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UTE SPLITTGERBER
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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte UTE SPLITTGERBER

Appeal 2011-003874
Application 11/713,357
Technology Center 3600

Before EDWARD A. BROWN, ANNETTE R. REIMERS, and
RICHARD E. RICE, *Administrative Patent Judges*.

BROWN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the decision of the Examiner rejecting claims 1, 2, 5-8, 10-20, and 22-26. App. Br. 5. Claims 3, 4, 9, 21, 27, and 28 have been canceled. *Id.* An oral hearing was conducted on February 11, 2013. We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

We reverse.

THE CLAIMED SUBJECT MATTER

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

1. A display system comprising:
 - (a) a base having a rear surface and an opposing support surface and at least one side panel protruding in an angle from said support surface;
 - (b) an object-holding assembly including:
 - (i) a cover plate;
 - (ii) a resting plate having a support surface and an opposing rear surface; and
 - (iii) at least one holding device for releasably attaching said cover plate to said resting plate; and
 - (c) a fastener for releasably attaching said object-holding assembly to said base, said fastener comprising at least two magnetic fasteners substantially spaced from each other,
 - each of said magnetic fasteners including an attachment piece attached to said base and a counter-attachment piece attached to said object-holding assembly, wherein each attachment piece and each counter-attachment piece comprises a

member independently selected from magnets and ferromagnetic materials, wherein said attachment pieces and said counter-attachment pieces releasably engage through magnetic force when said object-holding assembly is attached to said base,

wherein the display system comprises at least one gap between said object-holding assembly and said at least one side panel, said gap sufficient for a user to insert one or more finger between said resting plate and said support surface of said base in order to pull said object-holding assembly away from said base thereby disengaging said attachment pieces and said counter-attachment pieces.

THE REJECTION

Appellant requests review of the rejection of claims 1, 2, 5-8, 10-20, and 22-26 under 35 U.S.C. § 103(a) as unpatentable over Vampatella (US 5,269,083; iss. Dec. 14, 1993) and Wang (US 5,012,600; iss. May 7, 1991).

ANALYSIS

Claim 1 recites "a fastener for releasably attaching said object-holding assembly to said base, said fastener comprising *at least two magnetic fasteners substantially spaced from each other.*" Emphasis added.

Regarding this limitation, the Examiner found Vampatella discloses an object holding assembly 100, and a fastener 13 and a counter attachment piece 40 that is a magnetic fastener attached to the object holding assembly.

Ans. 4 (citing Vampatella, figs. 1, 3). The Examiner found that the combination of Vampatella and Wang does not disclose at least two attachment pieces and at least two counter attachment pieces, but the Examiner stated that "a mere duplication of parts would provide any number

of desired attachment pieces and counter attachment pieces[]" and "[s]uch a modification would provide a better/stronger means to secure the display to the base." Ans. 5.

Claim 1 also recites:

at least one gap between said object-holding assembly and said at least one side panel, said gap sufficient for a user to insert one or more finger between said resting plate and said support surface of said base in order to pull said object-holding assembly away from said base thereby disengaging said attachment pieces and said counter-attachment pieces.

Emphasis added. Regarding these limitations, the Examiner found that the combination of Vampatella and Wang teaches a display system comprising at least one gap between the object holding assembly and at least one side panel ("top and bottom regions between [elements] 23 and 100," citing Vampatella, Figure 3), but that the combination does not disclose that this gap is sufficient for a user to insert one or more fingers. Ans. 5. The Examiner concluded that this "dimensional modification" is common and well known in the art, and that it would have been obvious to provide a picture 100 that is smaller than the object holding region (citing Vampatella, Figure 3), or an object holding region that is bigger than picture 100, so as to provide a spacing between the object holding assembly and display. *Id.* The Examiner reasoned that such modification would provide a means of removing the display with ease. *Id.*

We agree with Appellant that the Examiner failed to articulate an adequate reason why one of ordinary skill in the art would have been led to modify the apparatus of Vampatella such that the fastener for releasably attaching the object-holding assembly to the base comprises at least two

magnetic fasteners that are substantially spaced from each other, and also such that the gap between the object-holding assembly and the side panel is sufficient for a user to insert one or more fingers between the resting plate and the support surface of the base to pull the object-holding assembly away from the base to disengage the attachment and counter-attachment pieces, as called for in claim 1. *See* App. Br. 15. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (citation omitted).

Vampatella discloses a picture frame apparatus comprising compartments 12 formed by sidewalls 23 and divider panels 30, 31, with each compartment 12 having a magnetically attractive element 13. *See* Vampatella, col. 2, ll. 14-18, 38-44; fig. 1. Vampatella also discloses that each magnetically attractive element 13 comprises a metal plate 40 centrally disposed within each compartment 12, where the metal plates 40 form a magnetically attractive surface to which respective magnets 103 on the back of subframes 100 adhere. *See* Vampatella, col. 2, ll. 45-51; fig. 3. Vampatella discloses that one edge of subframe 100 may be depressed to *pivot* the magnet 103 away from the opposite edge of the metal plate 40 to remove the subframe 100 from one of the compartments 12. *See* Vampatella, col. 2, ll. 52-61; fig. 3. Vampatella also discloses that "the metal plate (**40**) acts as a *moveable fulcrum* depending upon which edge of the subframe (**100**) is depressed towards the back panel (**21**) of the mainframe (**20**) to effect the removal of the subframe (**100**)." *See* Vampatella, col. 2, ll. 62-66; fig. 3 (emphasis added).

Accordingly, Vampatella's apparatus is constructed for a user to remove the subframe 100 from the corresponding compartment 12 by depressing an edge of the subframe 100 (at a location on the front face of frame 101), and thus avoids the need to insert a finger between the subframe 100 and the front surface of back panel 21. *See also*, Vampatella, fig. 3. As such, the Examiner did not articulate an adequate reason to modify Vampatella's apparatus by making its pertinent gap sufficient for a user to insert a finger between the subframe 100 and the front surface of back panel 21, as a user does not need to utilize such gap to remove the subframe 100. *See App. Br. 25-29; Reply Br. 25-29.*

In addition, as noted *supra*, Vampatella discloses that the metal plate 40 provided in each compartment 12 is centrally located and acts as a fulcrum to effect removal of the subframe 100 by pivoting the edge of the subframe 100 that is depressed by a user toward the front face of frame 101. As this pivoting motion is provided with a single, centrally-located magnetic fastener in each compartment 12, we agree with Appellant that the Examiner did not articulate an adequate reason to modify Vampatella's apparatus by providing at least one additional magnetic fastener in a compartment 12, such that the additional magnet is substantially spaced from the existing magnetic fastener. *See App. Br. 18-25; Reply Br. 18-25.*

The Examiner relied on Wang for disclosure regarding the claimed "at least one holding device." As such, the Examiner's application of Wang does not remedy the deficiencies of the Examiner's reliance on Vampatella. Ans. 4.

In view of the above, we do not sustain the rejection of claim 1, or its dependent claims 2, 5-8, 10-20, and 22-26.

Appeal 2011-003874
Application 11/713,357

DECISION

The Examiner's decision rejecting claims 1, 2, 5-8, 10-20, and 22-26 is reversed.

REVERSED

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