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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL JONES

Appeal 2010-006244
Application 11/290,662
Technology Center 3700

Before: JENNIFER D. BAHR, KEN B. BARRETT, and
CHARLES N. GREENHUT, *Administrative Patent Judges*.

BAHR, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

Michael Jones (Appellant) filed a request for rehearing under 37 C.F.R. § 41.52 (hereinafter “Request”), dated December 27, 2012, of our decision mailed October 31, 2012 (hereinafter “Decision”). In that Decision, we affirmed the Examiner’s rejection of claims 1-6, 8-12, 14-18, and 20 under 35 U.S.C. § 103(a) as unpatentable over Ramsay and Cavagna and the Examiner’s rejection of claims 7, 13, and 19 under 35 U.S.C. § 103(a) as unpatentable over Ramsay, Cavagna, and Smith.

OPINION

We reject any implication that the Board based its affirmance on a proposed modification of Ramsay that differed from that articulated by the Examiner. *See* Request, p. 6 (alleging that the Board “offer[ed] its own ‘understanding’” of the Examiner’s proposed modification). The Board’s explanation of the Examiner’s proposed modification of Ramsay on pages 3 and 4 of the Decision is fully supported by the Examiner’s statements on pages 4 and 7 of the Answer cited in that explanation. However, as it appears Appellant did not fully appreciate the Examiner’s position until after reading our Decision, as evidenced by the arguments in the Appeal Brief and Reply Brief (*see* Decision, p. 3), we have decided to consider Appellant’s arguments in the Request addressing the Examiner’s proposed modification.

Appellant challenges the rationale for making the modification proposed by the Examiner. Request, p. 8. Specifically, Appellant argues that “[e]liminating each coil assembly 24a-j from each drop line 20a-j would require the replacement of the prior art components, pressure regulator G and the other components of the prior art set forth in FIG. 1 of Ramsay and ¶0127 thereof, that Ramsay replaced.” *Id.* We find this argument convincing. The conventional (prior art) system described by Ramsay

employs in each supply drop line a pressure regulator G and two pressure gage assemblies H upstream of the “Colour Change Valve” (CCV) that are used to balance the system. Ramsay, paras. [0008] – [0015], [0127]; fig. 1. Ramsay’s invention replaces the pressure regulator G and pressure gages H in each supply drop line with a coiled back pressure regulator 24*a-j* in each return drop line. *Compare* Ramsay, fig. 1 *with* Ramsay, fig. 2. There is no evidence in this record that suggests Ramsay’s system can operate properly without a controllable pressure regulator in each drop line to permit the system to be balanced. Stated differently, the applied prior art does not establish a sound basis that Ramsay’s coiled back pressure regulators in each drop line could be eliminated and simply replaced with a single coiled back pressure regulator in the paint return conduit. Thus, the Examiner’s articulated reason for the modification, i.e., “eliminating all but one coil regulator and associated space and material costs” (Ans. 4) lacks rational underpinnings. The Examiner’s other stated reason for the modification, i.e., “to reduce turbulence in the flow,” is based upon an unsupported assumption. The Examiner does not point to any evidence that providing a coiled back pressure regulator on the paint return conduit of Ramsay’s system (fig. 2 or 2*a*), either in addition to or in place of the coiled back pressure regulators 24*a-j* in each return drop line, would reduce turbulence in the flow.

The aforementioned deficiency fatally taints both of the Examiner’s rejections, which thus cannot be sustained.

DECISION

For the above reasons, we grant Appellant’s Request that the Board’s Decision “be modified to reflect that the Examiner’s decision rejecting claims 1-20 is reversed.” We reverse the rejections under 35 U.S.C.

Appeal 2010-006244

Application 11/290,662

§ 103(a) of claims 1-6, 8-12, 14-18, and 20 as unpatentable over Ramsay and Cavagna and of claims 7, 13, and 19 as unpatentable over Ramsay, Cavagna, and Smith.

GRANTED

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