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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PATRICIA CHAN, STEVEN D. RYNIKER, and
JAMES P. ZIELINSKI

Appeal 2018-004523
Application 14/147,059
Technology Center 3700

Before HUBERT C. LORIN, MICHAEL C. ASTORINO, and
CYNTHIA L. MURPHY, *Administrative Patent Judges*.

MURPHY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants¹ appeal under 35 U.S.C. § 134(a) from the Examiner’s rejections of claims 1–3, 5–13, and 16–22.² We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

We REVERSE.

¹ “The real party in interest in the present appeal is Mattel, Inc.” (Appeal Br. 3.)

² Dependent claims 4 and 14 “are withdrawn from consideration” and dependent claim 15 “would be allowable” if rewritten in an independent format. (Final Action 1, 11.)

STATEMENT OF THE CASE

The Appellants' invention relates to a "toy," (e.g. "a toy doll,") that has "one or more movable portions that are illuminated by a light source." (Spec. ¶ 2.)

Illustrative Claim

1. A toy doll, comprising:
 - a first portion including an illumination source; and
 - a second portion coupled to the first portion and movable relative to the first portion between a first position and a second position, the second portion including:
 - at least two panels, each panel defining a housing comprising:
 - an entry edge; and
 - an illumination area that extends perpendicular to the entry edge and is illuminable when the entry edge is aligned with the illumination source, wherein at least the entry edge of a first panel of the at least two panels is alignable with the illumination source in the first position and at least the entry edge of a second panel of the at least two panels is alignable with the illumination source in the second position.

Rejections

The Examiner rejects claims 1, 2, 5–8, and 21 under 35 U.S.C. § 102(b) as anticipated by Arad.³ (Final Action 2.)

The Examiner rejects claims 3, 9–13, and 16 under 35 U.S.C. § 103(a) as unpatentable over Arad. (Final Action 5.)

The Examiner rejects claims 17–20 and 22 under 35 U.S.C. § 103(a) as unpatentable over Arad and Tillman.⁴ (Final Action 9.)

³ GB 2291816, published July 2, 1996.

⁴ US 5,971,761 issued October 26, 1999.

ANALYSIS

Claims 1, 10, and 17 are the independent claims on appeal, with the rest of the claims on appeal depending therefrom. (*See* Appeal Br., Claims App.) Independent claims 1, 10, and 17 recite a “toy” (*id.*); and the Examiner determines that this toy is anticipated by, or would have been obvious over, the prior art (*see* Final Action 2, 5, 9). We are persuaded by the Appellants’ arguments that the Examiner does not adequately support these determinations. (*See* Appeal Br. 19–26; *see also* Reply Br. 2–5.)

Independent claims 1, 10, and 17 each require the toy to comprise a “panel” (Appeal Br., Claims App.); and, according to the Appellants, “the claims recite an edge-lit panel” (*id.* at 21). The Appellants explain that, with an edge-lit panel, “illumination areas are perpendicular to [an] entry edge and illuminated when the entry edge is aligned with an illumination source.” (*Id.*) In other words, an “entry edge” is a “peripheral boundary” that allows “light into the panel” so that light can “travel through” the panel and “exit at” an illumination area. (*Id.*)

The Examiner’s rejections all rely upon Arad to disclose a toy comprising the panel(s) required by independent claims 1, 10, and 17. (*See* Final Action 2–3, 6–7, 9–10.)⁵ The Appellants contend that the alleged panel in Arad’s toy is part of a “backlit projection system” and thus cannot

⁵ Arad discloses an action-figure toy 10 with an “internally disposed projection system 14” that comprises a disk assembly 30 and a bulb 60 provided “[f]or backlighting the disk assembly 30.” (Arad 4, l. 5, 6, ll. 1–2.) The disk assembly 30 includes a circular film element 32 having a plurality of “adjacently positioned images 38” around its circumference. (*Id.* at 5, l. 1 *see also* Fig. 6.) According to the Examiner, each picture, or image 38, on the film element 32 “can be considered a ‘panel.’” (Final Action 2.)

be considered an “edge-lit panel.” (*See* Appeal Br. 22, 24, 25.) The Examiner does not challenge the Appellants’ contention that Arad does not disclose an edge-lit panel. (*See* Answer 10–12.) Rather the Examiner’s position appears to be that the relevant features of the claims on appeal can read on the alleged panel in Arad’s toy, even if this panel is not an edge-lit panel. (*See id.*)

We agree with the Appellants that independent claims 1, 10, and 17 recite “features of an edge-lit panel.” (Appeal Br. 21.) Specifically, as emphasized by the Appellants (*see id.* at 20, 23, 25), independent claims 1, 10, and 17 recite an “entry edge” or “entry surface,” and they require the panel (or an area or surfaces thereof) to be “illuminable” when this entry edge/surface is “aligned with” an “illumination source.” (*Id.*, Claims App.)

We also agree with the Appellants that the Examiner does not show sufficiently that the alleged panel in Arad’s toy includes these features of an edge-lit panel. (*See* Appeal Br. 22, 24, 25.) Inasmuch as the Examiner establishes that Arad’s toy includes a panel having an *edge* or a *surface* (*see* Answer 10–12), the Examiner does not explain adequately how or why this edge/surface qualifies as an *entry edge* or *entry surface* as required by the independent claims. Likewise, inasmuch as the Examiner may establishes that the alleged panel in Arad’s toy is *illuminable* (*see* Final Action 3, 7, 9), the Examiner does not explain adequately how or why this panel is illuminable when it has an edge/surface aligned with an illumination source.

The Examiner’s further findings and determinations with respect to the dependent claims do not compensate for the above-discussed shortcoming in the rejections of the independent claims. (*See* Final Action 3–4, 6, 8–11.)

Thus, we do not sustain the Examiner’s rejection of claims 1, 2, 5–8, and 21 under 35 U.S.C. § 102(b) as anticipated by Arad; we do not sustain the Examiner’s rejection of claims 3, 9–13, and 16 under 35 U.S.C. § 103(a) as unpatentable over Arad; and we do not sustain the Examiner’s rejection of claims 17–20 and 22 under 35 U.S.C. § 103(a) as unpatentable over Arad and Tillman.⁶

DECISION

We REVERSE the Examiner’s rejections of claims 1–3, 5–13, and 16–22.

REVERSED

⁶ Tillman is relied upon only to teach the use of “motion sensors,” and features related thereto, to “illuminate lights.” (Final Action 10; *see also* Answer 13.)