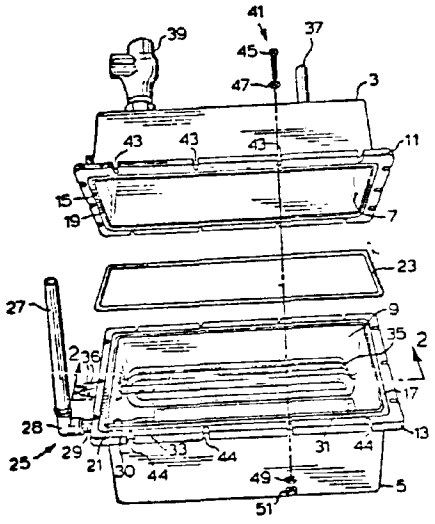
This decision deals with a request for review by the Commissioner of Patents of the Examiner's Final Action dated January 4, 1978, on application 263529 (Class 309-35). The application was filed on October 15, 1976, in the name of Maurice C. Allen, and is entitled "Portable Steam Sauna." The Patent Appeal Board conducted a Hearing on May 24, 1978, at which Mr. D.S. Johnson represented the applicant.

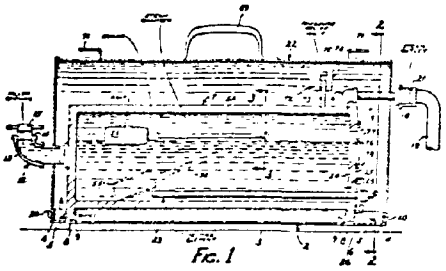
The application is directed to improvements in steam saunas. It comprises a water tank with heater means having two sections which are releasably secured to one another. The improvement is stated as a new and improved sealing arrangement 23 situated between the two sections. Figure 1 below shows that arrangement.



In the Final Action the examiner refused the application in view of the following Canadian patents:

572,227	March 17, 1959	Prain
653,897	December 11, 1962	Jepson et al
606,030	September 26, 1960	Tavender et al

The patent to Prain is directed to a portable steam heater having a boiler equipped with an electrical resistance heater which is submerged in and heats water filling the boiler up to the level of a filler opening. The upper portion of the boiler constitutes a steam chamber and has an outlet leading to a service conduit. Figure 1 below illustrates that invention:



Jepson was cited to show the use of a silicone sealing gasket seated in a recess in a control chamber of a cooking vessel.

Tavender provides a steam generator with upper and lower body portions which are releasably secured to each other by means of the gasketted flanges and retaining bolts.

In the Final Action the examiner had, inter alia, this to say:

> Applicant's device is a mere arrangement of well known components the use of which are quite obvious. No new or startling result has been produced nor has any inventive ingenuity been displayed. While the arrangement of components may differ from the prior art devices, no unknown or unusual result has been defined beyond that which is quite ordinary and obvious to a skilled mechanic. As a tool useful in the generation of steam, it may have design appeal, but it lacks the attributes required to render it inventive, the main attribute required being inventive ingenuity.

Turning now to applicant's arguments presented in his letter of October 6, 1977, it is noted that applicant has suggested that the cited art represents a mosaic of references from widely divergent arts. However, it should be quite obvious that just as his device basically represents a steam generator so too do those of Prain and Tavender. Applicant's hollow tube for steam release has its counterpart in both cited references and could easily be adapted for use as a sauna or for any other application requiring steam. Insofar as the float arrangement is concerned, as pointed out, float devices as used in applicant's water storage section to open and close a valve to control the water level, are universally found, one such in common use being used to control the water level in a toilet tank. Given such common knowledge, it would take a person with little skill to adapt the electrical current interrupting float of Prain for use as a water valve float such as envisioned by applicant.

Insofar as the sealing arrangement cited in the patent issued to Jepson is concerned, while the apparatus is directed toward a cooking vessel, the seal is a mechanical device which could be adapted for use in a wide variety of applications and its use in combination with a sauna does not render the sauna inventive. Applicant's contention that the Jepson sealing arrangement is less critical than his, as regards heat and steam conditions, is irrelevant. Jepson, as does applicant, specifies the use of a silicone material for the sealing gasket. Both the single groove construction of Jepson and the double opposite-matching groove of applicant depend for their sealing qualities on adequate compression of the sealing gasket and in both cases, the metal-to-metal contact of the flanges serve to isolate the gaskets. Obviously, heat and steam conditions would dictate the gasket material used.

Applicant's remarks regarding the use of the grooves and sealing member as a locating means in assembling the sauna tank sections, have been noted. However, no such attributes have been discussed in the disclosure. Further, the use of an over-sized pliable neoprene or rubber O-ring provides a very imprecise locating device. Rather, applicant's locating means is provided by his bolting arrangement whereby the upper and lower sections are secured.

Applicant in his portable steam sauna has merely and solely added or adapted without invention, old and similar contrivances of the prior art to such a sauna. No inventive ingenuity has been displayed, without which even the adaptation of an old contrivance to a new purpose is not invention. It has long been known that "small variations from, or slight modifications of, current standards of construction in an old art, rarely are indicative of invention; they are obvious improvements resulting from experiences and the changing requirements of users".

In response to the Final Action the applicant stated (in part):

Firstly, new and unexpected results have been provided by the arrangement according to the present claimed invention. The inventor, unlike previous attempts, has been able to provide a

portable steam sauna which can be readily disassembled and easily reassembled such that a good sealing arrangement is obtained without necessitating the use of a new sealing gasket after each disassembly. The obtaining of a good seal and the requirement of new gaskets after disassembly, has been a very real problem in the past. As can be appreciated, portable steam saunas require frequent maintenance as a result of component failure and the build up of minerals in the steam cavity during the production of steam. Therefore, the ease of assembling the present invention and the fact that it can be assembled to obtain a proper seal without requiring a new sealing member each time, must be considered an unexpected advance in the art. If the results produced by the present invention were not unexpected, Applicant cannot understand why they were not produced sooner. Applicant also respectfully traverses the Examiner's position with respect to the use of the Jepson sealing arrangement on a portable steam sauna. Firstly, this reference relates to a frying pan and as such, is completely distinct from the portable steam sauna art, so that there is no reason that one skilled in the sauna art would be aware of this sealing arrangement, and as has been argued, it is Applicant's understanding that the Examiner would only be permitted to use Canadian Patent 653,897 in combination with the other references on the basis that it represents common general knowledge to one skilled in the art.

In addition to the above arguments, the sealing arrangement of the present claimed invention is completely distinct from that taught in the Jepson Patent. Jepson uses a sealing cover to enclose a control chamber housing the terminals of the heating element. It is Applicant's contention that once the control chamber is enclosed, there is very little likelihood that it would be reopened during the life of the frying pan. This is again inconsistent to the present claimed invention, which as mentioned above, requires maintenance. Applicant has earlier argued the fact that Jepson does not teach a double groove for seating the sealing gasket. Furthermore, it is not apparent from the drawings, nor is it discussed in the disclosure that Jepson uses an O ring. According to the present claimed invention, the provision of the O ring in the double groove, provides a much greater sealing surface than that of the reference, which is required according to the present claimed invention, because of the high pressure conditions to which it is subject. Jepson is only subject to atmospheric pressure.

The consideration before the Board is whether or not an invention has been described in the application as filed.

At the Hearing Mr. Johnson argued strongly that indeed an invention is described in the specification and defined in the claims. He particularly stressed the sealing arrangement calling it "the critical feature." He also advised the Board that the product is having substantial commercial success in the market place.

Our first consideration will be what is the alleged invention described in the disclosure and illustrated in the drawings. This is a first and a must for any examination of an application. The applicant states that: "This invention relates to a portable steam sauna provided with a novel and improved sealing arrangement." The background of the invention is stated as follows (page 1 of the disclosure):

> Presently existing portable steam saunas include a water tank having a plurality of sections housing the internal elements of the sauna. In order to perform any maintenance work on the internal elements, the two sections must be separable from one another and must be sealed at the point of separation.
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> In the past it has been very difficult to reseal these sections with respect to one another after the initial seal has been broken. The sealing member which is usually constructed from gasket material is either damaged during separation of the sections or improperly aligned along the edges of the sections when resecuring the sections to one another so that a proper seal is not obtained. Both of the above situations undesirably result in the escape of water and steam from the water tank at the improperly or non-sealed area between the sections.
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> To further complicate the situation, present portable steam saunas are provided with sealing members which have a very limited life because they are continuously exposed to the steam and extreme temperatures within the water tank causing deterioration and break-down of the sealing members.

The objects of the alleged invention are clearly stated (page 1 of the disclosure):

> It is therefore an object of the present invention to provide a portable steam sauna having a novel and improved sealing arrangement.
>
> It is another object of the present invention to provide a portable steam sauna having a sealing member which is isolated from steam within the steam cavity.
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> It is yet a further object of the present invention to provide a portable steam sauna having a barrier between the seal and the steam within the cavity to essentially isolate the sealing member from the cavity.

It is succinctly clear from this and other major parts of the disclosure that the alleged invention is directed to an improved steam sauna, wherein the improvement lies in "a novel and improved sealing arrangement." In other words we are not concerned with a basically new idea or concept in saunas, but with what might be broadly termed an improved combination.

The only reference which is concerned with sealing arrangements is the patent to Jepson. Here however, a seal is shown in a frying pan as a means to prevent water from entering a control chamber when the pan is immersed in water. We do not believe that this teaching would in any way help to solve the problem facing the applicant in a high pressure steam chamber.

On the other hand, as was mentioned by the Board at the Hearing, Class 65 subclasses 21, 22 and 23, "Pressure Steam cooking vessels" is replete with steam sealing arrangements of many various designs. The problems in the "pressure steam vessels art" is substantially the same as that which was facing the present applicant in his endeavour to find a better sealing arrangement. It is understood, however, that this class was not searched.

Under such circumstances we believe that the rejection in the Final Action should be withdrawn, and the application returned to the examiner with direction to consider the pertinent class of art referred to above.

L.P. Hughes
Assistant Chairman
Patent Appeal Board, Canada

I have reviewed the prosecution of this application and considered the recommendation of the Patent Appeal Board. Accordingly, I withdraw the Final Action and return the application to the examiner for resumption of prosecution.

J.H.A. Gariepy
Commissioner of Patents

Dated at Hull, Quebec

this 5th. day of June, 1978

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