



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

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
14/430,347 03/23/2015 Michiel Dirk Augustinus Bijloo 2012P00430WOUS 5775

24737 7590 01/31/2019
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
465 Columbus Avenue
Suite 340
Valhalla, NY 10595

EXAMINER

ZAMORY, JUSTIN L

ART UNIT PAPER NUMBER

3783

NOTIFICATION DATE DELIVERY MODE

01/31/2019

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):

patti.demichele@Philips.com
marianne.fox@philips.com
katelyn.mulroy@philips.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHEL DIRK AUGUSTINUS BIJLOO,
RACHEL ESTELLE THILWIND, LEONARDUS MARIA POPPELIER,
and ARNOLD AALDERS

Appeal 2017-011744
Application 14/430,347
Technology Center 3700

Before BIBHU R. MOHANTY, BART A. GERSTENBLITH, and
PHILIP J. HOFFMANN, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

The Appellants¹ seek our review under 35 U.S.C. § 134 of the Examiner's decision rejecting claims 2–15, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We REVERSE.

¹ According to the Appellants, the real party in interest is KONINKLIJKE PHILIPS N.V. *See* App. Br. 2.

THE INVENTION

The Appellants' claimed invention is directed to a breast pump system (Spec. 1). Claims 9 and 15 are independent. Claim 15, reproduced below, is representative of the subject matter on appeal.

15. An operating unit for a breast pump system comprising a housing and a vacuum pump disposed in said housing, the housing having a connector configured for attachment of a first end of a tube and an elongated outer surface region about which the tube can be wrapped;

at least part of the elongated outer surface region being curved so as to provide a first path for guiding and supporting the tube without buckling as said tube is wrapped around the housing; and

the connector being disposed in a recess of the housing defined, at least in part, by a curved surface region shaped so as to provide a second path for guiding and supporting the tube from the connector to the first path without buckling.

THE REJECTIONS

The following rejections are before us for review:

1. Claims 2–4, 7–9, and 15 are rejected under 35 U.S.C. § 102(b) as anticipated by SPECTRA 300 DEW ELECTRONIC BREAST PUMP (<http://www.onebabyworld.com/spectra-dew-300-electric-breast-pump-p-1996.html>) (WayBackMachine (June 16, 2011)) (henceforth “Spectra 300”) and Larsson (US 5,071,403; iss. Dec. 10, 1991).

2. Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as unpatentable over Spectra 300, Larsson (US 5,071,403; iss. Dec. 10, 1991) and Whitley, II (US 5,094,591; iss. Mar. 10, 1992).

3. Claim 8 is rejected under 35 U.S.C. § 103(a) as unpatentable over Spectra 300, Larsson, and Kriesel (US 5,807,335; iss. Sept. 15, 1998).

4. Claims 10 and 12–14 are rejected under 35 U.S.C. § 103(a) as unpatentable over Spectra 300 and Utterberg (US 2007/0093762 A1; publ. Apr. 26, 2007).

5. Claim 11 is rejected under 35 U.S.C. § 103(a) as unpatentable over Spectra 300, Larsson, and Kamen (US 2009/0281497 A1; publ. Nov. 12, 2009).

FINDINGS OF FACT

We have determined that the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence.²

ANALYSIS

The Appellants argue that the rejection of claim 15 under 35 U.S.C. § 102(b) is improper because the cited prior art fails to disclose the claim limitation for the connector being disposed in a recess of the housing defined by at least in part by:

a curved surface region shaped so as to provide a second path for guiding and supporting the tube from the connector to the first path without buckling

(App. Br. 6 (emphasis added)). Support for this claim limitation is found in the Specification at page 7, lines 19–26, page 8, lines 17–23, and Figures 4, 5, and 8.

In contrast, the Examiner has determined that the rejection of record is proper, and that the cited claim limitation is shown in Spectra 300 at

² See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

Appeal 2017-011744
Application 14/430,347

Figure 1 (Ans. 3, 8–10). The Answer provides an annotated version of Figure 1 to show how this limitation is taught by Spectra 300 (Ans. 3).

We agree with the Appellants. Turning first to the copy of the reference Spectra 300 at Figure 1, it is unclear from this figure that the connector surface region is formed to function in the claimed manner to provide “*a second path for guiding and supporting the tube from the connector to the first path without buckling*” beyond speculation into probabilities and possibilities, as Figure 1 is inconclusive in this regard. In the Answer at page 9, an additional figure is provided that is not seen in the reference of record, but instead retrieved from the Internet on July 23, 2017. In this figure provided on page 9 of the Answer, however, it also remains unclear beyond speculation into probabilities and possibilities that the curved portion is shaped in such a manner for “guiding and supporting the tube from the connector to the first path without buckling,” and in contrast it appears that the tube would actually have to be bent to reach the curved portions. Here, the argued claim limitation is not shown in the cited prior art without speculation into probabilities and possibilities of how the device is formed and operates. For this reason, the rejection of claim 15 and its dependent claims under 35 U.S.C. § 102(b) is not sustained. Independent claim 9 contains a similar limitation, and the rejection of this claim and its dependent claims under 35 U.S.C. § 102(b) is not sustained as well, for the same reason.

The rejections made under 35 U.S.C. § 103(a) are not sustained, as the references cited in those rejections fail to cure the deficiency in the Spectra 300 reference.

Appeal 2017-011744
Application 14/430,347

CONCLUSIONS OF LAW

We conclude that the Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) as listed in the Rejections section above.

DECISION

The Examiner's rejections of claims 2–15 are reversed.

REVERSED