

## **# Remarks**

In response to the Office Action dated [DATE], Applicant respectfully submits the following remarks. Claims 1-20 are currently pending in this application, with claim 1 being amended herein without prejudice or disclaimer.

The amendment to claim 1 serves to further define the structural and functional characteristics of the claimed hoist attachment. Specifically, claim 1 has been amended to recite:

"wherein the positioning guide has positioning loops extending from either side of the base member;  
wherein the base member has sling protection portions;  
wherein the endless sling is configured to extend from the base member through the positioning member and around the positioning loops; and  
wherein the configuration of the endless sling, the positioning loops, and the sling protection portions allows for movement of the hoist attachment when no load is applied and tightening of the hoist attachment to a fork tine when a load is applied to the load mounting portion."

These amendments serve to distinguish the claimed invention from the cited prior art and more precisely define the novel aspects of the hoist attachment. The amended claim language is fully supported by the original disclosure, particularly in paragraphs [0013], [0015], [0016], and [0038]-[0043] of the specification as filed.

Applicant submits that the amendments do not introduce new matter and are made to expedite prosecution of the instant application.

## **## Rejections Under 35 U.S.C. 103**

### **### A. Brief summary of the rejection over Marry in view of Fredriksson**

The Office Action rejects claims 1-4 and 19-20 under 35 U.S.C. 103 as being unpatentable over Marry (US 2004/0108738) in view of Fredriksson (US 2008/0315604). The Examiner asserts that Marry discloses the majority of the claimed elements, including a base member, a positioning guide, a positioning member, and an endless sling. The Examiner relies on Fredriksson to teach the specific configuration of an endless sling with a load mounting portion.

### **## B. Overview of the cited prior art (Marry and Fredriksson)**

Marry (US 2004/0108738) discloses a clamp device for securing a sling to a forklift tine. The device comprises a rectangular tube assembly with a central opening for sliding onto a forklift tine, half-round tubing welded to the outboard edges of the rectangular tube, and a setscrew device for securing the clamp to the tine. Marry's device also includes two heavy pins welded to the top edge of the rectangular tube and a removable metal plate for securing the sling in place.

Fredriksson (US 2008/0315604) teaches a lifting sling system for connecting loads to a lifting hook. The system comprises a set of lifting sling units, each consisting of a coupling member, one or more sling leg portions, and a connector at the end of each sling leg portion. Fredriksson's system is designed to allow selective coupling of lifting sling units to a lifting hook and includes an information carrier containing specific work load limits.

While both references relate to load handling devices, it is respectfully submitted that neither Marry nor Fredriksson, either alone or in combination, teaches or suggests all the elements of the amended claim 1. Specifically, the

unique configuration of the positioning guide with positioning loops, the sling protection portions, and the functional aspect of allowing movement when unloaded and tightening when loaded are not disclosed or suggested by the cited prior art.

The differences between the cited prior art and the claimed invention will be discussed in greater detail in the following sections.

### **### C. Differentiation of the claimed invention from prior art**

#### **#### 1. Positioning guide with loops not taught by Marry or Fredriksson**

The claimed invention recites a positioning guide with positioning loops extending from either side of the base member. This specific structural configuration is neither taught nor suggested by Marry or Fredriksson. Marry's device includes heavy pins welded to the top edge of a rectangular tube, but these pins do not constitute positioning loops as claimed. Fredriksson's lifting sling system does not disclose any structure analogous to the claimed positioning guide with loops.

#### **#### 2. Sling protection portions and their function not disclosed in either reference**

The amended claim 1 introduces sling protection portions on the base member. These sling protection portions, in cooperation with other elements, allow for the dual functionality of movement when unloaded and tightening when loaded. Neither Marry nor Fredriksson discloses or suggests such sling protection portions or their associated function. Marry's half-round tubing welded to the outboard edges of the rectangular tube serves a different purpose and does not provide the claimed functionality.

### **#### 3. Unique configuration of endless sling cooperation with positioning guide and member**

The claimed invention describes a specific configuration where the endless sling extends from the base member through the positioning member and around the positioning loops. This unique arrangement, in conjunction with the sling protection portions, enables the hoist attachment to move freely when unloaded and tighten securely when loaded. While Marry and Fredriksson both disclose sling-based lifting devices, neither teaches or suggests this particular configuration and its associated functionality.

### **### D. Explanation of the invention's unique features and their advantages**

#### **#### 1. Improved safety and efficiency in load handling**

The claimed hoist attachment's unique configuration significantly enhances safety and efficiency in load handling operations. The positioning loops and sling protection portions work in concert with the endless sling to provide a secure attachment that automatically adjusts to the load condition. This self-adjusting feature minimizes the risk of load slippage or detachment, thereby improving workplace safety. Additionally, the design allows for quick and easy attachment to forklift tines, increasing operational efficiency.

#### **#### 2. Versatility in adapting to different load conditions**

The invention's ability to move freely when unloaded and tighten securely when loaded demonstrates its versatility in adapting to various load conditions. This dual functionality eliminates the need for manual adjustments between loads,

allowing the hoist attachment to seamlessly transition between different weight classes and load types. Such versatility is particularly advantageous in dynamic work environments where diverse loads are handled frequently.

### **#### 3. Reduction in wear and tear on the sling**

The incorporation of sling protection portions and the specific routing of the endless sling through the positioning member and around the positioning loops significantly reduces wear and tear on the sling. This design distributes the load stress more evenly across the sling and minimizes direct contact with sharp edges or abrasive surfaces. Consequently, the operational lifespan of the sling is extended, leading to reduced maintenance costs and improved reliability of the hoist attachment over time.

In view of these substantial differences and advantages, it is respectfully submitted that the claimed invention represents a non-obvious improvement over the cited prior art. The unique structural configuration and resultant functional benefits of the claimed hoist attachment are neither taught nor suggested by Marry or Fredriksson, either individually or in combination.

### **### Legal Standard for Obviousness and Its Application to the Present Case**

As set forth in MPEP 2143.03, to establish a prima facie case of obviousness, all the claim limitations must be taught or suggested by the prior art. This principle is supported by *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974), which held that "All words in a claim must be considered in judging the patentability of that claim against the prior art." Furthermore, *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) emphasizes that "All words in a claim must be considered in judging the patentability of that claim against

the prior art."

In light of these legal principles, it is respectfully submitted that for a proper prima facie case of obviousness, all limitations of the claimed invention must be taught or suggested by the cited prior art, either individually or in combination.

As demonstrated in the preceding sections, the combination of Marry and Fredriksson fails to teach or suggest all elements of amended claim 1. Specifically, the unique configuration of the positioning guide with positioning loops, the sling protection portions, and the functional aspect of allowing movement when unloaded and tightening when loaded are neither disclosed nor suggested by the cited references. Therefore, it is respectfully submitted that the rejection under 35 U.S.C. 103 is improper and should be withdrawn.

### **## Dependent Claims**

Claims 2-20 depend from amended claim 1 and incorporate all of its limitations. As such, these dependent claims are allowable at least by virtue of their dependency on a now allowable base claim.

Furthermore, many of the dependent claims recite additional limitations that further distinguish the claimed invention from the prior art. For example, claim 5 recites specific details about the protection pad, and claim 13 describes the particular arrangement of the positioning loops relative to the sling protection portions. These additional limitations provide further grounds for the allowability of the dependent claims.

### **## Acknowledgment of Allowable Subject Matter**

Applicant gratefully acknowledges the Examiner's indication that claims 5-18

would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

It is respectfully submitted that amended claim 1 now incorporates the essential features that rendered claims 5-18 allowable. Specifically, the amended claim 1 now recites the positioning loops, sling protection portions, and the functional cooperation of these elements, which are key aspects of the allowable subject matter. Therefore, it is asserted that all pending claims are now allowable.

## **## Conclusion**

In view of the above remarks and amendments, reconsideration and withdrawal of the rejections are respectfully requested.

It is submitted that the pending claims are neither anticipated nor rendered obvious by Marry and Fredriksson, either alone or in combination. The claimed invention represents a non-obvious improvement in the art of hoist attachments, providing unique structural features and functional benefits not contemplated by the prior art.

Accordingly, it is respectfully requested that all pending claims be allowed and the application be passed to issue.

Should the Examiner have any remaining concerns or questions, Applicant's representative welcomes the opportunity for a telephone conference to expedite prosecution of the instant application.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. [ACCOUNT NUMBER].

This response is respectfully submitted.

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