



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.
11/771,491	06/29/2007	Jeffery D. Gross	012021-9270-00	8052
23409	7590	02/27/2013	EXAMINER	
MICHAEL BEST & FRIEDRICH LLP (Mke) 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202			GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3744	
			NOTIFICATION DATE	DELIVERY MODE
			02/27/2013	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):

mkeipdocket@michaelbest.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* JEFFERY D. GROSS, YIU KWONG WAN, and  
THOMAS C. MADDOCKS

---

Appeal 2011-000417  
Application 11/771,491  
Technology Center 3700

---

Before STEVEN D.A. MCCARTHY, LYNNE H. BROWNE, and  
MITCHELL G. WEATHERLY, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the decision of the Examiner rejecting claims 1-23. Br. 10. The Examiner has withdrawn the rejections of claims 5-7, 13-16, and 19-22 but objected to these claims as being dependent upon a rejected base claim. Ans. 3. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

The claims are directed to a hand-held hair dryer with a light source.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A hand-held hair dryer comprising:
  - a housing having a main portion and a nozzle portion terminating at a drying end,
    - an interior of the housing defining a cavity and an air flow path,
      - the air flow path extending through the cavity to the drying end of the nozzle portion,
      - an exterior of the housing defining a handle portion and a shoulder,
        - the shoulder positioned between the nozzle portion and the main portion on the exterior of the housing; and
        - a light source coupled to the housing and positioned on the shoulder outside the cavity and outside the air flow path,
    - wherein the light source is positioned to direct light in a path along the exterior of the housing from the shoulder towards a work area proximate the drying end of the nozzle portion, such that the light path is separate from the air flow path.

#### REFERENCES

The Examiner relies upon the following evidence:

Jancke	US 1,787,251	Dec. 30, 1930
Wells	US 4,135,080	Jan. 16, 1979

#### REJECTIONS

Appellants seek our review of the following rejections:

1. Claims 1, 2, 10, and 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Wells. Ans. 3-4.

2. Claims 3, 4, 8, 9, 11, 12, 16, 17, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wells and Jancke. Ans. 4-5.

## OPINION

### *Anticipation of claims 1, 2, 10, and 18 by Wells*

Wells discloses a heat gun. (*See, e.g.*, Wells, col. 3, ll. 47-56). The sustainability of the Examiner's rejection under § 102(b) turns on whether the recitation of "hand-held hair dryer" in the preamble of independent claims 1, 10, and 18 limits the scope of those claims. Appellants contend that the claims are limited solely to "hand-held hair dryer[s]" such that the claims do not read on Wells's heat gun. Br. 14-16. In particular, Appellants argue that the recitation of "a work area proximate the drying end of the nozzle portion" in claim 1 and of "a work area adjacent to the drying end of the nozzle portion" in claims 10 and 18 indicates an intent to limit the structures of claims 1, 10, and 18 to "hand-held hair dryers." Appellants likewise point to frequent references in the Specification to hair dryers as evidence that the preambles of claims 1, 10, and 18 are limiting. (*See* Br. 14-16).

Appellants have provided detailed arguments explaining why they believe the entire preamble recitation "hand-held hair dryer" patentably limits claims 1, 10, and 18. Although the Examiner summarizes the applicable law on page 13 of the Answer, the Examiner does not explain why the particular preambles of claims 1, 10, and 18 are not limiting. Appellants' arguments are persuasive.

Wells's heat gun anticipates the subject matter of independent claims 1, 10, and 18 only if it inherently is a "hand-held hair dryer" as recited in the preambles of claims 1, 10, and 18. Appellants contend that heat guns, such

as the one described in Wells, produce temperatures that are far too high to permit use as a hair dryer. Br. 16. We note that Wells describes a heat gun that produces sufficiently high temperatures to shrink plastic and heat metal parts on an assembly line. Wells, col. 3, ll. 47-51. Wells's heat gun also "is somewhat larger and provides greater volume of air at a slightly *higher* temperature than previous units." *Id.*, col. 3, ll. 51-54 (emphasis added). Taking into account the express warnings not to use heat guns as hair dryers which appear in several of the instruction manuals placed in evidence by Appellants, the Examiner has not demonstrated a sound basis for belief that Wells's heat gun is inherently capable of functioning as a hair dryer.

When we properly interpret claims 1, 10, and 18, we must reverse the Examiner's rejection of those claims as anticipated by Wells. For the same reasons, we also reverse the rejection of dependent claim 2.

*Obviousness of claims*

*3, 4, 8, 9, 11, 12, 16, 17, and 23 over Wells and Jancke*

Claims 3, 4, 8, and 9 depend either directly or indirectly upon independent claim 1. Claims 11, 12, 16, and 17 depend either directly or indirectly upon independent claim 10. Appellants argue for reversing the rejection of dependent claims 3, 4, 8, 9, 11, 12, 16, 17, and 23 for the same reasons justifying reversing the rejection of their respective independent base claims 1, 10, and 18. Br. 22-23. For the reasons expressed above, we reverse the rejections of independent claims 1, 10, and 18. For the same reasons, we reverse the rejection of dependent claims 3, 4, 8, 9, 11, 12, 16, 17, and 23.

Appeal 2011-000417  
Application 11/771,491

**DECISION**

For the reasons stated above, we reverse the rejections of claims 1-4, 8-12, 16-18, and 23.

**REVERSED**

hh