



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/648,944	01/03/2007	Yousef Daneshvar		5590

7590 01/23/2013
Yousef Daneshvar, MD. FACC
3425 Lone Pine Rd
West Bloomfield, MI 48323

EXAMINER

HICKS, VICTORIA J

ART UNIT	PAPER NUMBER
----------	--------------

3772

MAIL DATE	DELIVERY MODE
-----------	---------------

01/23/2013

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte YOUSEF DANESHVAR

Appeal 2010-006774
Application 11/648,944
Technology Center 3700

Before JENNIFER D. BAHR, MICHAEL L. HOELTER, and
ADAM V. FLOYD, *Administrative Patent Judges*.

FLOYD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellant appeals under 35 U.S.C. § 134 from the Examiner's decision finally rejecting claims 6, 7, 9-15, 18-27, 30, and 31. Claims 1-5, 8, 16, and 17 have been cancelled. Claims 28, 29, and 32 have been withdrawn from consideration by the Examiner. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART

CLAIMED SUBJECT MATTER

Claims 6, 20, 23, 30 and 31 are the independent claims on appeal. Claim 6 is representative of the subject matter on appeal which reads as follows:

6. A wrap for compressively wrapping a portion of a living body, the wrap comprising:
 - A) a relatively non-stretchable support; and
 - B) a relatively stretchable strap
 - i) that has one end portion attached to the support and a free end portion opposite the one end portion,
 - ii) that along at least some of its length comprises relatively stretchable material that is relatively stretchable in a direction lengthwise from the one end portion, and
 - iii) that, with the support disposed against an area of a portion of a living body around which the wrap is being wrapped, has sufficient length that, when stretched, is capable of initially encircling the portion of the living body and detachably/re-attachably attaching to an attachment means on the support by direct surface-to-surface attachment of the relatively stretchable material to the attachment means on the support while leaving some additional length of the relatively stretchable material between its detachable/re-attachable attachment to the attachment means and its free end portion,
wherein the relatively stretchable material forms at least a portion of the initial encirclement and at least a portion of the additional stretchable length and has opposite surfaces, namely an inner surface for facing toward the portion of the living body and an outer surface for facing away from the portion of the living body, and further including additional attachment means on a portion of the additional stretchable length for deattachably/re-attachably attaching to the outer surface of the relatively stretchable material in a prior encirclement by direct surface-to-surface contact of the additional attachment means with the relatively stretchable material.

Claim 20 pertains to an applicator for applying and/or removing the wrap recited in Claim 6.

REJECTIONS

Claims 6, 7, 9, 18, 19, 23-27, 30, and 31 are rejected under 35 U.S.C. § 102(b) as unpatentable over Daneshvar '146 (US 2003/0135146 A1, published Jul. 17, 2003).

Claims 10, 11, 14, 15, and 21 are rejected under 35 U.S.C. § 103(a) as unpatentable over Daneshvar '146 and Daneshvar '389 (US 2003/0149389 A1, published Aug. 7, 2003).

Claims 12, 13, and 22 are rejected under 35 U.S.C. § 103(a) as unpatentable over Daneshvar '146 and Daneshvar '389 in further view of Bass (US 6,585,673 B1, issued Jul. 1, 2003).

Claim 20 is rejected under 35 U.S.C. § 103(a) as unpatentable over Daneshvar '146 in view of Forman (US 2,815,752, issued Dec. 10, 1957).

ISSUES

Did the Examiner err in rejecting claims 6, 7, 9, 18, 19, 23-27, 30, and 31 as unpatentable under 35 U.S.C. § 102(b) over the teachings of Daneshvar '146?

Did the Examiner err in rejecting claims 10, 11, 14, 15, and 21 as unpatentable under 35 U.S.C. § 103(a) over the teachings of Daneshvar '146 in view of the teachings of Daneshvar '389?

Did the Examiner err in rejecting claims 12, 13, and 22 as unpatentable under 35 U.S.C. § 103(a) over the teachings of Daneshvar '146 and Daneshvar '389 in view of Bass?

Did the Examiner err in rejecting claim 20 as unpatentable under 35 U.S.C. § 103(a) over the teachings of Daneshvar ‘146 in view of the teachings of Forman?

ANALYSIS

The rejections of claims 6, 7, 9, 18, 19, 23-27, 30, and 31 as anticipated under 35 U.S.C. § 102(b) by Daneshvar ‘146

With respect to Claims 6 and 30, Appellant argues that Daneshvar ‘146 does not teach “additional attachment means ... for deattachable/re-attachably attaching to the outer surface of the relatively stretchable material...” because the additional attachment means ADT is adhesive tape which is not “deattachable/re-attachably attaching.” App. Br. 11. The Examiner contends that Daneshvar ‘146 teaches additional attachment means ADT is for deattachably/re-attachably attaching to the outer surface. Ans. 5. We agree with the Examiner that Daneshvar ‘146 explicitly teaches that the “adhesive may be chosen to function on a detachable, reattachable basis.” Ans. 21 (*quoting* Daneshvar ‘146, para. 67).¹ Thus, the rejection of Claims 6 and 30 is sustained.

As Appellant did not argue Claim 7 separately, the rejection to Claim 7 is also sustained.

With respect to Claim 9, Appellant additionally argues that Daneshvar ‘146 does not disclose “at least some portion of the additional attachment means is also disposed on the outer surface of a prior encirclement.” App. Br. 12. The Examiner contends that Figure 4 of Daneshvar ‘146 discloses that at least some portion of the additional attachment means ATM2 would be disposed on the outer surface of a prior encirclement and “is capable of

¹ We note that the reference also discloses that ADT “may be made from any other attachment means such as snaps.” Daneshvar ‘146, para. 67.

attachment” to the strap. Ans. 6. Appellant argues that the Examiner’s statement that ATM2 is “*capable* of being disposed on the outer surface” is not enough to sustain anticipation. Reply Br. 2. While the Examiner’s statement at page 21 of the Answer may have been inartful, the Examiner stated more fully that “Daneshvar teaches at least some portion of the additional attachment means (ATM2) that [sic] *will be* disposed on the outer surface of a prior encirclement *and is capable* of attachment to” the strap. Ans. 6 (*emphasis added*). The Examiner also explicitly pointed out how the disclosure in Figure 4 teaches that “the additional attachment means (ATM2-B) would be disposed on the outer surface of the encirclement.” *Id.* ATM2 depicted in Figure 4 attaches to the outer surface of the prior encirclement. *See e.g.*, Daneshvar ‘146, para. 87. In view of the above, Appellant’s arguments are not persuasive and the rejection of Claim 9 is sustained.

With respect to Claims 18 and 19, Appellant contends that Daneshvar ‘146 fails to disclose “two separate straps ... attached together end-to-end.” App. Br. 12. The Examiner responds that the strap in Figure 1 of Daneshvar ‘146 is comprised of two separate straps, STR and YD. Ans. 6. However, Appellant correctly points out that STR and YD are not attached end-to-end as required by the claim. App. Br. 12. While the Examiner also argues that the two separate straps YD are “capable of being connected end-to-end,” this is not sufficient to sustain a rejection of anticipation as Examiner fails to show an explicit or inherent teaching in the reference. Ans. 22. Therefore, the rejection of Claims 18 and 19 under § 102(b) is not sustained.

With respect to Claims 23-27, Appellant argues that Daneshvar ‘146 does not disclose “at least one piece of attachment material on each of the

inner and outer surfaces.” Appellant contends that ATM2-A, ATM2-B and ATM2-S are on the support and not part of the stretchable strap. App. Br. 13. The Examiner points out that ATM2 and ADT are attachment materials on the strap. Ans. 8-10. However, as seen in Figure 4 of Daneshvar ‘146, both ATM2 and ADT are attached to the inner surface of the strap STR. *See also* Fig. 3. The Examiner relies upon the strap itself as the attachment material on the outer surface of the strap. Ans. 22-23. In view of the above, we agree with Appellant that the strap itself cannot constitute an attachment material on its own outer surface. Thus, the rejection of Claims 23-27 is not sustained.

With respect to Claim 31, Appellant contends that Daneshvar ‘146 fails to teach “some additional length of the relatively stretchable material for ... wrapping the portion of the living body without encircling the support.” App. Br. 13. The Examiner contends that if the appropriate length of the strap STR is chosen it will have additional length for wrapping the portion of the body without encircling the support. Ans. 14. However, anticipation requires an explicit or inherent teaching be present in the reference. The Examiner argues that because the strap is stretchable it can inherently be extended to wrap the body portion without encircling the support. Ans. 23. Because the Examiner does not convincingly explain how the fact the strap is stretchable inherently discloses that it may wrap the body portion without encircling the support, the rejection of Claim 31 is not sustained.

The rejections of claims 10, 11, 14, 15, and 21 as obvious under 35 U.S.C. § 103(a) over Daneshvar '146 in view of Daneshvar '389

Appellant argues with respect to Claims 10, 14, 15, and 21 that neither Daneshvar '146 nor Daneshvar '389 disclose “at least some portion of the additional attachment means is also disposed on the outer surface of a prior encirclement” as required by Claim 9 from which Claims 10, 14, 15, and 21 depend. App. Br. 14. For the reasons already discussed with respect to Claim 9, the rejection of Claims 10, 14, 15, and 21 is sustained.

With respect to Claim 11, Appellant contends that neither of the Daneshvar references discloses that the additional attachment means is comprised of “hook-type and loop-type attachment material on the same surface of the stretchable material.” Appellant argues that the strap itself cannot comprise the attachment material because such material is recited to be “on the surface of” the strap. App. Br. 14. The Examiner responds that Figure 2 of Daneshvar '389 discloses additional attachment means of hook-type ATM2 on the inner surface of the strap STR. While the embodiment in Figure 2 discloses that the strap itself would act as the loop-type attachment, the Examiner determined it would have been obvious to one of skill in the art to use a loop-type attachment instead of the strap itself. Ans. 15.

Appellant does not identify any flaw in the Examiner’s reasoning. We agree with the Examiner and thus sustain the rejection of Claim 11.

The rejections of claims 12, 13, and 22 as obvious under 35 U.S.C. § 103(a) over Daneshvar '146 in view of Daneshvar '389 and further in view of Bass

Appellant argues that the pocket 12 taught by Bass is not a “strap.” App. Br. 15. The Examiner concedes that the relied upon structure is a pocket, but counters that it can be considered a “strap” as the pocket is a

flexible band of material which defines a “strap.” Ans. 24. We agree. While a portion of the strap in Bass contains a pocket for holding a heat or cold pack, it is nonetheless a “strap” under the broadest reasonable interpretation. The rejection of Claims 12, 13, and 22 is sustained.

The rejections of claim 20 as obvious under 35 U.S.C. § 103(a) over Daneshvar ‘146 in view of Forman

Appellant argues that Forman does not disclose a “mandrel attached to a handle ... as to allow the strap to be wound on the mandrel ... then unwound from the mandrel.” Appellant contends that the handle in Forman is used to simply pull on the end of the bandage as it is being applied. App. Br. 15. Examiner contends that Figure 4 of Forman depicts a mandrel 52 attached to a handle 51. Ans. 20-21. While the mandrel 52 is not used to wind and unwind the strap, the Examiner argues that the mandrel is “capable of” being used for this purpose. However, Examiner does not explain how the mandrel 52 of Forman is capable of being used for this purpose and it is not apparent reading the reference that it would be. The “zone of attachment means” (53, 54) in Forman appear to attach to the strap via cords (55, 56), and it is not clear whether the mandrel is capable of being used to wind and unwind the strap. Thus, the rejection of Claim 20 is not sustained.

DECISION

We AFFIRM the rejections of claims 6, 7, 9, and 30 under 35 U.S.C. § 102(b) as anticipated by Daneshvar ‘146.

We REVERSE the rejections of claims 18, 19, 23-27, and 31 under 35 U.S.C. § 102(b) as anticipated by Daneshvar ‘146.

Appeal 2010-006774
Application 11/648,944

We AFFIRM the rejections of claims 10, 11, 14, 15, and 21 under 35 U.S.C. § 103(a) as obvious over Daneshvar ‘146 in view of Daneshvar ‘389.

We AFFIRM the rejections of claims 12, 13, and 22 under 35 U.S.C. § 103(a) as obvious over Daneshvar ‘146 in view of Daneshvar ‘389 in further view of Bass.

We REVERSE the rejections of claim 20 under 35 U.S.C. § 103(a) as obvious over Daneshvar ‘146 in view of Forman.

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

AFFIRMED-IN-PART

Klh