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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GEORGE GIVENS and ROCKY A. TURLEY

Appeal 2018-002001
Application 13/398,829
Technology Center 3600

Before JEREMY M. PLENZLER, PAUL J. KORNICZKY, and
ARTHUR M. PESLAK, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's Decision rejecting claims 1–5, 8–12, 15, 17, 18, and 22. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

CLAIMED SUBJECT MATTER

Claims 1 and 9 are independent claims, with claims 2–5, 8, 10–12, 15, 17, 18, and 22 depending from claim 1 or 9. Claim 1 is representative of the claims on appeal, and is reproduced below:

1. A downhole tool for use in a wellbore, the tool comprising:

a tubular having a tapered outer surface;

an expandable annular member disposed on the tubular, the expandable member having an anchor portion, wherein the anchor portion includes a gripping surface that is configured to penetrate the wellbore upon expansion of the expandable annular member, and wherein the anchor portion is configured to support the downhole tool in the wellbore; and

a seal member disposed in a groove of the expandable annular member, the seal member having one or more anti-extrusion bands, wherein the seal member and the anchor portion are configured to be expandable radially outward into contact with the wellbore as the expandable annular member moves along the tapered outer surface of the tubular, wherein the anchor portion and the groove are formed integrally in the expandable annular member, and wherein the expandable annular member includes a second groove formed in a radially inward surface thereof, and wherein a second sealing member is disposed in the second groove.

REJECTIONS

1. Claims 1, 4, 5, 8–12, 17, 18, and 22 are rejected under 35 U.S.C. § 103 as being unpatentable over Oneal (US 6,123,148, issued Sept. 26, 2000), Young (US 3,631,926, issued Jan. 4, 1972), and Hirth (US 6,962,206 B2, issued Nov. 8, 2005).

2. Claims 2, 3, and 15 are rejected under 35 U.S.C. § 103 as being unpatentable over Oneal, Young, Hirth, and Tamplen (US 3,215,208, issued June 8, 1961).

OPINION

Appellants argue claims 1, 4, 5, 8–12, 17, 18 and 22 as a group. Appeal Br. 7–8. We select claim 1 as representative. Claims 4, 5, 8–12, 17, 18, and 22 stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv). Claims 2, 3, and 15 depend from claim 1 or 9, and Appellants’ contentions regarding the patentability of those claims are based on the contentions set forth regarding claim 1. Appeal Br. 8.

The Examiner finds that Oneal teaches the majority of the limitations recited in claim 1, but “fails to disclose that the seal member has one or more anti-extrusion bands and the tubular having a tapered outer surface.” Final Act. 2–3. The Examiner cites Young and Hirth for these additional features. *Id.* For example, the Examiner explains that “Young discloses . . . a[n] anchoring seal assembly having one or more anti-extrusion spring bands 22 embedded within the seal member 21 on the outer edge of the seal member 21” and reasons that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an anti-extrusion spring within the seal member of Oneal as taught by Young in order to prevent withdrawal of the seal.” *Id.* (citing Young 3:41–43).

Appellants do not dispute the Examiner’s findings. Rather, Appellants dispute only the Examiner’s rationale for including an anti-extrusion band with Oneal’s seal. Appeal Br. 7–8. Specifically, Appellants contend “one skilled in the art would not modify the apparatus of *Oneal* to

include the spring bands 22 of *Young*” because “*Oneal* is specifically seeking to design an apparatus which avoids the use of anti-extrusion bands.” *Id.* at 7 (citing *Oneal* 2:1–24).

The cited portion of *Oneal* explains that “various attempts have been made . . . to increase resistance of the seal elements to . . . extrusion,” such as “backup rings” and “garter springs.” *Oneal* 2:1–10. *Oneal* notes that “these increase the cost of the seal elements and still do not increase the packer’s usability in other casing sizes and weights.” *Id.* at 2:11–13. That does not mean, however, that backup rings or garter springs would not work to inhibit seal extrusion in *Oneal*’s system. As noted above, *Oneal* describes these as well-known for preventing seal extrusion. The portion of *Young* cited by the Examiner also supports this understanding. *Young* 3:41–43 (“[A]nti-extrusion springs 22 may be incorporated with the resilient member 21 for conventional reasons.”).

Moreover, Appellants do not even allege that those anti-extrusion techniques would not work in *Oneal*’s system. Indeed, *Oneal* later describes using one of those anti-extrusion techniques, backup rings, for example. *See id.* at 13:2–3.

For at least these reasons, we are not apprised of Examiner error in the rejections of claims 1–5, 8–12, 15, 17, 18, and 22.

DECISION

We AFFIRM the Examiner’s decision to reject claims 1–5, 8–12, 15, 17, 18, and 22 under 35 U.S.C. § 103.

Appeal 2018-002001
Application 13/398,829

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