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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte XAVIER HOURNE, CYRIL ROBIN, and JOEL CARNIAUX

Appeal 2017-006109
Application 13/940,895
Technology Center 2600

Before ERIC B. CHEN, MONICA S. ULLAGADDI, and SCOTT E. BAIN,
Administrative Patent Judges.

ULLAGADDI, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants¹ seek our review under 35 U.S.C. § 134(a) of the Examiner's final decision rejecting claims 1–10. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

¹ According to Appellants, the real parties in interest are Continental Automotive France and Continental Automotive GmbH. App. Br. 3.

STATEMENT OF THE CASE

The present application relates to a device for capacitive detecting of a user's presence. Spec. 1, 1. 1–2, 1. 3.

Claims 1 and 6, reproduced below, are the only independent claims.

1. A device (D') for detecting presence of a user, comprising:

a connection to the electrical ground (14);

an electrode (12);

control means (13') of the electrode;

a conducting element (11), connected to the connection to the electrical ground (14);

a first switching means (I1) between the conducting element (11) and the connection to the electrical ground (14), said first switching means (I1) having a closed position in which the conducting element (11) is connected to said connection to the electrical ground (14) and an open position in which the conducting element (11) and said connection to the electrical ground (14) are disconnected;

first means (16) for selecting the position of the first switching means (I1);

a second switching means (I2) between the conducting element (11) and the electrode (12) having a closed position in which the conducting element (11) is connected to the electrode (12) and an open position in which the conducting element (11) and the electrode (12) are disconnected; and

second means (16') for selecting the position of the second switching means (I2).

6. A method for configuring a door handle (10) of an automotive vehicle, the handle (10) comprising

a first exterior surface (S1) directed toward the door,

a second exterior surface (S2), opposite the first exterior surface (S1) and covered by a coating (P, 20), and

a detection device (D'), comprising

a connection (14) to the electrical ground,

control means (13'),

an electrode (12) connected to the control means (13') and a face of which is directed towards the first exterior surface (S1), and

a conducting element (11) connected to the connection (14) to the electrical ground, a face of which is directed towards the second exterior surface (S2),

the method comprising the step of:

if the coating is of the metallic type (20), the link between the conducting element (11) and the connection (14) to the electrical ground is disconnected.

THE REJECTION

Claims 1–10 stand rejected under 35 U.S.C. § 102(b) as anticipated by Pang et al. (US 6,847,289 B2; Jan. 25, 2005) (“Pang”).

ANALYSIS

Claims 1–5

In the Final Office Action, the Examiner cites Pang’s first electrode 11 as teaching the claimed “electrode” and a conductor connecting first electrode 11 to first analyzer unit 14 and ground as teaching the claimed “conducting element.” Final Act. 3 (citing Pang, 2:55–57, Figs. 7, 13). The Examiner also takes the position that Pang’s switches 64, 66 “hav[e] a closed position in which the conducting element is connected to the

electrode, and an open position in which the conducting element and the electrode are disconnected.” Ans. 4. Appellants argue that the Examiner’s mapping of Pang’s elements to the limitations recited in claim 1 is deficient with respect to “a second switching means (I2) *between the conducting element (11) and the electrode (12),*” as recited in independent claim 1. *See* Reply Br. 7–8 (emphasis added). Appellants present other arguments based on “hypothesizing” which elements of Pang are mapped to the “conducting element” and “electrode” recited in claim 1. *See also* Reply Br. 4–9 (arguing “hypotheses” A through E regarding the Examiner’s mapping to Pang). We are persuaded the Examiner erred in rejecting independent claim 1 because the mapping set forth in the Final Office Action and the Answer does not address how the “second switching means” should be construed so as to be disclosed, expressly or inherently, by the cited teachings of Pang.

Accordingly, we do not sustain the rejection of independent claim 1 and dependent claims 2–5.

Claims 6–10

Independent claim 6 recites, *inter alia*, “an electrode (12) connected to the control means (13') and a face of which is directed towards the first exterior surface (S1),” and “conducting element (11) connected to the connection (14) to the electrical ground, a face of which is directed towards the second exterior surface (S2).” The Examiner cites Pang’s first electrode 11 as teaching the “electrode” as recited in claim 6 and Pang’s second electrode 12 as teaching the “conducting element” as recited in claim 6. Final Act. 6–7 (citing Pang col. 3, ll. 3–7).

Appellants argue: “In stark contrast to PANG, the conducting element of the Appellants’ invention may be [i] disconnected from the

ground and [ii] connected to the electrode[.]” App. Br. 16. The first portion of this argument (i) is not persuasive because the Examiner finds, and we agree, that Pang discloses metallic coating 62 for handle 10 and switch 66 for disconnecting second electrode 12 from ground 26. Final Act. 7 (citing Pang, 3:39–57, Fig. 13) (finding Pang’s metallic coating and switch form a “link between the conducting element [i.e., Pang’s second electrode 12] and electrical ground [is] disconnected”). The second portion of this argument (ii) is not commensurate in scope with independent claim 6 because the claim does not require that the “conducting element” is connected to the “electrode.”

Accordingly, we sustain the rejection of claim 6 and dependent claims 7–10, not separately argued.

DECISION

The Examiner’s decision to reject claims 1–5 is reversed.

The Examiner’s decision to reject claims 6–10 is affirmed.

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