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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TATSUYA SATOYOSHI,
and KATSURO TANABE

Appeal 2012-000683
Application 11/322,407
Technology Center 1700

Before CHUNG K. PAK, LINDA M. GAUDETTE, and
KAREN M. HASTINGS, *Administrative Patent Judges*.

GAUDETTE, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's decision¹ finally rejecting claims 1, 4-15, and 27-34.² We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

The invention relates to a washing apparatus (claim 27) and holder (claim 1) for wash-targets, such as electronic components which must be washed before

¹ Final Office Action mailed Jan. 14, 2011

² Appeal Brief filed Jun. 13, 2011 ("App. Br.")

being shipped as products or mounted into a device. (Spec.³ [0001-0002].) Claim 1 is representative of the invention and is reproduced below from the Claims Appendix to the Appeal Brief:

1. A wash-target holder to be soaked into a solvent within a wash tank while holding at least one wash-target, comprising
 - a tray formed with a plate-type member, having a wash-target placing face for placing said wash-target, wherein
 - a suction hole is provided at a wash-target placing area of said wash-target placing face of said tray, which is opened through said tray for sucking said wash-target from an opposite side of said wash-target placing area, and
 - said suction hole is formed at a placing position of the wash-target in a size smaller than said placing area of the wash-target and thereby said suction hole is covered by said wash-target placed on the tray, and
 - a surrounding member, comprising a plurality of protrusions, formed around said wash target, standing up on the wash-target placing face of said tray,
 - wherein said plurality of protrusions are arranged at prescribed intervals in a plurality of rows of protrusions to enable said wash-target to be provided between respective said protrusions.

The Examiner maintains the following grounds of rejection:

1. claims 1 and 4-7 are rejected under 35 U.S.C. § 102(b) as anticipated by Kato (JP 06-103511, published Apr. 15, 1994 (machine translation of record)) (Ans.⁴ 4-6);
2. claims 8-13, 27-29, and 32-34 are rejected under 35 U.S.C. § 103(a) as unpatentable over Kato in view of Niiyama (JP 2003-152315, published May 23, 2003 (machine translation of record)) (Ans. 6-7); and
3. claims 14, 15, 30, and 31 are rejected under 35 U.S.C. § 103(a) as unpatentable over Kato in view of Niiyama and further in view of Thompson (US 5,022,419, issued Jun. 11, 1991) (Ans. 7-8).

³ Specification filed Jan. 3, 2006.

⁴ Examiner's Answer mailed Jul. 29, 2011.

Rejection under 35 U.S.C. § 102(b)

Appellants contend the Examiner failed to establish a prima facie case of anticipation because the Examiner erred in finding the claimed “surrounding member, comprising a plurality of protrusions” (claim 1) reads on Kato’s member 11 (Ans. 5). (App. Br. 11-12.)

“Determination that a claim is anticipated under 35 U.S.C. § 102(b) involves two analytical steps: (1) the Board must interpret the claim language; and (2) the Board must then compare the construed claim to a prior art reference and make factual findings that ‘each and every limitation is found either expressly or inherently in [that] single prior art reference.’” *Yorkey v. Diab*, 605 F.3d 1297, 1300 (Fed. Cir. 2010) (quoting *In re Crish*, 393 F.3d 1253, 1256 (Fed. Cir. 2004) (quoting *Celeritas Techs. Ltd. v. Rockwell Int’l Corp.*, 150 F.3d 1354, 1360 (Fed. Cir. 1998) (alteration in original))). “[C]laim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Suitco Surface, Inc.*, 603 F.3d 1255, 1259-60 (Fed. Cir. 2010) (internal citations omitted).

The plain meaning of the term “plurality” is “a number greater than one.”⁵ Based in our review of the Specification, it is clear that the term “plurality” was used by Appellants in a manner consistent with its plain meaning to describe two or more discrete protrusions. (See FIG. 6 and FIG. 7A illustrating a tray 10 formed with a number of protrusions 12, 13 (Spec. 19:15-20:27); *Id.* at 20:7-8 (“The . . . protrusions 12 are arranged in line. . . with a little space in between.”); *id.* at 16-17

⁵ plurality. Dictionary.com. *Collins English Dictionary - Complete & Unabridged 10th Edition*. HarperCollins Publishers.
<http://dictionary.reference.com/browse/plurality> (accessed: March 07, 2013).

([P]rotrusions 13 are formed by the same arranging pattern as that of . . . protrusions 12.”); *id.* at 23-27 (“[S]hort sides of the quadrilateral magnetic head slider 5 are surrounded by four roughly rectangular protrusions 12, while both long sides are surrounded by the roughly oval protrusions 13, respectively. Therefore, each of the protrusions 12 and 13 enables restriction of the shift of the magnetic head slider 5.”).)

The Examiner’s anticipation rejection is based on a finding that Kato’s element 11 “comprises columns and rows of walls which reads on being a surrounding member.” (Ans. 10.) However, the Examiner has not made a finding, nor does it appear to us, that Kato’s walls include two or more discrete protrusions. Rather, it appears the walls are “integrally formed” and, therefore, are not properly characterized as multiple protrusions. (*See App. Br. 13.*)

We agree with Appellants that the Examiner erred in finding the claimed “surrounding member, comprising a plurality of protrusions” (claim 1) reads on Kato’s member 11. Accordingly, we cannot sustain the rejection of claims 1 and 4-7 under 35 U.S.C. § 102(b) as anticipated by Kato. *See In re NTP, Inc.*, 654 F.3d 1279, 1302 (Fed. Cir. 2011) (“It is axiomatic that for anticipation, *each and every* claim limitation must be explicitly or inherently disclosed in the prior art.” (citations omitted)).

Rejections under 35 U.S.C. § 103

The Examiner’s rejections under 35 U.S.C. §103(a) are likewise based on the Examiner’s erroneous finding that the “surrounding member, comprising a plurality of protrusions,” as recited in both of the appealed independent claims 1 and 27, reads on Kato’s member 11 (*see Ans. 6 -8*). (*See App. Br. 23*, last para. (as to claim 27); *id.* at 13 (as to claim 1).) Accordingly, we cannot sustain the rejections of claims 8-13, 27-29, and 32-34 under 35 U.S.C. § 103(a) as

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unpatentable over Kato in view of Niiyama, and claims 14, 15, 30, and 31 under 35 U.S.C. § 103(a) as unpatentable over Kato in view of Niiyama and further in view of Thompson.

REVERSED

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