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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte YIGIT AKALAN, ZIYA ARSLANKIRAY, MEHMET
CIYANOGLU, LARS DINTER, EMRE EMEK, ERCAN ENGIN,
HUESEYIN SEN, and TANZER YILDIZGOECER

Appeal 2019-004484
Application 15/363,026
Technology Center 3600

Before MURRIEL E. CRAWFORD, PHILIP J. HOFFMANN, and
BRADLEY B. BAYAT, *Administrative Patent Judges*.

BAYAT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the
Examiner’s decision to reject claims 1–20, which constitute all the claims
pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R.
§ 1.42. Appellant identifies the real party in interest as BSH Hausgeraete
GmbH. Brief 1.

CLAIMED SUBJECT MATTER

The claims relate generally to:

a plurality of panel/s, for [] covering an opening of a machine compartment; and a connection unit for connecting the at least one panel . . . the connecting element being movable with respect to the first fin mounting element and the fin second mounting element in a lengthwise direction of the panel in at least one pre-assembled state of the panel.

Spec. 1:20–31.

Independent claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A home appliance device comprising:
 - at least one panel for at least partly covering an opening of a machine compartment; and
 - a connection unit for connecting the panel;
 - the panel comprising at least one panel module which has at least one fin, at least one first fin mounting element and at least one second fin mounting element for mounting the at least one fin, the connection unit comprising at least one connection element extending in a direction parallel to a lengthwise direction of the at least one panel for connecting the at least one panel module, and wherein the connection element is movable with respect to the first fin mounting element and the second fin mounting element in the lengthwise direction of the panel in at least one pre-assembled state of the panel.

REFERENCE AND REJECTION

Claims 1–20 are rejected under 35 U.S.C. § 102(a)(1) as anticipated by Solak et al., (US 4,970,874, iss. Nov. 20, 1990) (“Solak”).

OPINION

The Examiner finds, referencing Figures 13–15 of Solak, the claimed “fin” at element 140, the claimed first and second fin “mounting” elements at elements 166, and the claimed “connection element” at element 86.

Answer 3; *see also* Final Act. 3. The Examiner also finds

the connection element is movable with respect to the first fin mounting element and the second fin mounting element in the lengthwise direction of the panel in at least one pre-assembled state of the panel (by virtue of the oblong portion of the keyhole slot (92), the shaft of (166) has the capacity to move laterally as depicted within the bigger section of the slot once inserted).

Id.

Appellant indicates that “Fig[ures] 4A and 8A are described as showing the panel in a preassemble[d] state, and Fig[ures] 4B and 8B are described as showing the panel in a disassembled state,” and argues “Solak does not describe that the connection element is movable with respect to the first and second fin mounting elements in the lengthwise direction of the panel in a pre-assembled state,” because “the screws 166 being in the wider portion of the key slot could not be considered a pre-assembled state as defined in the present application, nor could it be considered any connection between the bracket and the mounting bracket.” Brief 4.

The Specification indicates that “Fig[ures] 4A and 4B show the panel 10 in a pre-assembled state and in a disassembled state.” Spec. 16:2–3. Panel 10 is connected to an appliance by way of connection unit 18, comprising “interconnection element 110,” where “corresponding interconnection guiding element 118 cooperates with the interconnection guiding element 110.” *Id.* 16:10–17:31. The Specification provides “connection element 22 connects all of the panel modules 200a, 200b, 200c,

200d to each other.” *Id.* 19:26–28. As part of panel 10, “panel module 200a has at least one first fin mounting element 34a . . . [and] second fin mounting element 36a.” *Id.* 21:22–24. Also, the Specification discloses:

In at least one pre-assembled state the connection element 22 is movable with respect to the first fin mounting element 34a (see Fig[ures] 4A and 4B) . . . [and] to the second fin mounting element 36a. The connection element 22 is movable along the lengthwise direction 38 of the panel 10 in at least one pre-assembled state.

Id. 23:21–26.

From the description and drawings, we determine that the connection element 22, first fin mounting element 34a, and second fin mounting element 36a are all parts of a single sub-assembly (panel 10), which is assembled together into a product before final attachment to an appliance. Within assembled panel 10, according to claim 1, “the connection element is movable with respect to the first fin mounting element and the second fin mounting element in the lengthwise direction of the panel in at least one pre-assembled state of the panel.” *See* Claim 1 *supra*.

Solak discloses “an adjustable height grille cover assembly 12 having an adjustable height decorative panel 13.” Solak 3:53–56. Figures 4–6 of Solak show grille cover assembly 12 alone, without decorative panel 13 attached. *Id.* 4:66–68. Solak discloses that “a pair of decorative mounting brackets 86,” with “a pair of spaced keyhole slots 92” are part of grille cover assembly 12. *Id.* 5:1–55. The Examiner equates Solak’s brackets 86 with the claimed “connection element.” Answer 3.

Describing “decorative panel 13,” Solak indicates the panel includes “mounting brackets 140,” and “double shoulder screws 166.” Solak 6:67–7:56. The Examiner equates mounting bracket 140 to the claimed “fin,” and

equates screws 166 to the claimed first and second “fin mounting” elements.
Answer 3.

Because Solak’s screws 166 (along with fin/bracket 140) and bracket 86 (along with keyhole slots 92) are parts of different components (panel 13 and assembly 12, respectively), the only context in which they form a subassembly together is after grille cover assembly 12 is assembled with decorative panel 13. Solak describes “double shoulder screws 166 are [] inserted in the grille assembly mounting bracket keyhole slots 92 to retain the decorative panel assembly 13 to the grille assembly 12.” Solak 8:61–64. Solak also discloses that “when the double shoulder screws 166 are moved downwardly, the spring action provided by the wave washers 168 in connection with the relatively thicker portion of the bracket 86 acts to wedge the decorative panel assembly 13 in place so that it is held firmly in position.” Solak 8:67–9:4.

As a result, once screws 166 are positioned in slot 92 of bracket 86, to attach decorative panel 13 onto grille cover assembly 12, there is no movement “in the lengthwise direction of the panel in at least one pre-assembled state of the panel,” as required by claim 1. The Examiner has thus failed to demonstrate that the cited elements of Solak anticipate the claim limitation “wherein the connection element is movable with respect to the first fin mounting element and the second fin mounting element in the lengthwise direction of the panel in at least one pre-assembled state of the panel.” Claim 1 *supra*.

As to the “pre-assembled state of the panel,” Appellant argues the arrangement of components relied upon by the Examiner “where the shoulder screw 166 is in the wider portion of the bracket key slot 92 only

exists during an assembly, not a pre-assembled state.” Brief 5. In contrast, the Examiner reasons there are “multiple and varied interpretations as to what may constitute this pre-assembled state,” and as a result, the term “pre-assembled state” is “interpreted by the [E]xaminer as meaning any snap shot in time / stage of the assembly process where the assembly is not fully put together.” Answer 7. Based on this proffered definition, the Examiner concludes Appellant “is trying to define the actual product by a process.” Answer 8. We disagree with the Examiner.

Although the Specification does not explicitly define what is meant by a “pre-assembled state,” the term “state” is used throughout the Specification in the context of “assembled state,” “pre-assembled state,” and “operating state.” *See generally* Spec. 2, 6–8. The ordinary and customary meaning of “state,” consistent with its use in the Specification, is “a condition of being in a stage or form, as of structure, growth, or development.” American Heritage Dictionary of the English Language, Fifth Ed., 2016 (retrieved on February 5, 2020 at <https://www.thefreedictionary.com/state>). The Examiner’s construction of “state” to mean “any snap shot in time” is inconsistent with the intended meaning of “state” as being a stage of structure of the claimed elements. As we noted above, a “pre-assembled state,” in the context of Appellant’s Specification and drawings, is consistent with a sub-assembly, which is a fixed arrangement of parts connected together forming part of a larger assembly. Thus, the Examiner interpretation of “state,” as a moment in time *during* an assembly of parts to each other, is an improper interpretation of the meaning of “pre-assembled state” in view of the Specification.

In view of the foregoing, the Examiner has failed to establish that Solak's apparatus anticipates the device of claim 1. Because the Examiner's rejection of independent claims 17– 20 rely on the same flawed construction of "pre-assembled state" (Answer 6), the Examiner has not established that Solak anticipates claims 17– 20 as well. Accordingly, we do not sustain the rejection of claims 1 and 17–20 as anticipated by Solak, and we do not sustain the anticipation rejection of claims 2–16, which depend from claim 1.

CONCLUSION

The Examiner's rejection under 35 U.S.C. §102(a)(1) as anticipated by Solak is REVERSED.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–20	102(a)(1)	Solak		1–20

REVERSED