



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/096,022	04/28/2011	Kristyna Salamey	P012740-GMVE-LCH	3723
81466	7590	12/02/2016	EXAMINER	
MacMillan, Sobanski & Todd, LLC - GM			KELLEHER, WILLIAM J	
One Maritime Plaza			ART UNIT	
720 Water Street			PAPER NUMBER	
5th Floor			3658	
Toledo, OH 43604			NOTIFICATION DATE	
			DELIVERY MODE	
			12/02/2016	
			ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docteting@mstfirm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KRISTYNA SALAMEY and RICHARD K. METTE

Appeal 2015-000415
Application 13/096,022
Technology Center 3600

Before MICHAEL L. HOELTER, LISA M. GUIJT, and
PAUL J. KORNICZKY, *Administrative Patent Judges*.

KORNICZKY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants, Kristyna Salamey et al.,¹ appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1–13. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

¹ Appellants identify GM Global Technology as the real party in interest. Appeal Br. 1.

THE CLAIMED SUBJECT MATTER

The claims are directed to “a mechanism for actuating a vehicle door handle, and particularly to a cable fitting or abutment for engaging and disengaging an inside door handle located outboard of a door trim pad.”

Spec. ¶ 1. Claims 1 and 7 are independent. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A cable fitting, comprising:

a hollow cylinder sized to receive a cable assembly extending therethrough, the cable assembly including a cable slidably received in a sheath, the hollow cylinder having a first end configured to engage a retention member on an end of the cable to prevent the cable from sliding out of the hollow cylinder and a second end configured to receive a portion of the sheath therein; and

a lever including;

a blade supported on the cylinder adjacent to the first end;

a pivot about which the blade pivots, the pivot extending radially from the cylinder closer to the second end than the blade;

an engagement member secured to the blade, extending radially inward toward the cable, and spaced from the pivot in a first direction, the first direction being oriented away from the second end; and

a tab secured to the blade between the pivot and the engagement member and extending to a surface spaced from the pivot in a second direction opposite the first direction, the surface being closer to the second end than the pivot, the surface being configured such that a force can be applied to pivot the engagement member away from an engaged position.

REFERENCES

In rejecting the claims on appeal, the Examiner relied upon the following prior art:

Dege	US 5,816,109	Oct. 6, 1998
Gutschner	US 6,178,845 B1	Jan. 30, 2001

REJECTIONS

The Examiner made the following rejections:

1. Claims 1–6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gutschner.
2. Claims 7–13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gutschner and Dege.

Appellants seek our review of these rejections.

ANALYSIS

The Rejection of Claims 1–6 As Unpatentable Over Gutschner

Claims 1, 2, 5, and 6

Appellants argue claims 1, 2, 5, and 6 as a group. Appeal Br. 6–11. We select claim 1 as the representative claim, and claims 2, 5, and 6 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(iv).

In the Final Action, the Examiner annotated Figure 6 of Gutschner, and used annotated Figure 6 to explain the basis of the rejection. Final Act. 2–4. In their Appeal Brief, Appellants, instead of using the Examiner’s annotated Figure 6, prepared and used their own annotated Figure 6 which was substantively different from the Examiner’s annotated figure. *See, e.g.*, Appeal Br. 8. For example, the Examiner identified certain Gutschner elements as “first end” and “second end” as recited in claim 1, but

Appellants identified the same elements as “second end” and “first end” respectively. *Compare* the Examiner’s annotated Figure 6 (Final Act. 4) with Appellants’ annotated Figure 6 (Appeal Br. 8). Consequently, Appellants’ arguments which reverse the first and second ends (see, e.g., Appeal Br. 6–9 and Reply Br. 4–7) do not respond to the rejection as articulated by the Examiner, and do not show Examiner error.

The Examiner also explains that:

Gutschner discloses the claimed invention except for the first end engaging the retention member and the second end receiving a portion of the sheath therein - that is, Gutschner discloses the invention wherein the orientation of the cable fitting with respect to the cable is reversed. As vehicle handle mountings vary, it would have been obvious to one having ordinary skill in the art at the time the invention was made to reverse the orientation of the cable fitting (13), and thus also of the cable fitting receiving device (Gutschner Fig. 2; 14) so that the first end is closer to the handle (Gutschner Fig. 1; 9) for the purpose of adapting the cable fitting of Gutschner to various vehicle door handle configurations. . . . To illustrate, an example of the rearranged cable fitting and the cable fitting receiving device is shown in rearranged Gutschner Fig. 2 below. It has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70 [(CCPA 1950)]. It is noted that this rearrangement of parts would not have modified the operation of the device -- the cable is held in place by the cable fitting which is locked in a stationary position by the blade and engagement members. The Bowden cable operating the vehicle door would still operate as originally intended.

Ans. 3–4. In response, Appellants argue that reversing the orientation of the cable fitting 13, as proposed by the Examiner, would change “the operation of the device,” including: (1) “how one installs and removes the cable fitting from a vehicle door,” (2) “which end of the end piece (13) must be gripped by the installer,” and (3) “the support provided by this end piece for forces

applied to the cable is changed and, for some forces, reduced,” and it “requires two different motions to install rather than the one motion of the claimed present invention, and requires two tabs to be actuated to remove the end piece (13), rather than the ability to remove with the actuation of one arm.” Reply Br. 3–4. However, these arguments are not persuasive because they do not affect whether the door can properly open and close, as suggested by the Examiner, and they are not commensurate in scope with the limitations found in claim 1. *See In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) (“[A]ppellant’s arguments fail from the outset because . . . they are not based on limitations appearing in the claims.”). Appellants also do not explain why a person skilled in the art would be unable to reverse/rearrange Gutschner’s cable fitting 13 and other parts, as suggested by the Examiner. Thus, Appellants do not show error by the Examiner.

For the reasons above, the rejection of claim 1 is sustained, and claims 2, 5, and 6 fall with claim 1.

Claim 3

The Examiner finds that Gutschner discloses a projection 27 as recited in claim 3. Ans. 6 (citing to Figure 7). In response, Appellants argue that the “element (27) of Gutschner cited by the examiner is at the first end, not the second end” (Appeal Br. 11) and “[t]here is no such projection taught in Gutschner” (Reply Br. 5). As discussed above with respect to claim 1, the “first end” and “second end” in Appellants’ annotated Figure 6 are different from the “first end” and “second end” in the Examiner’s annotated Figure 6. Thus, Appellants’ arguments do not respond to the rejection as articulated by

the Examiner, and do not show Examiner error. The rejection of claim 9 is sustained.

Claim 4

The Examiner finds that the labeled portion of annotated Figure 6 of Gutschner is a “tab stop” as recited in claim 4. Final Act. 4. In response, Appellants correctly argue that “Gutschner does not show such a part. The longitudinal side (34) of the basic body (16) may act as a stop for second short arms (37) but they do not extend radially outward.” Appeal Br. 12. As Appellants correctly note, the large section at the left end of annotated Figure 6 which the Examiner labels as the tab stop does not “contact the arms (37) to limit displacement” as claimed. *Id.* We cannot sustain the rejection of claim 4.

The Rejection of Claims 7–13 As Unpatentable Over Gutschner and Dege Claims 7, 8, and 10–13

Appellants argue claims 7, 8, and 10–13 as a group. Appeal Br. 12–13. We select claim 7 as the representative claim, and the remaining claims stand or fall with claim 7. 37 C.F.R. § 41.37(c)(1)(iv).

Appellants correctly note that the Final Action addresses limitations from claim 1 (i.e., “first end engaging the retention member”) instead of limitations from claim 7 (“a hollow cylinder sized to receive a portion of the cable and the sheath therein, a first end of the cylinder adjacent to the handle and configured to prevent the cable from sliding out of the hollow cylinder”). Appeal Br. 12–13. The Examiner addressed the limitations of claim 7 in the Answer, finding, in part, that Gutschner discloses: “a hollow

cylinder (see hole for Fig. 5; 2 that extends through parts 31 and 32) sized to receive a portion of the cable and the sheath therein, one cable side end (the left end of Fig. 6) of the cylinder adjacent to the handle and configured to prevent the cable from sliding out of the hollow cylinder.” Ans. 7. The Examiner also stated that the cylinder is illustrated in annotated Figure 6. *See, e.g.,* Ans. 7.

Appellants present several arguments contending that the Examiner’s rejection is incorrect. First, Appellants argue that the Examiner erroneously refers to “hole 2” as the element corresponding to the hollow cylinder recited in claim 7, and a “hole” is not a “hollow cylinder.” Reply Br. 6. We do not read the Examiner’s findings this way. We understand that the hole passes through the hollow cylinder and the “hole” is merely the portion of the hollow cylinder that is “sized to receive a portion of the cable and sheath” as recited in claim 7. The Examiner, for example, finds that other elements such as lever 15 and blade 36 are supported on the cylinder, and that pivot 35 extends from the cylinder. Lever 15, blade 36, and pivot 35 are supported by the hollow cylinder, not hole 2. Appellants’ argument is not persuasive of Examiner error.

Second, Appellants argue that the Examiner’s findings that (1) the “blade” is supported on the “first end”, (2) the “pivot” is spaced from the “first end”, (3) element 33 is adjacent the first end, and (4) element 37 is in the second direction, do not meet the language of claim 7. Reply Br. 6–7. As discussed above with respect to claim 1, Appellants’ “first end” and “second end” are different from the “first end” and “second end” in the Examiner’s annotated Figure 6. Thus, Appellants’ arguments do not

respond to the rejection as articulated by the Examiner, and do not show Examiner error.

Finally, Appellants present the “catch-all” argument that the “redesign of Gutschner by the examiner at the bottom of page 7 to the middle of page 8 fails for the same reasons as discussed above relative to claim 1.” Appeal Br. 7. As discussed above with respect to claim 1, Appellants do not show error by the Examiner.

For these reasons, the Examiner’s rejection of claim 7 is sustained. Claims 8 and 10–13 fall with claim 7.

Claim 9

The Examiner finds that Gutschner discloses a projection 27 as recited in claim 9. Ans. 7 (citing to Figure 7). In response, Appellants argue that the “element (27) of Gutschner cited by the examiner is at the first end, not the (second) end” (Appeal Br. 13) and “[t]here is no such projection taught in Gutschner” (Reply Br. 7). As discussed above with respect to claim 1, Appellants’ “first end” and “second end” are different from the “first end” and “second end” in the Examiner’s annotated Figure 6. Thus, Appellants’ arguments do not respond to the rejection as articulated by the Examiner, and do not show Examiner error. The rejection of claim 9 is sustained.

DECISION

For the above reasons, the Examiner’s rejections of claims 1–3 and 5–13 are AFFIRMED.

The Examiner’s rejection of claim 4 is REVERSED.

Appeal 2015-000415
Application 13/096,022

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART