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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SATOSHI NAKAYAMA and KENSAKU KANADA

Appeal 2011-010504
Application 11/826,238
Technology Center 1700

Before ROMULO H. DELMENDO, MICHAEL P. COLAIANNI, 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, 3, 6, and 11 directed to a cleaning device for a hair removing apparatus. 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 cleaning device for a hair removing apparatus having a hair clipping unit for removing hair, comprising:

a cleaning basin for accommodating the hair clipping unit therein;

a fluid circulating mechanism for supplying or recovering cleaning fluid into or from the cleaning basin;

a drying mechanism for drying the hair clipping unit in the cleaning basin after the hair clipping unit is cleaned; and

a controller for controlling the fluid circulating mechanism and the drying mechanism,

wherein the controller is configured to transmit a control signal to the hair removing apparatus to drive the hair clipping unit while the drying mechanism is being operated, and

wherein the controller is configured to drive the hair clipping unit intermittently while the drying mechanism is being operated

THE REJECTIONS

1. Claims 1 and 3 are rejected as unpatentable over Chasen (US 2006/0107971 A1, pub. May 25, 2006) in view of Dias (US 4,347,671, patented Sept. 7, 1982) and Braun (US 5,614,030, patented Mar. 25, 1997) (Ans. 4); and

2. Claims 6 and 11 are rejected as unpatentable over Chasen in view of Dias and Braun and further in view of Yoshida (JP 59-105500 A, pub. June 18, 1984) (Ans. 6).

ISSUE

The following dispositive issue arises:

Does the Examiner err in finding that Chasen discloses a controller that “is configured to drive the hair clipping unit intermittently while the drying mechanism is being operated” as specified in claim 1?

We answer this question in the affirmative and REVERSE.

ANALYSIS

Claim 1 requires a controller that is “configured to drive the hair clipping unit intermittently while the drying mechanism is being operated.” A dispositive question arises whether Chasen’s controller is so configured. *Compare* Ans. 4, 10 (citing Chasen, Table II) *to* App. Br. Our analysis of that issue is dispositive of all issues raised in this appeal.

The Specification explains that, “[b]y driving the hair clipping unit intermittently during the drying operation, the reduction of the lifetime of the hair clipping unit caused by driving it continuously throughout the drying operation . . . can be reduced.” Spec. 4:16-21 (as amended March 8, 2010). Specifically, “the edges of blades” may “be abraded when” a hair clipping unit having a slidably-moving cutter block is continuously “driven for a long period of time.” *Id.* at 4:21-24. Further, the “noise generated” when the hair clipping unit is driven “continuously throughout the drying operation” can be reduced by driving the hair clipping unit intermittently. Spec. 4:20-21 (as amended).

Thus, the Specification emphasizes that claim 1 is directed to a controller that “drives the hair clipping unit intermittently” during a period when “the drying mechanism is being operated.” Spec. 4:14-16. In the

parlance of Chasen, claim 1 requires a shaver that is ON-OFF-ON during a period when the dryer is ON. *Compare* Chasen, Tables I and II.

Chasen includes a “control system” used “to clean and dry shaver **21**.” *Id.* at ¶ [0083] and Figs. 1, 4, and 12. Chasen’s “cleaning system **20** is constructed with the cleaning cycle being initiated by the user.” *Id.* at ¶ [0090] and Figs. 4 and 7. “Once button **107** is pressed by the user, integrated circuit **106** activates the cleaning cycle, and automatically initiates the precisely desired timed sequential operational steps” set forth in Tables I and II. *Id.* Chasen includes “a fan” that brings “air to the shaver after cleaning” so that “the cleaned cutting elements of the shaver are efficiently and effectively dried.” *Id.* at ¶ [0022].

Tables I and II describe Chasen’s cleaning and drying cycles, which are initiated by the control system **21** when a user presses button **107**. *Id.* at ¶ [0090] and Tables I and II. It is apparent from Tables I and II that the drying fan is OFF until the penultimate step in each preferred cycle. *Id.* at Tables I and II. At that point, the fan turns ON to operate simultaneously with the shaver for a period of time (1-4 minutes in Table I or 15 seconds in Table II). In the next and final step, or the drying step, the shaver turns OFF while the fan continues to operate for a period of 15-22 minutes (Table I) or 19 minutes (Table II). *Id.* Thus, as Appellants point out, “once the drying operation starts, the shaver is switched OFF” and “is never switched back ON.” App. Br. 10 (citing Chasen, Tables I and II).

The Examiner concedes that Chasen “does not explicitly disclose the controller being configured to drive a shaver intermittently during drying,” but finds that Chasen’s controller “would have been fully capable of performing this function” as shown by the last three steps described in

Table II, wherein the shaver turns “OFF for 60 seconds after the cleaning operation, then turn[s] ON for 15 seconds in conjunction with the drying fan, and then [] turn[s] OFF again.” Ans. 7. In the Examiner’s view, “repeating this ON – OFF operation” involves no more than “repeating, or duplicating, a known operation” that would have been within the level of skill in the art. *Id.* In other words, it would have been an obvious modification of Chasen’s process to press button **107** twice to initiate two consecutive cycles of the steps reported in Table II. *See id.*; Chasen ¶ [0090] and Table II.

The "capable of" test requires that the prior art structure be capable of performing the function without further programming. *Typhoon Touch Techs., Inc. v. Dell, Inc.*, 659 F.3d 1376, 1380 (Fed. Cir. 2011) (discussing *Microprocessor Enhancement Corp. v. Texas Instruments, Inc.*, 520 F.3d 1367 (Fed. Cir. 2008)). Chasen describes a control system that “automatically initiates the precisely desired timed sequential operational steps which have been found to produce optimum cleaning of the shaver.” Chasen ¶ [0090]. We understand that disclosure to require that the controller be programmed to run the particular operational steps. Chasen’s Tables II shows that the controller is programmed to perform a particular sequence of operations and times for the various components of the cleaning process. Particularly, repeating the sequence of steps reported in Table II of Chasen would simply repeat the drying operation wherein the shaver turns ON, never to be turned OFF again, while the dryer is operating. Repeating the Table II cycle thus does not achieve an intermittent (ON-OFF-ON) use of the shaver during a period when the dryer is ON. Chasen, Table II. Even if we accept the Examiner’s view that a skilled artisan would have had some reason to press button **107** twice in succession, that modification of Chasen’s

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process would not result in driving “the hair clipping unit intermittently while the drying mechanism is being operated” as specified in claim 1. Rather, Chasen’s controller would need to be reprogrammed to perform the claimed functionality and, thus, the Examiner has not established that Chasen’s existing controller structure possesses the capability of operating as required by the claims.

CONCLUSION

For the above reasons, we reverse the rejections of claims 1, 3, 6, and 11.

REVERSED

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