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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ANDRES IGNACIO DELGADO and  
JEAN-CLAUDE LUCIEN GIRARD

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Appeal 2011-010424  
Application 11/641,511  
Technology Center 1700

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Before JEFFRY T. SMITH, DEBORAH KATZ, and  
GRACE KARAFFA OBERMANN, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

### **DECISION ON APPEAL**

Appellants seek relief under 35 U.S.C. § 134 from the final rejection of claims 1-17 directed to a tooling head for construction of a tire cord to an annular surface. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

### **STATEMENT OF THE CASE**

Claim 1 is illustrative of the subject matter on appeal:

1. A tooling head for construction of a tire cord to an annular surface, the head comprising:

a plurality of rollers, each roller rotating about a respective axis of rotation, at least a first roller and a second roller pivotally mounted to the tooling head to operatively tilt relative to the annular surface for alternating engagement against and disengagement from the annular surface in a forward and a rearward direction of tooling head travel across the annular surface, respectively, the first and second rollers having a spaced apart orientation defining a passageway between the rollers;

a guide tube extending between the rollers and at least partially occupying the passageway, the guide tube having a through passageway dimensioned for close axial receipt of a tire cord therein and having a cord exiting guide tube end; and

wherein the cord exiting guide tube end is vertically offset from remote extremities of the first and second rollers.

### **THE REJECTIONS**

The Examiner enters the following final rejections:

1. Claims 1, 3, 5, 6, 10, 12, and 14-15 under 35 U.S.C. § 102(b) as anticipated by Yuichiro (JP 11-198247, pub. July 27, 1999, Figures and English translation of abstract).<sup>1</sup>

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<sup>1</sup> The Examiner discusses claim 10 in the analysis of Rejection One, although that claim is not listed in the statement of the rejection. Ans. 4. On this record, we find that claim 10 is subject to Rejection One.

2. Claims 1, 3, 5, 6, 10, 12, and 14-15 under 35 U.S.C. § 103(a) as unpatentable over Yuichiro in view of Meyer (US 2005/0139324 A1, pub. June 30, 2005) and Bierbaum (US 5,562,038, issued Oct. 8, 1996).

3. Claims 2, 4, 11, 13, and 16 under 35 U.S.C. § 103(a) as unpatentable over Yuichiro in view of Meyer, Bierbaum, and Searby (US 2005/0074293 A1, pub. Apr. 7, 2005).

4. Claims 7-9 and 17 under 35 U.S.C. § 103(a) as unpatentable over Yuichiro in view of Meyer, Bierbaum, Searby, and Nauthe (US 5,689,856, issued Nov. 25, 1997).

5. Claims 1, 10, 7-9, and 17 under 35 U.S.C. § 103(a) as unpatentable over Weissert (US 2004/0154727 A1, pub. Aug. 12, 2004) in view of Meyer, Bierbaum, Yuichiro, and Searby.

6. Claims 7-9 and 17 under 35 U.S.C. § 103(a) as unpatentable over Weissert in view of Meyer, Bierbaum, Yuichiro, Searby, and Nauthe.

### **ISSUE**

A dispositive issue arises: Does the Examiner err in finding that the applied art discloses “a first roller and a second roller pivotally mounted to [a] tooling head to operatively tilt relative to the annular surface for alternating engagement against and disengagement from” that surface as specified in claim 1?

We answer this question in the affirmative and REVERSE.

### **ANALYSIS**

Claims 1 and 10 are the only independent claims and both require “a first roller and a second roller pivotally mounted to [a] tooling head to

operatively tilt relative to the annular surface for alternating engagement against and disengagement from” that surface. The nub of Appellants’ argument is that the applied art fails to disclose that limitation. App. Br. 8. Our analysis of that issue in relation to claim 1 is dispositive of all issues raised by Appellants in this appeal.

We first address whether the Examiner establishes that Yuichiro anticipates claim 1, and in particular, the limitation requiring “a first roller and a second roller pivotally mounted to [a] tooling head to operatively tilt relative to the annular surface for alternating engagement against and disengagement from” that surface. The Examiner finds “that the curved line in Figure 1 of Yuichiro reads on” the disputed limitation. Ans. 5. Appellants disagree, arguing that Yuichiro discloses a pair of rollers that “are fixedly mounted to a bracket which fixedly attaches to an applicator head with both rollers maintaining a continuous engagement with an annular surface.” App. Br. 8. Appellants contend that the Examiner thus reads too much “simply from a showing within Yuichiro of a curved line.” *Id.*

The Examiner responds that Appellants have “arbitrarily selected a portion of” Yuichiro’s device that excludes “all of the pivotal connections of the apparatus.” Ans. 13. The Examiner finds that “[i]f the head of the tool is defined as starting [] anywhere upstream of arm 6, then the multiple pivotal joints represented by double-headed arrows in figure 2 of Yuichiro demonstrate how the rollers” are “pivotally attached at the head of the tool.” *Id.* The Examiner cites no text in Yuichiro that explains the arrows or otherwise supports the Examiner’s interpretation of them. *Id.*

The Examiner further finds that alternately “engaging and disengaging a laying surface is an intended use of the apparatus [that] will

depend, among other things, [on] the geometry of the laying surface itself and how the robotic arm of Yuichiro is controlled to move.” *Id.* It is unclear to us, and the Examiner does not adequately explain, how “the multiple pivotal joints represented by double-headed arrows in figure 2 of Yuichiro,” *id.*, show that Yuichiro’s dual rollers are configured to pivot or “tilt relative to the annular surface for alternating engagement against and disengagement from” that surface as required by claim 1. *Compare* Yuichiro Figs. 1 and 2 (double arrows) to Spec. Figs. 9, 14 and ¶ [0048] (“rotation of the shaft **54** translates into pivotal movement of assembly **34**,” which causes “the rollers **74**, **76** [to] tilt or pivot backward and forward,” alternatingly “bringing the rollers into contact with the core surface **43**”).

On the contrary, Yuichiro’s dual rollers are fixedly attached to element **11** and subject to “the elastic restoring force of [a] compression spring **14**.” Yuichiro Figs. 1, 3 and ¶ [0028]. The evidence thus supports Appellants’ view that both of Yuichiro’s “rollers maintain[] a continuous engagement with an annular surface.” App. Br. 8. On this record, the Examiner fails to establish that Yuichiro’s dual rollers are configured to “tilt relative to the annular surface” to alternatingly engage against and disengage from that surface in anticipation of claim 1.

We next address whether the Examiner establishes that the subject matter of claim 1 would have been obvious over Yuichiro in view of Meyer and Bierbaum. Yuichiro discloses that the elastic restoring force of compression spring **14** presses roller **13** against the annular surface. Yuichiro Fig. 3 and ¶ [0028]. Meyer discloses a single roller **41** that is fixed to one end of an arm **42**, where the other end of the arm **42** is fixed to a body **5** by means of a support **43**. Meyer Fig. 2 and ¶ [0044]. The support **43** is

pivotaly mounted to body **5** by means of an elastic joint **45**. *Id.* The Examiner reasons that Meyer and Yuichiro together show that pivotaly-mounted and fixedly-mounted supports would have been recognized as interchangeable alternatives for pressing a roller against a surface. Ans. 5. In our opinion, however, the evidence only highlights that the devices of Meyer and Yuichiro are configured to maintain continuous pressure (and thus continuous contact) between the roller(s) and the surface. App. Br. 10; Yuichiro Fig. 3 and ¶ [0028]; Meyer Fig. 2 and ¶ [0044].

Critically lacking is any convincing explanation of how Yuichiro's device, modified to include Meyer's elastic joint **45**, would make Yuichiro's dual rollers capable of alternatingly engaging against and disengaging from the annular surface as specified in claim 1. *See* Spec. ¶ [0048] (describing the pivotal mounting that brings the dual rollers into alternating contact with the annular surface). Nor does the Examiner explain why Bierbaum, which discloses a bidirectional pivot frame for changing paper rolls on a web-fed rotary press, cures this deficiency. *See* Bierbaum 1:6-35; App. Br. 10-11. On this record, the Examiner fails to establish that claim 1 is unpatentable over Yuichiro in view of Meyer and Bierbaum.

The Examiner also rejects claim 1 as unpatentable over Weissert in view of Meyer, Bierbaum, Yuichiro, and Searby. Ans. 9. Like Yuichiro, Weissert discloses dual rollers that, in the Examiner's view, are "capable of [Appellants'] intended use of being controlled to [alternatingly] engage the laying surface." Specifically, the Examiner finds that "a jointed connection" is "[s]een in profile [as] concentric circles at the top left of Figure 2" of Weissert, and that this "jointed connection" represents a pivotal mount that is capable of that "intended use." *Id.*

Appellants argue, and we agree, that Weissert suffers the same deficiencies as Yuichiro. App. Br. 16. The Examiner does not explain how the mount depicted by concentric circles in Weissert's Figure 2 is configured to pivot or tilt the dual rollers (which are shown in Figure 2 as being in continuous contact with the surface) "relative to the annular surface for alternating engagement against and disengagement from" that surface as specified in claim 1. Ans. 9; *compare* Weissert Fig. 2 to Spec. Fig. 14. On this record, the Examiner fails to establish that claim 1 is unpatentable over Weissert in view of Meyer, Bierbaum, Yuichiro, and Searby.

### **CONCLUSION**

For the above reasons, we reverse the rejections of claims 1-17.

**REVERSED**

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