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KIMBERLY-CLARK WORLDWIDE, INC.
Patent Docketing
2300 Winchester Rd.
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EXAMINER

TAWFIK, SAMEH

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ADAM NICHOLAS SCHOULZ

Appeal 2018-001571
Application 14/911,607¹
Technology Center 3700

Before EDWARD A. BROWN, LEE L. STEPINA, and
ARTHUR PESLAK, *Administrative Patent Judges*.

STEPINA, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Adam Nicholas Schoulz (Appellant) seeks our review under 35 U.S.C. § 134(a) of the Examiner's decision rejecting claims 1–9.² We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

¹ The Appeal Brief lists Kimberly-Clark Worldwide, Inc. as the real party in interest. Br. 1.

² Claims 10–20 are withdrawn. Br. 1.

THE CLAIMED SUBJECT MATTER

The claimed invention is directed to using vacuum rolls for folding flexible materials and products. Spec. 1:3–5.

Claim 1 is illustrative of the claims on appeal and is reproduced below with emphasis added.

1. A method for folding an article comprising,
 - directing the article to a receiving device moving in a first direction, the article defining a leading portion and a trailing portion;
 - holding the leading portion of the article on the receiving device;
 - transferring the leading portion of the article to a folding device moving in a second direction, opposite the first direction;*
 - transferring the leading portion of the article from the folding device to an oscillating device moving in the first direction while holding the trailing portion of the article on the receiving device moving in the first direction;
 - reversing the oscillating device to move in the second direction while continuing to hold the leading portion of the article on the oscillating device and while continuing to hold the trailing portion of the article on the receiving device moving in the first direction;
 - folding the article by overlaying the leading portion of the article on the trailing portion of the article to define a folded state while continuing to hold the trailing portion of the article on the receiving device moving in the first direction.

Br. 8 (Claims App.).

PRIOR ART RELIED ON BY THE EXAMINER

Coenen US 2012/0157284 A1 June 21, 2012

THE REJECTIONS ON APPEAL

(I) Claims 1–6, 8, and 9 are rejected under 35 U.S.C. § 102(b) as anticipated by Coenen.

(II) Claim 7 is rejected under 35 U.S.C. § 103(a) as unpatentable over Coenen.

ANALYSIS

Rejection (I)

The Examiner finds that Coenen discloses all the limitations recited in claim 1, and, specifically, discloses “holding the leading portion of the article on the receiving device (via on vacuum roller 101; transferring the leading portion of the article to a folding device moving in a second direction (Figs. 47 & 48; via 170), opposite the first direction.” Final Act. 2–3. Thus, the Examiner finds that device 170 in Coenen corresponds to a folding device as recited in claim 1.

Appellant’s sole argument³ on Appeal is that Coenen fails to disclose the step of transferring a leading portion of the article to a folding device

³ Only issues and findings of fact contested by the Appellant will be addressed. *See Ex Parte Frye*, 94 USPQ2d 1072, 1075–76 (BPAI 2010). Any arguments not included in the appeal brief will not be considered by the Board for purposes of the present appeal. 37 C.F.R. 41.37(c)(1)(iv).

moving in a direction (second direction) opposite of the direction a receiving device moves. *See* Br. 6. In this regard, Appellant states:

With the method of the present invention, the article is transferred from a receiving device (110) moving in a first direction to a folding device (170) *moving continuously* in a second direction. This is different than the method disclosed by the Coenen reference; with the method of the Coenen reference, the article is transferred from a receiving roll (110) to an oscillating roll (150) that reverses direction and, therefore, is not “moving in a second direction”.

Id. (emphasis added).⁴

In response, the Examiner states, “the features upon which applicant relies (i.e., folding device (170) moving continuously in a second direction) are not recited in the rejected claim(s).” Ans. 3–4. The Examiner also finds that, even under Appellant’s apparent claim construction (requiring continuous movement of the folding device), the rejection is proper because device 170 of Coenen rotates continuously. *Id.* at 4.

Appellant’s argument regarding *device 150* of Coenen does not address the Examiner’s rejection because the rejection relies on Coenen’s device 170, not device 150, for the teaching of a folding device. *See* Final Act. 2. The Examiner’s finding on this point is further discussed on pages 3 and 4 of the Answer. *See* Ans. 3 (stating, “[Coenen discloses] the same claimed method of the present invention, having article (500) to be transferred from a receiving device (110) moving in a first direction to a folding device (170) moving in a second direction, regardless [of] passing

⁴ Coenen refers to its first, second, and third devices (in sequential order of contact with the workpiece) with reference numerals 110, 150, and 170, respectively. *See, e.g.*, Coenen Fig. 46. Appellant’s Figures use the same reference numbers, but with the positions of devices 150 and 170 reversed.

through the oscillating roll 150.”). Appellant provides no discussion pointing out error in the Examiner’s findings with respect to device 170 of Coenen. *See* Br. 3–6. As Appellant’s sole argument alleges that device 150 of Coenen fails to satisfy the limitations in claim 1 regarding a folding roller (specifically, the rotation of the folding roller), but the rejection is not based upon a finding that device 150 of Coenen is a folding roller, we are not apprised of Examiner error. Accordingly, we sustain the rejection of claim 1 as anticipated by Coenen.

Appellant makes no additional arguments for claims 2–6, 8, and 9 (*see* Br. 3–6, and these claims fall with claim 1 from which they depend.

Rejection (II)

In support of patentability of claim 7, Appellant relies on the argument discussed above regarding claim 1. Br. 6. Accordingly, we sustain the rejection of claim 7 as unpatentable over Coenen because Appellant’s argument against the anticipation rejection of claim 1 does not apprise of error in the Examiner’s unpatentability determination of claim 7.

DECISION

(I) We affirm the rejection of claims 1–6, 8, and 9 as anticipated by Coenen.

(II) We affirm the rejection of claim 7 as unpatentable over Coenen.

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

AFFIRMED