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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes details for application 10/513,052 filed 10/29/2004 by Francisco Javier Perez, attorney docket no. 82105340, confirmation no. 7265. Also includes examiner information (SHAH, MANISH S), art unit (2853), and notification date (01/24/2013).

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte FRANCISCO JAVIER PEREZ, XAVIER GROS, JESUS
GARCIA, and XAVIER GASSO PUCHAL

Appeal 2010-007532
Application 10/513,052
Technology Center 2800

Before MARC S. HOFF, ELENI MANTIS MERCADER, and JEFFERY S.
SMITH, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-23, 30, and 31. Claims 24-29 have been withdrawn.

We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Representative Claim

1. A hold down apparatus for use in a hardcopy device comprising a first stationary surface adapted to support a sheet of print media thereon and a vacuum guide arranged to support a partial vacuum, the first surface having a plurality of apertures therein in fluid communication with the vacuum guide via at least one porous or labyrinthine flow restraint arranged to impede vacuum flow, the at least one flow restraint further arranged such that downstream of the apertures, unimpeded vacuum flow between the plurality of apertures is substantially prevented.

Prior Art

Sawicki	US 6,604,811 B2	Aug. 12, 2003
Zeller	US 2004/0137209 A1	Jul. 15, 2004
Greive	US 6,834,949 B2	Dec. 28, 2004
Rutland	US 6,854,823 B2	Feb. 15, 2005

(filed Sep. 19, 2003)

Examiner's Rejections

Claims 1-3, 10-13, 21-23, 30, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Greive and Rutland.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Greive, Rutland, and Sawicki.

Claims 5-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Greive, Rutland, Sawicki, and Zeller.

Claims 8, 9, and 14-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Greive, Rutland, and Zeller.

ANALYSIS

Section 103 rejection of claims 1-3, 10-13, 21-23, 30, and 31

Claim 1 recites “a first stationary surface adapted to support a sheet of print media.” The Examiner finds that Greive teaches a first surface adapted to support a sheet of print media. Ans. 4. The Examiner finds that Rutland teaches that changing the moving surface of Greive to a stationary surface was within the level of ordinary skill in the art at the time of invention. Ans. 6; 12. Appellants contend that the Examiner’s rejection is based on impermissible hindsight because paragraph 94 of Appellants’ Specification discloses that the surface may be stationary or moving. Br. 8-10. However, the Examiner finds objective evidence from the teachings of Rutland that having the surface either rotate or remain stationary “was a design step well within the grasp of a person of ordinary skill in the relevant art.” *KSR Int’l v. Teleflex, Inc.*, 550 U.S. 398, 427 (2007). Appellants have not provided persuasive evidence or argument to rebut the Examiner’s finding.

Appellants contend that Greive teaches away from a stationary surface. Br. 10-11. Greive discusses a moving surface. Abstract; Fig. 1. However, Greive does not disparage or discourage using a surface that is stationary relative to a moving print cartridge as taught by Rutland. Appellants have not provided persuasive evidence or argument to establish that Greive teaches away from a stationary surface.

Appellants also contend that modifying the surface of Greive to be stationary would render Greive unsatisfactory for its intended purpose and would change the principle of operation of Greive. Br. 11. Appellants have

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not provided persuasive evidence or argument to establish that modifying the surface of Greive to remain stationary while the printing heads move as taught by Rutland would render Greive unsatisfactory for its intended purpose of printing or would change the principle of operation of printing.

We sustain the rejection of claim 1 under 35 U.S.C. § 103. Appellants have not provided arguments for separate patentability of claims 2, 3, 10-13, 21-23, 30, and 31 which fall with claim 1.

Section 103 rejection of claim 4

Appellants present arguments for the patentability of claim 4 (Br. 12) similar to those presented for claim 1 which we find unpersuasive.

Section 103 rejection of claims 5-7

Appellants present arguments for the patentability of claims 5-7 (Br. 13) similar to those presented for claim 1 which we find unpersuasive.

Section 103 rejection of claims 8, 9, and 14-20

Appellants present arguments for the patentability of claims 8, 9, and 14-20 similar to those presented for claim 1 which we find unpersuasive.

DECISION

The rejection of claims 1-3, 10-13, 21-23, 30, and 31 under 35 U.S.C. § 103(a) as being unpatentable over Greive and Rutland is affirmed.

The rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Greive, Rutland, and Sawicki is affirmed.

The rejection of claims 5-7 under 35 U.S.C. § 103(a) as being unpatentable over Greive, Rutland, Sawicki, and Zeller is affirmed.

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The rejection of claims 8, 9, and 14-20 under 35 U.S.C. § 103(a) as being unpatentable over Greive, Rutland, and Zeller is affirmed.

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. § 41.50(f).

AFFIRMED

peb