



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.
11/719,851	05/21/2007	Thomas Kepler	PRINZ U1123	2226
27667	7590	02/25/2013	EXAMINER	
HAYES SOLOWAY P.C. 4640 E. Skyline Drive TUCSON, AZ 85718			BALDORI, JOSEPH B	
			ART UNIT	PAPER NUMBER
			3711	
			NOTIFICATION DATE	DELIVERY MODE
			02/25/2013	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

admin@hayes-soloway.com
nsoloway@hayes-soloway.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte THOMAS KEPPLER and ROLF ROTHFELDER

Appeal 2010-011777
Application 11/719,851
Technology Center 3700

Before BIBHU R. MOHANTY, MICHAEL W. KIM, and
PHILIP J. HOFFMANN, *Administrative Patent Judges*.

HOFFMANN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the final rejection of claims 14-25.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

The rejected claims are directed to a ball case, which may be used in the manufacture of soccer balls (Spec. 1). Claim 14, which is the sole independent claim, is reproduced below.

14. A ball case consisting of two-dimensional blanks which are connected with each other at their edges, the surface of the ball case having a pattern of two different groups of polygons, of which a first group consists of three-armed star-shaped areas, and several three-armed star-shaped areas in planar development contiguously forming a one-piece two-dimensional blank, wherein a second group consists of polygons which are integrally formed from partial areas of one equilateral triangle and of three equilateral pentagons in such a manner that the pentagonal areas are situated at the points of the corners of the triangle and an imaginary corner and/or the centre of each of the pentagons lies on the perpendicular bisector of the opposite side of the triangle, said polygons being configured as separate, two dimensional blanks.

THE REJECTIONS

The Examiner rejects the claims as follows:

Claims 14-21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Schwaner (US 5,709,623, iss. Jan. 20, 1998); and

claims 22-25 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Schwaner in view of Kennedy (US 6,966,857 B2, iss. Nov. 22, 2005).

¹ Our decision will refer to Appellants' Specification ("Spec.," filed May 21, 2007) and Appeal Brief ("App. Br.," filed Apr. 21, 2010), as well as the Examiner's Answer ("Ans.," mailed May 27, 2010).

ANALYSIS

The Examiner rejects independent claim 14 under 35 U.S.C. § 103(a) as unpatentable over Schwaner. Specifically, the Examiner acknowledges that Schwaner does not disclose

the second group [*of polygons*] being integrally formed from partial areas of one equilateral triangle and of three equilateral pentagons in such a manner that the pentagonal areas are situated at the points of the corners of the triangle and an imaginary corner and/or the centre of each of the pentagons lies on the perpendicular bisector of the opposite side of the triangle

(Ans. 4) as recited in independent claim 1. The Examiner asserts, however, that it would be obvious to combine three pentagonal ball zones 12 with one star ball zone 31 of Schwaner, which would provide the claimed second group of polygons (Ans. 4, 8-10). Appellants argue that such a combination would require “dissecting, altering and wholly reconfiguring one of the disclosed embodiments of Schwaner” (App. Br. 15), and thus “[t]here is nothing in Schwaner, which would teach or suggest modifying the teachings of Schwaner to achieve the requirements of claim 14” (App. Br. 16), which Appellants allege is “a vastly different structure from any of the ball casings disclosed by Schwaner” (App. Br. 12). We disagree with Appellants, and agree with the Examiner that it would be obvious to rearrange the star and pentagonal ball zones of Schwaner to provide the claimed second group of polygons (Ans. 9). *See In re Japikse*, 181 F.2d 1019 (CCPA 1950) (claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of

the device.); *In re Kuhle*, 526 F.2d 553 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice). Thus, we sustain the rejection of independent claim 14 under 35 U.S.C. § 103(a) as unpatentable over Schwaner.

The Examiner rejects dependent claim 18 under 35 U.S.C. § 103(a) as unpatentable over Schwaner. Dependent claim 18 recites the additional limitations of “ball case according to claim 14, consisting of 5 two-dimensional blanks, namely 4 identical polygons of the second group and one single one-piece blank which is composed of 16 three-armed star-shaped areas.” The Examiner acknowledges that Schwaner does not disclose the claimed “specific number of blanks put together to make larger pieces of the first group [*of polygons*]” (Ans. 4). The Examiner states, however, that it would have been obvious to use a different number of first and second groups of polygons, than are shown in Schwaner (Ans. 4, 10). We note that Appellants have not submitted any substantive arguments or evidence as to why it would not be obvious to use a different number of groups of polygons than shown in Schwaner. Instead, Appellants argue that Schwaner does not show using the claimed “5 two-dimensional blanks,” and that “[o]ne having skill in the art would not be able to use Schwaner’s teaching of a ball casing having 12 pentagon panels and one of 13, 14, 17, 22 or 32 additional panels to achieve the 5 total panels required by dependent claim 18” (App. Br. 17) without further discussion. Thus, we sustain the rejection of dependent claim 18 under 35 U.S.C. § 103(a) for the same reasons as independent claim 14.

Appeal 2010-011777
Application 11/719,851

Claims 15-17 and 19-25 depend from independent claim 14. Inasmuch as Appellants do not argue these dependent claims separately, we sustain the rejections of claims 15-17 and 19-25 under 35 U.S.C. § 103(a) for the same reasons as independent claim 14.

DECISION

The Examiner's rejection of claims 14-21 under 35 U.S.C. § 103(a) as unpatentable over Schwaner is AFFIRMED; and

the Examiner's rejection of claims 22-25 under 35 U.S.C. § 103(a) as unpatentable over Schwaner in view of Kennedy 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. § 1.136(a)(1)(iv).

AFFIRMED

babc