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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/600,623	11/16/2006	Eugene Le Devehat	FMCE-P122A	5420
	7590 Henry C. Query, Jr. 504 S. Pierce Avenue Wheaton, IL 60187	01/31/2013	EXAMINER BOCHNA, DAVID	
			ART UNIT 3679	PAPER NUMBER
			MAIL DATE 01/31/2013	DELIVERY MODE PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte EUGENE LE DEVEHAT and RENAUD LE DEVEHAT

Appeal 2010-011671
Application 11/600,623
Technology Center 3600

Before STEVEN D.A. McCARTHY, BRETT C. MARTIN and
WILLIAM A. CAPP, *Administrative Patent Judges.*

CAPP, Administrative Patent Judge.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the final rejection of claims 1-3 and 5-9 as anticipated under 35 U.S.C. § 102(b) by Sumption (US 3,168,335, issued Feb. 2, 1965). We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

THE INVENTION

Appellants' invention is a clamping assembly for a coupler. Spec. 2, 1.10. Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. A coupler which is adapted to be connected to a complementary means for the transfer of a fluid between the coupler and the complementary means, the complementary means comprising a tubular member through which the fluid is allowed to flow, the coupler comprising:

a body which is releasably connectable to the tubular member and through which the fluid is allowed to flow;

at least one seal for providing a fluid-tight seal between the body and the tubular member;

means for protecting the at least one seal;

the protecting means being movable by the complementary means between a first position before connection in which the protecting means projects beyond the at least one seal in the direction of connection, and a second position after connection in which the protecting means no longer projects beyond the at least one seal; and

damping means for urging the protecting means towards its first position.

OPINION

Claims 1 and 6

Appellants argue that Sumption fails to disclose two elements of claims 1 and 6. First, Appellants argue that Sumption's body is not releasably connectable to the tubular member of a complementary means. App. Br. 6. Appellants argue that, even if Sumption's coupling housing members 22 may be considered to be releasably connected together, such does not constitute a releasable connection between the body members "directly." App. Br. 8.

We understand the Examiner's response to Appellants' argument to state, in essence, that the coupler component shown in Figure 1 of Sumption is releasably connectable to the coupler component shown in Figure 2 of Sumption and, therefore, the tubular member of the Figure 2 component is releasably connectable to the Figure 1 component. Ans. 4-5. We agree with the Examiner. The structure of coupling sleeve 18 circumscribes and surrounds the fluid as it flows through the Figure 2 coupler component and, therefore, it constitutes a tubular member and the fluid flows through it notwithstanding that it does not physically come into contact with the fluid. Thus, we reject Appellants' first argument.

Next, Appellants argue that Sumption lacks a fluid-tight seal between the body and the tubular member. *Id.* Appellants contend that seal 17 in Figure 1 of Sumption does not satisfy the fluid-tight seal limitation of claim 1, because a second seal 17 (depicted on the right half of Figure 4) on the complementary means is needed, in conjunction with seal 17 in Figure 1, in order to achieve a fluid-tight seal. Appellants argue that if Sumption's coupling only had seal 17 on Figure 1, it would leak. App. Br. 8.

Claim 1 is an open-ended claim with a comprising transition term in the preamble. Seal 17 in Figure 1 of Sumption is a seal that facilitates a fluid-tight seal across the coupling. As perhaps best shown in Figure 4, the seal 17 previously identified in Figure 1 is depicted in Figure 4 as creating a fluid-tight seal between body member 11 of Figure 1 and cylindrical coupling sleeve 18 from the complementary means component depicted on the right-hand side of Figure 4. The limitation “at least one seal for providing a fluid-tight seal between the body and the tubular member,” does not preclude the use of additional structures to contribute to creating a fluid-tight seal across the coupling. Seal 17 in Sumption Figure 1 satisfies this claim limitation.

The Examiner correctly found that all of the limitations of claim 1 are met by Sumption and we sustain the Examiner’s rejection of claim 1 as anticipated under 35 U.S.C. § 102(b). Claims 1 and 6 were argued together and Appellants offer no separate arguments for the patentability of claim 6, such that claim 6 falls with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2011). We sustain the Examiner’s rejection of claims 1 and 6.

Claims 2 and 7

Claims 2 and 7 depend from claims 1 and 6 respectively and add the limitation “retaining means...for preventing the protecting means from projecting beyond the first position in the direction of connection.” App. Br., Clms. App’x. The Examiner identifies Sumption’s annular flange 19 as the “retaining means” and coupling sleeve 18 as the “protecting means” that satisfy this claim limitation. Ans. 4.

Appellants argue that Sumption fails to disclose the claimed retaining means. App. Br. 9. Appellants argue that the Examiner’s identified

structures in Sumption are not equivalent for purposes of a Section 112, paragraph 6, analysis. *Id.*

In order for a prior art element to meet a Section 112, paragraph 6, means-plus-function limitation, the prior art element must either be the same as or an equivalent of the disclosed structure. *In re Donaldson Co.*, 16 F.3d 1189, 1195 (Fed. Cir. 1994). Two structures may be “equivalent” for purposes of § 112, paragraph 6, if they perform the identical function, in substantially the same way, with substantially the same result. *Kemco Sales, Inc. v. Control Papers Co.*, 208 F.3d 1352, 1364 (Fed. Cir. 2000).

Construing means-plus-function claim language in accordance with 35 U.S.C. § 112, paragraph 6, is a two-step process. The first step in construing a means-plus-function claim limitation is to define the particular function of the claim limitation. *Golight, Inc. v. Wal-Mart Stores*, 355 F.3d 1327, 1333-34 (Fed. Cir. 2004). The second step is to look to the specification and identify the corresponding structure for that function. *Id.* Under this second step, structure disclosed in the specification is “corresponding” structure only if the specification or prosecution history clearly associates that structure to the function recited in the claim. *Id.*

With respect to the first step, we find that the particular function of the means-plus-function limitation of claims 2 and 7 is preventing the protecting means from projecting beyond the “first position” of claim 1. Appellants identify their centering guide 49 as the corresponding structure. App. Br. 10. In particular, Appellants identify an unnumbered notch that engages the front face 48 of protecting ring 40 as preventing the protecting ring from extending beyond its first position. *Id.*

In arguing for the non-equivalency of Sumption, Appellants fail to provide a traditional function-way-result analysis and, instead, merely argue

that Sumption's shoulder 28 is located axially behind seal 17. App. Br. 10. Appellants argue that the shoulder cannot engage the front face 48 of the locking and coupling sleeve 18 and support the front face as the coupler is being connected to the complementary means. App. Br. 10.

Appellants' argument is not commensurate with the scope of the claim. For purposes of Section 112, paragraph 6 equivalency, the claim does not require that the retaining means engage and support the front face of the coupler as it is being connected, it merely requires means to prevent the protecting means from projecting beyond the first position. As shown in Sumption Figure 1, coupling sleeve 18 is in a "first position" that projects past seal 17 in the direction of connection before connection.¹ However, annular flange 19 contacts annular shoulder 28 so as to prevent further travel beyond the first position in the direction of connection. *See* Sumption, fig. 1. Thus, Sumption performs the identical function of the retaining means of claims 2 and 7.

The "way" that Sumption prevents projection of the coupling sleeve 18 beyond the first position is by interposing one structure, i.e., the shoulder 28, to obstruct and inhibit further travel of flange 18. *See* fig. 1. This "way" of preventing travel of the protecting means is substantially the same way as the function is performed in Appellants' invention, which is simply blocking further travel with a physical obstruction, i.e., the notch in centering guide 49. In the case of both Appellants' invention and Sumption, the result is substantially the same, if not identical, i.e., the structure that protects the seals is retained in position.

¹ Figure 4 of Sumption shows coupling sleeve 18 in a "second position" that does not project beyond seal 17 in the direction of connection after connection.

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Thus, we agree with the Examiner that the structural relationship of flange 18 to shoulder 28 in Sumption is equivalent to Appellants' corresponding structure. Accordingly, we sustain the Examiner's rejection of claims 2 and 7.

Claims 3, 5, 8 and 9

Claims 3, 5, 8 and 9 depend directly or indirectly from either claims 1 or 6. Appellants have offered no separate arguments for the patentability of claims 3, 5, 8 and 9, such that they fall with claims 1 and 6. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2011).

DECISION

The decision of the Examiner to reject claims 1-3 and 5-9 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)(1)(iv).

AFFIRMED

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