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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NOBUYOSHI FUJII and YOSHIAKI NANKO

Appeal 2011-001001
Application 11/698,956
Technology Center 3600

Before KEN B. BARRETT, MICHELLE R. OSINSKI, and
BRADFORD E. KILE, *Administrative Patent Judges*.

PER CURIAM.

DECISION ON APPEAL

STATEMENT OF THE CASE

Nobuyoshi Fujii and Yoshiaki Nanko (Appellants) seek our review under 35 U.S.C. § 134 of the final rejection of claims 1-15. An oral hearing was held on January 25, 2013. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

THE INVENTION

Appellants' claimed invention pertains to a bicycle chain guide for a front derailleur. Spec. 1, para. [0001]. Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A bicycle chain guide comprising:

a first guide plate having a first chain engagement surface;

a second guide plate having a second chain engagement surface facing the first chain engagement surface to form a chain receiving area therebetween;

a first connection part extending between the first and second guide plates to connect the first and second guide plates together at a first location, the first connection part being fixed to the first guide plate by a fastener, the fastener defining an attachment axis; and

a second connection part extending between the first and second guide plates to connect the first and second guide plates together at a second location spaced from the first location,

the first guide plate having a first abutment and the first connection part having a second abutment, the first and second abutments being arranged at a rear end of the chain guide to limit relative rotational movement of the first and second guide plates about the attachment axis.

THE REJECTIONS

The following Examiner's rejections are before us for review:

1. Claims 1-7 and 9-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nanko (US 6,962,544 B2, issued Nov. 8, 2005), and Desenclos (US 6,009,771, issued Jan. 4, 2000); and

2. Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nanko and Kondo (US 6,629,903 B1, issued Oct. 7, 2003)¹.

OPINION

Claim 1 is the sole independent claim on appeal. The Examiner found that Nanko discloses the claimed invention of claim 1 except for an explicit disclosure of the claimed abutment arrangement. Ans. 4. The Examiner further found that Desenclos discloses this feature. *Id.* at 4, 10-14. Appellants argue that Desenclos's drawings and description are inadequate to support the Examiner's finding. App. Br. 12-13. We find Appellants' argument to be persuasive.

We understand the Examiner to have found that Desenclos discloses two "abutment" surfaces arranged so as to contact each other during relative rotational movement thereby limiting the movement. *See* Ans. 12. However, we are unable to discern from Desenclos's figures, including those relied upon and annotated by the Examiner, whether the surfaces found to be abutments are arranged such that they would contact each other during rotation. The Examiner does not direct our attention to any portion of Desenclos's written description that supports the finding. As such, we

¹ The Examiner did not include Desenclos in the statement of the second ground of rejection, but may have intended to do so. *Compare* Ans. 7 (statement of the ground of rejection) *with id.* at 15 (referring to the combination of three references, including Desenclos). In light of the ultimate decision in this appeal, we need not determine whether Desenclos is properly part of the second rejection.

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cannot find by a preponderance of the evidence that Desenclos discloses “first and second abutments being arranged at a rear end of the chain guide to limit relative rotational movement of the first and second guide plates about the attachment axis,” as recited in claim 1. Because the Examiner’s obviousness rejection is based on this finding, we do not sustain the rejection of claim 1 or of claims 2-7 and 9-15, which depend therefrom.

The Examiner’s articulation of the rejection of claim 8, which also depends from claim 1, does not remedy the defect discussed above. Accordingly, we also cannot sustain the rejection of claim 8.

DECISION

The decision of the Examiner to reject claims 1-15 is reversed.

REVERSED

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