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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOHN TRAVIS GAFFNEY

Appeal 2015-001077^{1,2}
Application 12/359,011
Technology Center 3700

Before PHILIP J. HOFFMANN, JAMES L. WORTH, and
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

HOFFMANN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 1, 2, 5, 7–9, and 11–16. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

According to Appellant, the invention relates to covers for golf clubs. Spec. ¶¶ 2–3. Claims 1, 11, and 14 are the only independent claims. *See*

¹ Our decision references Appellant’s Specification (“Spec.,” Jan. 23, 2009), Appeal Brief (“Appeal Br.,” filed July 14, 2014), and Reply Brief (“Reply Br.,” filed Oct. 28, 2014), as well as the Examiner’s Answer (“Answer,” mailed Aug. 28, 2014).

² According to Appellant, John Travis Gaffney is the real party in interest. Appeal Br. 3.

Appeal Br., Claims App. We reproduce claims 1 and 11, below, as representative of the appealed claims.

1. A golf club head cover comprising:
a body portion defining an internal cavity for receiving a golf club head;
a first flap disposed on the body portion, the first flap comprising a first magnetic fastener; and
a second flap disposed on the body portion, the second flap comprising a second magnetic fastener;
wherein the first magnetic fastener and the second magnetic fastener substantially align with each other; and
wherein the first magnetic fastener and second magnetic fastener each comprise a length and a width, where the length is greater than the width, and where the length of the first magnetic fastener and the length of the second magnetic fastener are each configured to be aligned with the longest length of the golf club head when the golf club head is inserted into the internal cavity.

11. A method of securing a golf club head cover over the head of a golf club, the method comprising:

positioning the shaft of a golf club adjacent to a Y-shaped opening defined by a first magnetic fastener and a second magnetic fastener, the first magnetic fastener included in a first flap coupled to a body portion of a golf club head cover and the second magnetic fastener included in a second flap coupled to the body portion;

contacting the shaft of the golf club at only an edge of the first flap and at only an edge of the second flap located between a notch included in the body portion and a reentrant opening included in each of the first flap and in the second flap, respectively;

pushing the shaft of the golf club past the first magnetic fastener and the second magnetic fastener as a head of the golf club passes into an internal cavity within the body portion; and

securing the head cover over the golf club head using the first magnetic fastener and the second magnetic fastener.

Id.

REJECTION AND PRIOR ART

The Examiner rejects claims 1, 2, 5, 7–9, and 11–16 under 35 U.S.C. § 102(b) as anticipated by Kim (US 7,699,083 B1, iss. Apr. 20, 2010). *See* Answer 2–6.

ANALYSIS

Independent claim 1 recites, among other features, wherein the first magnetic fastener and second magnetic fastener each comprise a length and a width, where the length is greater than the width, and where *the length of the first magnetic fastener and the length of the second magnetic fastener are each configured to be aligned with the longest length of the golf club head when the golf club head is inserted into the internal cavity.* Appeal Br., Claims App. (emphasis added). Appellant argues that the rejection is in error because Kim does not disclose the claimed fasteners. *See* Appeal Br. 14–20; *see also* Reply Br. 4–6. Based on our review of the record, for the reasons set forth below, we agree with Appellant, and, thus, we do not sustain the rejection of claim 1.

Specifically, the Examiner responds to Appellant’s argument in the Appeal Brief by providing an annotated figure, which, according to the Examiner, shows “magnetic strip[s] aligned with the longest length of the [golf] club head *cover*.” Answer 10 (emphasis added). As Appellant points out, however, the claim requires that that the magnetic fasteners are aligned with the longest length of the golf club *head*, not the golf club head *cover*.

See, e.g., Reply Br. 5. Further, in the Examiner’s annotated figure, it appears that Kim’s magnetic strips are aligned with the golf club shaft, rather than the longest length of the golf club head. Thus, based on the foregoing, we determine that the Examiner fails to establish that Kim discloses the claimed fasteners, and, therefore, we do not sustain the rejection of claim 1. Further, we do not sustain the anticipation rejection of claims 2, 5, and 7–9 that depend from claim 1.

With respect to independent claim 11, the claim recites “a reentrant opening included in each of the first flap and in the second flap.” Appeal Br., Claims App. Appellant argues that the rejection is in error because Kim does not disclose the claimed openings. *See* Appeal Br. 29–30; *see also* Reply Br. 8–9. Based on our review of the record, for the reasons set forth below, we agree with Appellant, and, thus, we do not sustain the rejection of claim 11.

In particular, the Examiner responds to Appellant’s argument in the Appeal Brief as follows: “[A]ppellant argues that Kim fails to disclose a reentrant opening. The [E]xaminer disagrees. . . . Kim[’s] . . . cylindrical piping 22a and 22b are stitched to the seam of the golf cover however the [E]xaminer notes that the edge[] of the piping not stitched to the seam is a reentry [sic] opening.” Answer 11. Even assuming that we agree with the Examiner that Kim’s piping, if unstitched, would teach the claimed reentrant opening, the Examiner does not establish that Kim’s piping is unstitched. *See* Reply Br. 8–9. It does not appear that any portion of Kim shows or describes the piping as unstitched. Further, consistent with Appellant’s argument, it seems that “[i]f the piping were open on either end, and not stitched to the seam, this would tend to allow the magnets to slide out of the

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pipings and then, when the magnets have slid out, the device would have lost its usefulness.” *Id.* at 8. Thus, based on the foregoing, we determine that the Examiner fails to establish that Kim discloses the claimed opening, and, therefore, we do not sustain the rejection of claim 11. Further, we do not sustain the anticipation rejection of independent claim 14, which recites a similar feature, or the rejection of claims 12, 13, 15, and 16 that depend from these independent claims.

DECISION

We REVERSE the Examiner’s anticipation rejection of claims 1, 2, 5, 7–9, and 11–16.

REVERSED