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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL KOLLMAN and ADAM WARD

Appeal 2011-003323
Application 11/035,604
Technology Center 3700

Before LINDA E. HORNER, SCOTT A. DANIELS, and
BART A. GERSTENBLITH, *Administrative Patent Judges*.

GERSTENBLITH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Michael Kollman and Adam Ward (“Appellants”) appeal under 35 U.S.C. § 134 from the Examiner’s decision rejecting claims 1-6, 9-11, and 34-37.¹ We have jurisdiction under 35 U.S.C. § 6(b).

The Claimed Subject Matter

Claims 1 and 6 are representative of the claimed subject matter and are reproduced below.

1. An improved blind cutting machine of the type having a work surface on which a blind is to be cut is placed, an end stop against which an end of the blind to be cut rests prior to being cut and a cutting mechanism which cuts the blind to be cut, the improvement comprising:

an actuator attached to the end stop for moving the end stop relative to the work surface; and

a controller connected to the actuator, the controller having:

a housing,

a data entry device attached to the housing,

a display attached to the housing,

a memory, and

a processor;

¹ Claims 12-33 were previously cancelled, and claims 7 and 8 were withdrawn from consideration in response to a restriction requirement. *See* Election (filed Oct. 2, 2007) at 1; Office Action (mailed Oct. 29, 2007) at 3. Claims 38 and 39 were subsequently cancelled. *See* Ans. 2; Amendment (dated June 1, 2010) at 6-7.

the memory containing a program such that when an operator enters information that comprises a product type and at least one product identifier which is not merely a dimension of the product and with which at least one dimension of the blind to be cut is associated and the dimensions of an opening over which the blind to be cut is to be mounted the controller sends a signal to the actuator which causes the actuator to position the end stop at a location where a correct amount of material can be trimmed from an end of the blind to be cut to enable the blind to fit the opening.

6. An improved blind cutting machine of the type having a work surface on which a blind is to be cut is placed, an end stop against which an end of the blind to be cut rests prior to being cut and a cutting mechanism which cuts the blind to be cut, the improvement comprising:

an actuator attached to the end stop for moving the end stop relative to the work surface; and

a controller connected to the actuator, the controller having:

a housing,

a data entry device attached to the housing,

a display attached to the housing,

a memory, and

a processor;

the controller configured such that when an operator enters information about the blind to be cut and the dimensions of an opening over which the blind to be cut is to be mounted the controller sends a signal to the actuator which causes the actuator to position the end stop at a location where a correct amount of material can be trimmed from an end of the blind to be cut to enable the blind to fit the opening; and

wherein the controller is configured such that the controller will cause an error message to appear in the display whenever:

i.) an operator enters a width of a blind to be cut and a width provided by the customer, and

ii.) the width of a blind to be cut is not greater than the width provided by the customer.

References

The Examiner relies upon the following prior art references:

Drucker	US 6,249,710 B1	June 19, 2001
O'Hagan	US 2002/0145038 A1	Oct. 10, 2002
Beck	US 6,487,473 B1	Nov. 26, 2002
Lin	US 2004/0103767 A1	June 3, 2004
Dick	US 2005/0115375 A1	June 2, 2005

Rejections

The Examiner makes the following rejections:

- I. Claims 1-5, 9-11, and 34-36 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement;
- II. Claims 1-6, 9-11, and 34-37 are rejected under 35 U.S.C. § 102(e) as anticipated by Dick;
- III. Claims 1-5, 9-11, and 35 are rejected under 35 U.S.C. § 102(e) as anticipated by Lin;
- IV. Claims 1-6, 9-11, and 34-37 are rejected under 35 U.S.C. § 103(a) as unpatentable over Dick and Beck;

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- V. Claims 6, 36, and 37 are rejected under 35 U.S.C. § 103(a) as unpatentable over Lin and Drucker; and
- VI. Claim 34 is rejected under 35 U.S.C. § 103(a) as unpatentable over Lin and O’Hagan.

SUMMARY OF DECISION

We REVERSE.

OPINION

Rejection I – Written Description

The Examiner rejected claims 1-5, 9-11, and 34-36 as failing to comply with the written description requirement because claim 1 requires “at least one product identifier which is not merely a dimension of the product” and the Specification “does not teach that the product identifier cannot be a simple dimension of the product.” Ans. 4. In addition, the Examiner found that the Specification “does not disclose that the dimensions of an opening over which the blind to be cut to be mounted are associated with the product identifier, as set forth in claims 1 and 6.” *Id.*

Appellants assert that the Specification discloses that the memory may also contain a look-up table containing product identifiers and a blind width associated with each product identifier. App. Br. 7 (citing Spec. at 7). Appellants also contend that the Specification explicitly describes a product identifier that is not merely a dimension of the product—a bar code. *Id.* at 8 (citing Spec. at 7).

For the reasons explained by Appellants, we agree that the Specification provides a sufficient description of a product identifier, *e.g.*, a bar code, which is not merely a dimension of the product.² Additionally, we disagree with the Examiner's second finding of lack of adequate written description for at least two reasons. First, claim 6 does not require a product identifier, thus, even if the Specification "does not disclose that the dimensions of an opening over which the blind to be cut to be mounted are associated with the product identifier," that would be inapposite with respect to claim 6. Second, claim 1 does not require that the product identifier be associated with the dimensions of an opening over which the blind to be cut is to be mounted. The association required by claim 1 is between the product identifier and the "at least one dimension of the blind to be cut." *See* claim 1 ("the memory containing a program such that when an operator enters information that comprises a product type and at least one product identifier *which* is not merely a dimension of the product and *with which* at least one dimension of the blind to be cut is associated and the dimensions of

² The Examiner's rejections, Appellants' Appeal and Reply Briefs, and the arguments made within each, reflect a similar understanding of the program required by claim 1—that the program is configured such that when an operator enters information that comprises the information described in claim 1, the signal sent to the actuator by the controller is *based on* the information entered. Although the claim does not expressly recite that the signal is *based on* the information entered, we agree that one of ordinary skill in the art would understand the claim in that regard and that such interpretation is the most reasonable based on the claim language and the Specification. It is with this understanding that we address the issues raised in this appeal.

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an opening over which the blind to be cut is to be mounted the controller sends a signal to the actuator”) (emphases added). Thus, the clause “with which at least one dimension of the blind to be cut is associated” modifies the claimed “at least one product identifier.”

Accordingly, we do not sustain Rejection I.

Rejection II – Anticipation by Dick

The Examiner found that Dick discloses each and every element of claims 1-6, 9-11, and 34-37. Ans. 5-6. In particular, the Examiner relied on paragraph 72 of Dick as disclosing a product identifier with which at least one dimension of the blind to be cut is associated as required by claim 1 and the claims dependent therefrom. *Id.* at 5. The Examiner also relied on paragraph 72 of Dick as disclosing

a program that will cause an error m[e]ssage to appear in the display whenever an operator enters a width of a blind to be cut and a width provided by the customer and the width of the blind to be cut is not greater than the width provided by the customer.

Id. at 6.

Appellants raise several arguments in response to the Examiner’s reliance upon Dick. With respect to claim 1, Appellants contend that Dick does not disclose a product identifier or “at least one product identifier which is not merely a dimension of the product and with which at least one dimension of the blind to be cut is associated.” App. Br. 9; Reply Br. 7. With respect to claim 6, Appellants assert that Dick does not disclose an error message displayed when a width of a blind to be cut is not greater than the width provided by the customer. App. Br. 10.

We agree with Appellants that paragraph 72 of Dick does not disclose that the workpiece data is not merely a dimension of the product and is associated with a dimension of the blind to be cut as required by claim 1 and the claims depending therefrom. We recognize that Dick describes many types of data regarding a workpiece. *See, e.g.*, Dick, para [0065] (“Any suitable data may be input about a workpiece. The data may relate to the type of workpiece, one or more characteristic dimensions (e.g., the length, width, and/or thickness, among others) of the workpiece, grade of workpiece material (e.g., high grade, medium grade, low grade, etc.), composition, shape, defect data (e.g., defect position(s), degree of defect, etc.), color, and/or the like.”). The data such as length, width, or thickness could serve as a product identifier, but these data are merely dimensions of the product. Dick, however, contains no teaching or suggestion that any such data, other than length, width or thickness, is associated with a dimension of the blind to be cut.

We also agree with Appellants that paragraph 72 of Dick does not disclose or suggest that the controller is configured to cause an error message based on the specific comparison of widths required by claim 6. The most reasonable interpretation of Dick’s disclosure that “[a]n audio/visual device, such as an indicator light **164**, may be used to signal successful (and/or unsuccessful) input of data, such as length and/or defect positions, to the local controller,” Dick, para. [0072], is that the indicator light is used to signal whether the data was inputted, not that any type of

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comparison, and specifically the comparison required by claim 6, is made with respect to the data inputted.

Accordingly, we do not sustain Rejection II.

Rejection III – Anticipation by Lin

The Examiner found that Lin discloses each and every element of claims 1-5, 9-11, and 35. Ans. 6-8. In particular, the Examiner relied upon paragraph 26 of Lin as disclosing a product identifier with which at least one dimension of the blind to be cut is associated. *Id.* at 7.

Appellants contend, *inter alia*, that Lin does not disclose a product identifier as required by the claims because Lin's disclosure of the stock size of a blind is a dimension of the blind. App. Br. 11; Reply Br. 7.

Lin discloses that "the operator inputs the window's width measurement and then the stock size (the length measurement of the blank blind before cut) through the control unit, for enabling the control unit to calculate the size of the blind to be cut off[.]" Lin, para. [0026]. The only item of data entered that could arguably be considered a product identifier is the stock size. Lin, however, teaches that the stock size is the length measurement of the blank blind before being cut. *Id.* Thus, the stock size is a dimension of the blind to be cut. Because claim 1 requires that the product identifier not be "merely a dimension of the product," stock size cannot be considered a product identifier.

Accordingly, we do not sustain Rejection III.

Rejection IV – Obviousness over Dick and Beck

The Examiner determined that the subject matter of claims 1-6, 9-11, and 34-37 would have been obvious to one of ordinary skill in the art in light of the combined teachings of Dick and Beck. Ans. 8-10. The Examiner relied upon Beck as disclosing “the use of [a] bar code to identify a product.” Ans. 9. The Examiner concluded that it “would have been obvious to a person of ordinary skill in the art to provide Dick’s controller with [a] bar code reader and the product with [a] bar code, as taught by Beck, in order to facilitate entering information related to the product.” *Id.*

The Examiner’s reliance upon Beck as disclosing a bar code reader and bar code, however, does not remedy the deficiency of Dick failing to disclose that the workpiece data is not merely a dimension of the product and is associated with a dimension of the blind to be cut (as called for in claim 1), or the comparative error message (as called for in claim 6), as discussed with respect to Rejection II.

Accordingly, we do not sustain Rejection IV.

Rejection V – Obviousness over Lin and Drucker

The Examiner determined that the subject matter of claims 6, 36, and 37 would have been obvious to one of ordinary skill in the art in light of the combined teachings of Lin and Drucker. Ans. 10-11. The Examiner did not rely on Drucker as disclosing a product identifier which is not merely a dimension of the product as required by claim 36 based on its dependency upon claim 1. *See id.* The Examiner also did not make any additional findings as to whether that claim element would have been obvious to one of

ordinary skill in the art at the time of invention even if not explicitly disclosed in Lin or Drucker.

The Examiner relied on Drucker to teach “an error message appear[ing] on a display 10b when the input data is wrong.” Ans. 11. The Examiner failed to adequately explain why this teaching in Drucker would have led one of ordinary skill in the art to modify the program within Lin’s controller to display an error message based on the specific comparison required by claims 6 and 37.

Accordingly, we do not sustain Rejection V.

Rejection VI – Obviousness over Lin and O’Hagan

The Examiner determined that the subject matter of claim 34 would have been obvious to one of ordinary skill in the art in light of the combined teachings of Lin and O’Hagan. Ans. 11. The Examiner relied on O’Hagan as disclosing “a bar code 810 on a product to identify the product.” *Id.* (citing O’Hagan, para. [0128]). The Examiner concluded that “[i]t would have been obvious to a person of ordinary skill in the art to provide Lin’s machine with a mechanism to identify a bar code on the product, as taught by O’Hagan, in order to facilitate identification of the product.” *Id.*

While the Examiner relied upon O’Hagan for the disclosure of a product identifier, *i.e.*, a bar code, that is not merely a dimension of a product, the Examiner did not rely on O’Hagan as disclosing that the bar code is associated with at least one dimension of the product, as required by claim 34 based on its dependency upon claim 1. *See* App. Br. 15; Reply Br. 7.

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Accordingly, we do not sustain Rejection VI.

DECISION

We reverse the Examiner's decision rejecting claims 1-6, 9-11, and 34-37.

REVERSED

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