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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PIROOZ EGHTEADY

Appeal 2011-009216
Application 11/429,395
Technology Center 3700

Before LORA M. GREEN, JEFFREY N. FREDMAN, and
ULRIKE W. JENKS, *Administrative Patent Judges*.

GREEN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 1-19.¹ We have jurisdiction under 35 U.S.C. § 6(b).

¹ Claims 20-27 are also pending, but stand withdrawn from consideration (App. Br. 3).

STATEMENT OF THE CASE

Claim 1 is the only independent claim on appeal, and reads as follows (emphasis added):

1. A cannula comprising:
 - an elongated tubular body including
 - a distal segment, the distal segment including a distal segment leading end face at a leading end of the distal segment and a distal segment proximal end, the distal segment including a first opening extending generally axially through the leading end face at the leading end of the distal segment and a third opening extending through the distal segment proximal end, and
 - a proximal segment fluidicly coupled to the distal segment near the third opening, the proximal segment including a proximal segment proximal end and a second opening at a proximal segment proximal end, the proximal segment proximal end being for fluidicly coupling to a section of tubing; and
 - a removable tubular sleeve* extending through the third opening, within the tubular body at least from the third opening to the first opening, and through the first opening, the removable sleeve having a sleeve proximal end face including a sleeve proximal opening extending through the sleeve proximal end face and a sleeve leading end including a sleeve leading end face including a sleeve leading end hole extending through the sleeve leading end face, the removable tubular sleeve defining a sleeve interior lumen extending from the sleeve proximal opening to the sleeve leading end hole;
 - wherein the removable tubular sleeve is one of substantially straight and slightly angled so as to facilitate guidance of the removable tubular sleeve along a guidewire, the removable tubular sleeve being adapted to receive the guidewire through the sleeve interior lumen; and
 - wherein the first and third opening are spaced from each other by at most 6.35 centimeters.

The following ground of rejection is before us for review:

Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being rendered obvious by Sorenson (Ans. 4).

We reverse.

ANALYSIS

The issue in this appeal is whether the preponderance of the evidence supports the Examiner's finding that Sorenson teaches "a removable tubular sleeve" as required by independent claim 1.

Specifically, the Examiner finds that Sorenson teaches a "tubular sleeve (32)" (Ans. 4). The Examiner interprets "removable" as not requiring "reassembly" (*id.* at 8). Specifically, the Examiner finds

that one could remove this element from the rest of the device. The claims do not require that the tube must be reassembled or reattached rather than that it is removable.

(*Id.*)

Appellant argues that "[n]othing in Sorenson states or suggests that Sorenson's interior cannula (32) may be removed" (App. Br. 10.) Appellant notes that Sorenson teaches that "the assembly ... includes an interior cannula 32 which is mounted with the hub ... at the location of the bore ..."
(*id.* (quoting Sorenson, col. 2, ll. 43-45)).

As to the Examiner's finding that the sleeve 32 could be removed from the device or the individual pieces of the device, Appellant asserts that "if this argument were accepted, then any piece of any structure, whether composed of multiple parts or completely integral, would be 'removable' because any structure, regardless of how it is made or what it is made of, can be 'removed' from anything else either in 'whole' or in 'pieces'" (Reply Br. 4).

We agree with Appellant. We recognize that during prosecution before the Office, claims are to be given their broadest reasonable interpretation consistent with the Specification as it would be interpreted by one of ordinary skill in the art. *In re American Academy Of Science Tech Center*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Claim language, however, “should not [be] treated as meaningless.” *Bicon, Inc. v. Straumann Co.*, 441 F.3d 945, 951 (Fed. Cir. 2006).

“Removable”² may be defined as “that may be removed.” “Remove”³ may be defined as “to move from a place or position; take away or off.” In addition, the Specification teaches a method of using the cannula, in which the removable sleeve is removed from the leading end of the cannula body during a procedure (Spec. 3-4, ¶11). Specifically, the Specification teaches that “[w]hen the introducer 28 (if present in an exemplary embodiment) and the removable sleeve 18 are removed from the cannula head 2, the vessel can be drained through the larger cannula leading end hole 8 as well as the additional holes 16” (*id.* at 8, ¶30).

Therefore, in view of the definition of “remove” and “removable,” as well as the how the term is used in the Specification, we interpret the term “removable” to require that the “removable sleeve” to be able to be removed from the claimed cannula without compromising the integrity of the device.

² removable. Dictionary.com. *Dictionary.com Unabridged*. Random House, Inc. <http://dictionary.reference.com/browse/removable> (accessed: March 05, 2013).

³ remove. Dictionary.com. *Dictionary.com Unabridged*. Random House, Inc. <http://dictionary.reference.com/browse/remove> (accessed: March 05, 2013).

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That is, the removable sleeve 32 could be removed and reattached easily by the practitioner such that the device is still usable.

As the Examiner has not established that one could remove the tubular sleeve 32 from the double lumen cannula of Sorenson so as not to compromise the integrity of the device, we reverse the rejection.

REVERSED

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