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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte EGBERT CLASSEN, HELMUT JERG, and KAI PAINTNER[1]

Appeal 2015-005833
Application 13/055,486
Technology Center 1700

Before CATHERINE Q. TIMM, ELIZABETH M. ROESEL, and CHRISTOPHER L. OGDEN, *Administrative Patent Judges*.

OGDEN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final decision[2] rejecting claims 15, 16, and 18–29 in the above-identified application. We have jurisdiction pursuant to 35 U.S.C. § 6(b).

We AFFIRM.

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[1] According to Appellants, the real party in interest is BSH Bosch und Siemens Hausgeräte GmbH. Appeal Br. 3, Nov. 21, 2014.
[2] Office Action, Aug. 14, 2014 [hereinafter Final Action].

BACKGROUND

Appellants' claimed invention relates to a dishwasher with a sorption drying system. *See* Spec. ¶ 1. One embodiment is depicted in Figure 3, which is reproduced below:

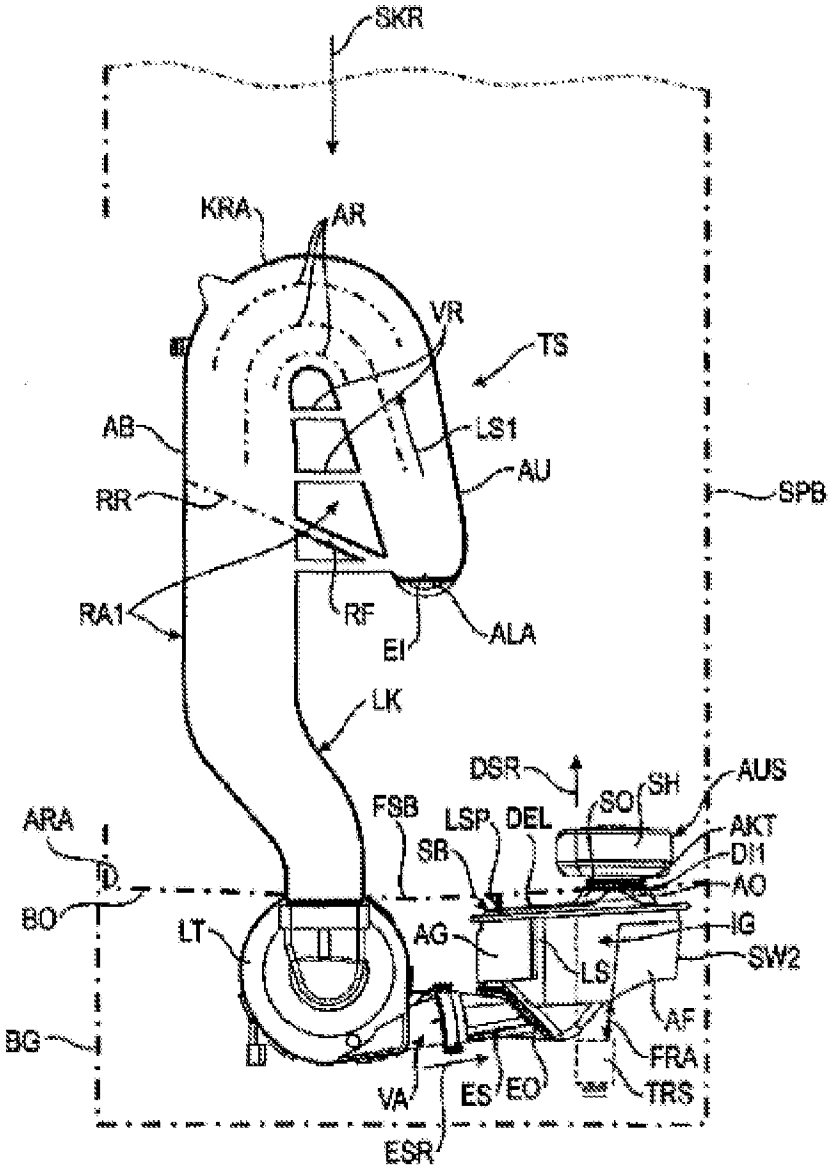

Fig. 3

Figure 3 is a schematic side view of a sorption drying system. *See* Spec. ¶ 36. In the lower portion of the image,

> [t]he air flow LS1 flows into the lower region of the sorption container SB with an inflow direction ESR and switches to a different flow direction DSR with which it flows through the interior of the sorption container SB. This substantially vertical through-flow direction DSR runs from bottom to top through the sorption container SB. In particular, the inlet connecting piece ES steers the incoming air flow LS1 into the sorption container SB in such a way that said air flow is diverted from its inflow direction ESR in particular by approximately 90 degrees into the through-flow direction DSR through the sorption container SB.

Id. ¶ 51.

Independent claim 15 is representative of the claims on appeal:

> 15. A dishwasher, comprising:
> a washing container;
> a controller configured to control an operation of the dishwasher by means of a wash program;
> a desorption drying system to dry items to be washed that are arranged inside the washing container;
> input means connected to the controller, the input means to modify the wash program; and
> an air-guiding channel; wherein the sorption drying system has a sorption container with reversibly dehydratable sorption material, the sorption container being connected to the washing container by the air-guiding channel to generate an air flow, and *wherein the sorption container has a geometrical shape such that a through-flow specification is made for a sorption unit of the sorption container with the reversibly dehydratable sorption material so that the air flow is directed substantially against the direction of gravity*.

Appeal Br. 8 (emphasis added).

The Examiner maintains the following grounds of rejection:

I. Claims 15, 16, 18–26, and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Jerg '774[3] in view of Jerg '293.[4] Final Action 3–4.

II. Claims 27 and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Jerg '774 in view of Jerg '293 and Vogel.[5] Final Action 4–5.

In the Appeal Brief, Appellants argue claims 15, 16, 18–26, and 29 as a group. *See* Appeal Br. 4–6. Therefore, consistent with the provisions of 37 C.F.R. § 41.37(c)(1)(iv) (2013), we limit our discussion of the first rejection to claim 15, and all other claims of the first rejection stand or fall together with claim 15. Appellants do not advance any additional arguments against the rejection of claims 27 and 28. *See id.* at 6. Thus, the issue arising for the rejection of claims 27 and 28 is the same as that arising for the rejection of claim 15, and we need not discuss the rejection of claims 27 and 28 separately.

DISCUSSION

Figure 1 of Jerg '293 is reproduced on the following page:

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[3] Helmut Jerg, German Patent Application Pub. No. DE 103 53 774 A1 (published Feb. 24, 2005) [hereinafter Jerg '774].
[4] Helmut Jerg & Kai Paintner, Int'l Patent Application Pub. No. WO 2006/061293 A1 (published June 15, 2006) [hereinafter Jerg '293].
[5] Jürgen Vogel & Winfried Steiner, European Patent Application Pub. No. EP 0 943 282 A2 (published Sept. 22, 1999).

Fig. 1

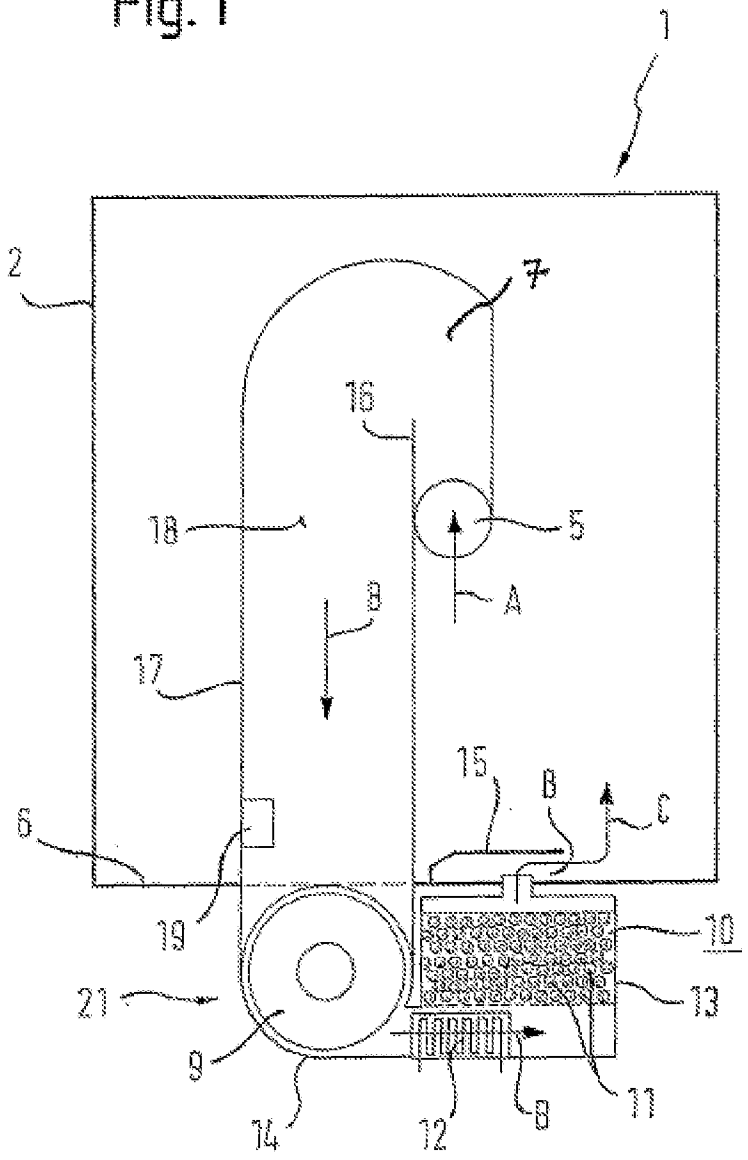

Figure 1 is a schematic illustration of a dishwasher. *See* Jerg '293 ¶ 42. According to the Examiner, Figure 1 depicts a sorption device "wherein the flow of air is directed substantially against the direction of gravity within the sorption device (Fig. 1, see arrows near part 11) in order to facilitate the drying of the dishes therein." Final Action 3. The Examiner finds that "Jerg '293 clearly teaches that the air is directed through the sorption container (Fig. 1, part 10) and then comes out of the sorption container in a direction substantially against the direction of gravity (Fig. 1, see arrow C)." Answer

6. In addition, the Examiner finds that the sorption container 10 is "a box shape . . . which is a geometric shape." *Id.* The Examiner further finds that the direction of air flow against the direction of gravity "is merely an obvious rearrangement of parts," *see* Final Action 3, and concludes that combining the teachings of Jerg '774 and Jerg '293 "would have been an obvious design choice all in order to achieve the predictable result of using the sorption device to dry the dishes therein." Final Action 3–4.

Appellants argue that in Jerg '293, "the air is not directed substantially against the direction of gravity." Appeal Br. 5. Rather, according to Appellants, "the air is directed in a horizontal direction through heater 12, into the sorption unit, without being directed against gravity, nor is there any indication or teaching of a structure that would present a vertically arranged airflow direction." *Id.*; *see also* Reply Br. 3. Appellants also argue that "the sorption device of Jerg '293 does not have a 'geometric shape' or structure to provide the claimed through-flow specification." Appeal Br. 5. As an example of such a "geometric shape," Appellants point to Specification Figure 3, reproduced *supra*, in which "the air flow LS1 flows into the lower region of the sorption container SB with an inflow direction ESR and switches to a different flow direction DSR with which it flows through the interior of the sorption container SB." *Id.* According to Appellants, inlet connecting piece ES steers the incoming airflow LS1, diverting it 90 degrees from its inflow direction ESR to its through-flow direction DSR, and in conjunction with the sorption container geometric shape, directs the airflow against the direction of gravity, i.e., upward. *See* Reply Br. 2–3. Appellants argue that Jerg '293 discloses no such structure for steering the air flow into the upward direction, and for the above reasons, "one of ordinary skill in the

art would not consider that Jerg '293 would teach that 'the air flow is *directed substantially* against the direction of gravity.'" *Id.* at 3.

We are not persuaded that the Examiner reversibly erred in rejecting claim 15. We give claims "their broadest reasonable interpretation consistent with the specification." *See In re Translogic Tech. Inc.*, 504 F.3d 1249, 1256 (Fed. Cir. 2007) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000). Under that standard, the Examiner properly identified container 10 of Jerg '293 as the "sorption container" in claim 15, because container 10 has substantially the same configuration as the sorption container SB depicted in Figure 1 of Appellants' Specification. *See* Spec. ¶ 38, Fig. 1. Claim 15 requires that "the sorption container has a geometrical shape," and this shape is defined functionally as a shape "such that a through-flow specification is made for a sorption unit . . . so that the air flow is directed substantially against the direction of gravity." Because the sorption container 10 of Jerg '293 performs the function of making a through-flow specification and directing the air flow substantially against the direction of gravity, we are not persuaded of reversible error in the Examiner's finding that Jerg '293 teaches this limitation of claim 15.

We have carefully considered Appellants' argument that Jerg '293 contains no structure, such as connecting piece ES, that steers airflow in a 90 degree turn as it enters the sorption container SB. *See* Reply Br. 2–3. However, the broadest reasonable interpretation of claim 15 does not require such a connecting piece and does not require airflow to be already directed substantially against the direction of gravity as it enters the sorption container. The geometrical shape of absorption column 10 in Jerg '293 fully performs the functions of the sorption container as set forth in claim 15.

For the above reasons, we affirm the Examiner's decision to reject claim 15. For the same reasons, we affirm the Examiner's decision to reject claims 16 and 18–29.

DECISION

The Examiner's decision is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended. *See* 37 C.F.R. § 1.136(a)(1)(iv) (2013).

AFFIRMED