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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ANDRE GALM, STEPHANIE THOMAS, EVA LIETZ, and
MARTIN AEBERHARD

Appeal 2017-009398
Application 14/320,490¹
Technology Center 3700

Before JENNIFER D. BAHR, JILL D. HILL, and
JEREMY M. PLENZLER, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant seeks our review under 35 U.S.C. § 134 of the Examiner's Final Decision rejecting claims 1–5 and 10–15. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellant is the Applicant, DePuy Synthes Products, Inc., identified by the Appeal Brief as the real party in interest. Appeal Br. 2. Appellant notes that Johnson & Johnson, Inc. is the parent corporation of DePuy Synthes Products, Inc. *Id.*

CLAIMED SUBJECT MATTER

Claims 1 and 15 are independent, with claims 2–5 and 10–14 depending from claim 1. Claim 1 is representative of the claims on appeal, and is reproduced below:

1. A screwdriver, comprising:
 - a handle extending from a proximal end to a distal end and having a handle channel extending therethrough;
 - a shaft extending from a proximal end insertable into the handle channel to a distal end, the distal end of the shaft including a bit opening sized to receive a proximal portion of a bit therein;
 - a locking sleeve coupled to the shaft, the locking sleeve having a locking sleeve channel slidably receiving the shaft therethrough, the locking sleeve being positionable over the shaft distally of the handle;
 - a spring slidably received within the locking sleeve channel and over the shaft; and
 - a coupling member received over the shaft distally of the locking sleeve, the coupling member being movable from a biased first configuration in which a locking element protrudes radially into the bit opening to lockingly engage a bit received therein and a second configuration in which the coupling member is retracted proximally to compress the spring and permit the locking element to move radially out of the bit opening to permit the bit to be removed therefrom;wherein the handle, shaft, locking sleeve, spring and coupling member are removably attached to one another.

REJECTIONS

1. Claims 1, 4, 5, and 15 are rejected under 35 U.S.C. § 102 as being anticipated by Chiang '452 (US 5,996,452, issued Dec. 7, 1999).
2. Claims 1 and 15 are rejected under 35 U.S.C. § 102 as being anticipated by Chiang '418 (US 8,505,418 B1, issued Aug. 13, 2013).

3. Claims 2 and 12 are rejected under 35 U.S.C. § 103 as being unpatentable over Chiang '452 or Chiang '418 and Heinz (US 2008/0243133 A1, published Oct. 2, 2008).

4. Claims 3 and 10 are rejected under 35 U.S.C. § 103 as being unpatentable over Chiang '452 or Chiang '418 and Garg (US 6,951,156 B2, issued Oct. 4, 2005).

5. Claim 11 is rejected under 35 U.S.C. § 103 as being unpatentable over Chiang '452 or Chiang '418 and Hu '760 (US 6,968,760 B2, issued Nov. 29, 2005).

6. Claims 13 and 14 are rejected under 35 U.S.C. § 103 as being unpatentable over Chiang '452 or Chiang '418 and Hu '121 (US 8,876,121 B2, issued Nov. 4, 2014).

OPINION

Anticipation—Chiang '452

Appellant argues claims 1, 4, 5, and 15 as a group. Appeal Br. 3–6.² We select claim 1 as representative. Claims 4, 5, and 15 stand or fall with claim 1. *See* 37 C.F.R. 41.37(c)(1)(iv).

The Examiner finds that Chiang '452 discloses each element of claim 1. Final Act. 2–3. Figures 1 and 2 of Chiang '452 are reproduced below for reference.

² We note that Appellant's arguments in the Reply Brief are essentially the same as those presented in the Appeal Brief. For simplicity, the decision cites only to the Appeal Brief.

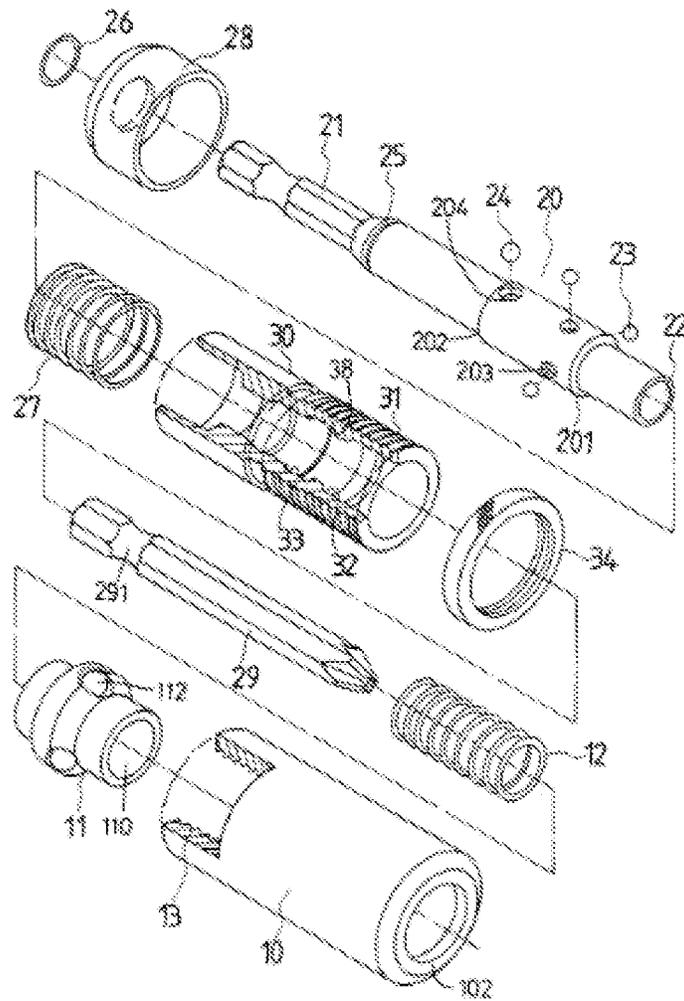


FIG. 1

Figure 1 of Chiang '452 is a perspective exploded view illustrating a chuck device. Chiang '452, 1:65-67.

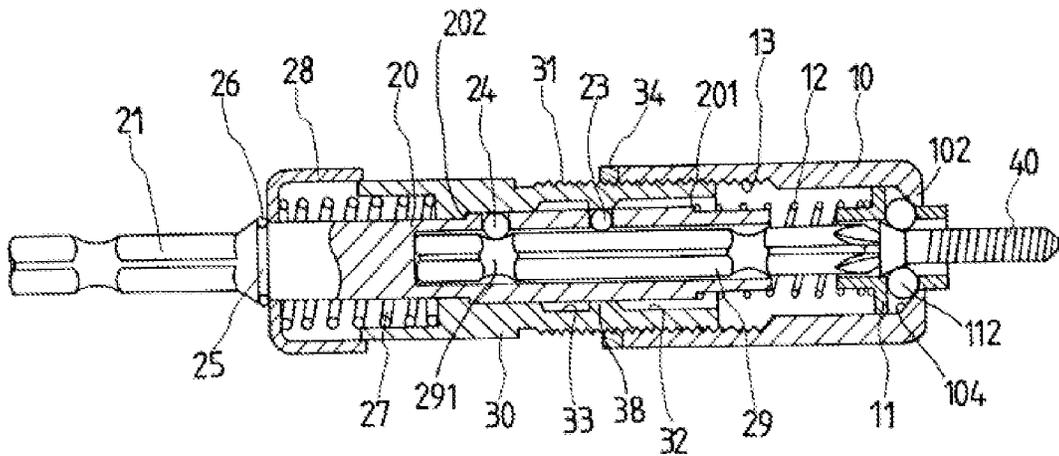


FIG. 2

Figure 2 of Chiang '452 is a sectional view illustrating the chuck device from Figure 1. *Id.* at 2:1–2. The Examiner finds, for example, that housing 10 corresponds to the recited “coupling member,” follower 20 corresponds to the recited “shaft,” and tube 30 corresponds to the recited “locking sleeve.” Final Act. 2–3.

Appellant does not dispute the majority of the Examiner’s findings, including whether Chiang '452 discloses a “coupling member,” a “shaft,” and a “locking sleeve.” Rather, Appellant contends that Chiang '452 does not disclose additional features of the “shaft” and “coupling member” required by claim 1, or the recited orientation of the “coupling member” relative to the “locking sleeve.” Appeal Br. 4–6.

With respect to the additional features of the “shaft” and “coupling member,” claim 1 requires that “the distal end of the shaft includ[es] a bit opening sized to receive a proximal portion of a bit therein” and that “the coupling member [is] movable from a biased first configuration in which a locking element protrudes radially into the bit opening to lockingly engage a

bit received therein.” The Examiner cites hole 22 as corresponding to the recited “bit opening” and ball 24 as corresponding to the recited “locking element.” Final Act. 2–3.

Appellant contends that, in Chiang ’452, “[t]he follower 20 includes a hole 22 formed in the distal end for receiving the driving stem 29 but the hole 22 does not include any locking element protruding radially therein to lockingly engage a received bit.” Appeal Br. 4–5. The problem with the rejection, according to Appellant, is that ball 24 in Chiang ’452 extends into hole 22 at a medial portion of follower 20, rather than at a distal end of follower 20. *Id.* at 5. Appellant contends that “[o]ne skilled in the art would understand that the ‘distal end’ refers to the distal extremity of the shaft and the bit opening recite[d] in the claim is required to be at the distal-most part of the shaft,” but “the ball 23 of Chiang [’452] is in no way located at the distal-most part of follower 20 and thus is not at the ‘distal end’ of the shaft and cannot protrude radially into a distal opening of the hole 22.” *Id.*

Initially, we note that the claim requires that the “locking element protrudes radially into the bit opening,” not into a distal end of the bit opening or the distal end of the shaft. As noted above, Appellant acknowledges that hole 22 in Chiang ’452 extends into the distal end of follower 20. Appeal Br. 4–5. Although hole 22 is not numbered in Figure 2 of Chiang ’452, it is clear that hole 22 has an extent into follower 20. Appellant’s proposed reading of claim 1 is not consistent with the plain language of the claim or with the disclosure in Appellant’s Specification. Appellant’s Figure 5 is reproduced below for reference.

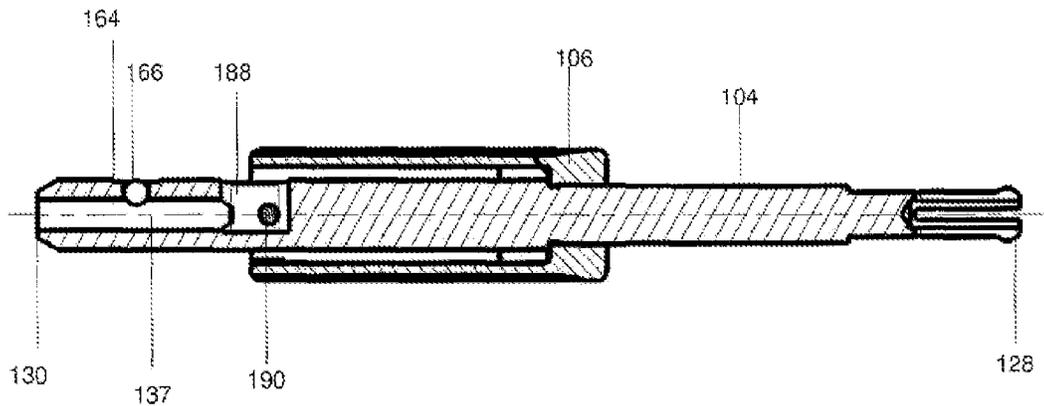


FIG. 5

Figure 5 is a sectional view of the shaft and sleeve of Appellant's screwdriver. Spec. ¶ 5. Similar to hole 22 in Chiang '452, Appellant's channel 137 (the "bit opening") extends a distance into shaft 104 from distal end 130 and ball 166 (the "locking element") is located inward of distal end 130. Accordingly, because claim 1 does not require that the "locking element" is located at the distal end of the shaft, and Appellant's arguments are based on such a requirement, we are not apprised of Examiner error.

As for the orientation of the "coupling member" relative to the "locking sleeve," claim 1 requires that the "coupling member [is] received over the shaft distally of the locking sleeve." Appellant's arguments directed to this limitation are based on "the claim requir[ing] that the portion of the coupling member that is received over the shaft (i.e., all of this portion that is received over the shaft) must be located distally of the locking sleeve." Appeal Br. 6. Appellant contends that this "is supported by the Specification and Drawings of the present application," without further explanation. *Id.* The plain language of the claim does not require that the entire coupling member is spaced apart from the locking sleeve (i.e., that

there can be no overlap between the parts), nor are we directed to anything in the Specification that requires such a reading. As seen above in the reproduced Figure 2 from Chiang '452, a portion of housing 10 (the "coupling member") is "received over the shaft distally of" tube 30 (the "locking sleeve"). Accordingly, we are not apprised of Examiner error.

For the reasons discussed above, we are not apprised of Examiner error in the rejection of claims 1, 4, 5, and 15.

Obviousness–Combinations based on Chiang '452

Claims 2, 3, and 10–14 depend from claim 1 and Appellant's contentions related to those claims rely on the unpersuasive arguments presented in connection with claim 1. Appeal Br. 9–11. Accordingly, we are not persuaded of Examiner error in the rejection of claims 2, 3, and 10–14.

Anticipation–Chiang '418

Appellant argues claims 1 and 15 as a group. Appeal Br. 7–9. We select claim 1 as representative. Claim 15 stands or falls with claim 1. *See* 37 C.F.R. 41.37(c)(1)(iv).

The Examiner finds that Chiang '418 discloses each element of claim 1. Final Act. 3–4. Figure 4 of Chiang '418 is reproduced below for reference.

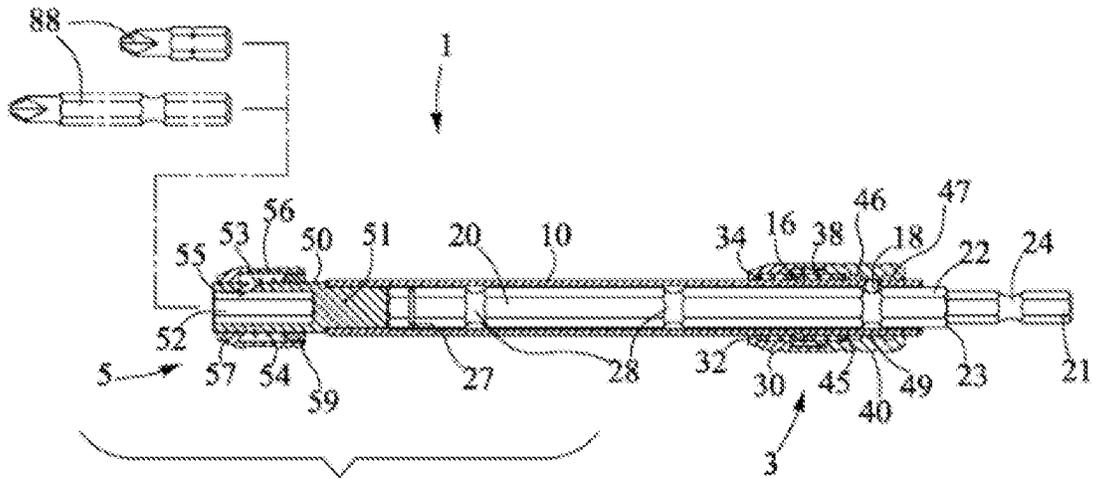


FIG. 4

Figure 4 of Chiang '418 is a partial exploded sectional view illustrating a combination tool or tool extension. *Id.* at 4:5–6. The Examiner finds, for example, that shaft 20/50 corresponds to the recited “shaft” and sleeve 30/40 corresponds to the recited “locking sleeve.” Final Act. 3–4.

Appellant does not dispute the majority of the Examiner’s findings, including whether Chiang '418 discloses a “shaft” and a “locking sleeve.” Rather, Appellant contends that “neither sleeve 30 nor tubular member 40 engage with or are coupled to the shaft 20” because “neither element[] contact[s] the shaft 20 in any way” and “the housing 10 completely surrounds the shaft 20 so that it is only coupled thereto.” Appeal Br. 7.

Appellant contends that “the actuator 49 is only sometimes in contact with the detent 18, which is only sometimes in contact with the shaft 20” and “[t]his selective engagement between three different components in no way equates to a coupling between the tubular member 40 and the shaft 20.” Appeal Br. 8. Appellant proposes a construction of “couple” as “to fasten or

join together” and contends that “member 40 is never coupled to detent 18 as the two elements are never fastened or joined together” and “[b]ecause the member 40 is not coupled to the detent 18, it is in no way coupled to the shaft 20.” *Id.* Appellant further contends that “[e]ven if the member 40 were coupled to detent 18 . . . one skilled in the art would not consider the member 40 to be coupled to the shaft 20 as there is always a component disposed between the member 40 and the shaft 20.” *Id.*

Appellant’s contentions do not apprise us of Examiner error. We agree with the Examiner, and find that, in Chiang ’418, sleeve 30/40 is coupled to shaft 20. Initially, we agree with the Examiner that claim 1 does not require direct contact between the recited “locking sleeve” and “shaft,” only that the “locking sleeve [is] coupled to the shaft” in some unspecified manner, which is met by Chiang’s indirect coupling. There is no dispute that, in Chiang ’418, sleeve 30 is coupled to housing 10. Nor is there any dispute that housing 10 is coupled to shaft 20. *See* Appeal Br. 7 (“the housing 10 completely surrounds the shaft 20 so that it is only coupled thereto”). Because sleeve 30 is coupled to housing 10, and housing 10 is coupled to shaft 20, sleeve 30 is at least indirectly coupled to shaft 20. Appellant provides no persuasive explanation, based on the actual requirements of claim 1, to the contrary.

For the reasons discussed above, we are not apprised of Examiner error in the rejection of claims 1 and 15.

Obviousness—Combinations based on Chiang ’418

Claims 2, 3, and 10–14 depend from claim 1 and Appellant’s contentions related to those claims rely on the unpersuasive arguments presented in connection with claim 1. Appeal Br. 9–11. Accordingly, we

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are not persuaded of Examiner error in the rejection of claims 2, 3, and 10–14.

DECISION

We AFFIRM the Examiner’s decision to reject claims 1–5 and 10–15.

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