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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JACOB SCHLANGEN

Appeal 2019-005116
Application 15/373,299
Technology Center 3700

Before BENJAMIN D. M. WOOD, FREDERICK C. LANEY, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

WOOD, *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, 3–5, 7–12, and 14–20. *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ “Appellant” refers to the applicant as defined by 37 C.F.R. § 1.42. Appellant identifies the real party in interest as the named inventor, Jacob Schlangen. Appeal Br. 3.

CLAIMED SUBJECT MATTER

The claims are directed to an archery target having a replaceable cube core. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. An archery target comprising:
 - a target frame formed with a replaceable core receptacle;
 - a replaceable core formed to fit within said replaceable core receptacle, wherein said replaceable core is formed as a cube with six sides with a portion of the replaceable core protruding from a back side of the target frame.

REFERENCES

Name	Reference	Date
Pulkrabek	US 2004/0140623 A1	July 22, 2004
Walker	US 2011/0024986 A1	Feb. 3, 2011
McGovern	US 2012/0080848 A1	Apr. 5, 2012

REJECTIONS

Claims Rejected	35 U.S.C. §	Reference(s)/Basis
1, 9, 16, 19, 20	102	Walker
3, 5, 7, 8, 10, 12, 14, 15, 17	103	Walker, McGovern
4, 11, 18	103	Walker, McGovern, Pulkrabek

OPINION

A. Claims 1, 9, 16, 19, and 20: Rejected as Anticipated by Walker
Appellant argues claims 1, 9, 16, 19, and 20 as a group. Appeal Br. 7–9. We select claim 1 as representative of the group, and decide the appeal of these claims on the basis of claim 1 alone. 37 C.F.R. § 41.37(c)(1)(iv).

The Examiner relies on the embodiment depicted in Figure 10 of Walker as anticipating claim 1, and specifically finds that target block

member 506 corresponds to the claimed target frame, inner component 502 corresponds to the replaceable cubic core, and target block member 504 corresponds to the claimed support base. Final Act. 2 (citing Walker ¶ 44); *see also* Walker ¶ 76, Fig. 10.

Appellant's primary argument in support of the patentability of claim 1 is that target block 506 does not correspond to the claimed target frame. Appeal Br. 7. Appellant asserts, instead, that target blocks 506 and 504 must be considered two halves of a single target frame. *Id.* (citing Walker ¶¶ 76–77, Fig. 10. According to Appellant, [b]ecause the target is actually made of two halves, which surround the core, **the core 502 does not PROTRUDE from the back side of the target frame as asserted by the Examiner.**" *Id.* at 8.

The Examiner responds that:

A frame, as used in the context of appellant's application, and the prior art rejection, is "an open case or structure made for admitting, enclosing or supporting something", (Webster's Ninth New Collegiate Dictionary). As can be seen in Fig. 10 of Walker, element 506 is an open case for admitting, enclosing and supporting replaceable core 502 which protrudes out of one side of element 506. Walker's element 506, which it is understood is the back portion of the target in Walker's parlance, clearly meets the limitation of a frame as claimed. That appellant would like to term both elements 506 and 504 as Walker's frame is irrelevant to the fact that element 506 in and of itself is a frame with two sides, out of one of which protrudes core 502. As noted by the examiner, for purposes of the rejection the side of frame 506 out of which the core 502 protrudes is considered the back side of the target frame.

Ans. 3. Appellant counters in the Reply Brief that "Walker makes it abundantly clear that the inner component is contained within the target block," and therefore does not disclose that a portion of the replaceable core

protrudes from a back side of the target frame. Reply Br. 3 (citing Walker ¶ 76).

This argument is not persuasive of Examiner error. Appellant does not dispute the Examiner’s construction of “frame” as “an open case or structure made for admitting, enclosing or supporting something.” Nor does Appellant argue that “target frame” has a specialized meaning in the art beyond a “structure made for admitting, enclosing, or supporting,” a “target.” Finally, Appellant does not dispute that Walker’s target block 506 is a target frame under the Examiner’s construction of the term, or that inner component 502 protrudes out the back side of target block 506. Nor is it self-evidence that target block 506 could not be a target frame. For example, as depicted in Figure 10 of Walker, target block 506 appears configured to at least partially “admit” or “support” inner component 502. To the extent that Appellant believes that target block 506 does not resemble the specific target-frame embodiments depicted in the Specification, claim 1 is written broadly and is not limited to any of the specific embodiments disclosed. *See Ecolab, Inc. v. FMC Corp.*, 569 F.3d 1335, 1347 (Fed.Cir.2009) (the argument that prior art did not anticipate the claim “is unpersuasive because claim 7 is written broadly and is not limited to PAA treatment in a meat processing plant.”).

Because we are not persuaded that the Examiner erred in finding that Walker anticipates claim 1, we sustain the Examiner’s rejection of claims 1, 9, 16, 19, and 20 as anticipated by Walker.

B. Remaining Rejections

Each of the claims subject to the remaining rejections—claims 3–5, 7, 8, 10–12, 14, 15, and 18—ultimately depends from one of independent

claims 1, 9, and 16, and each of the independent claims contains the target-frame limitation discussed above. Appeal Br. 12–14. Appellant relies on its argument that Walker fails to teach the claimed target frame to support the patentability of the dependent claims subject to these rejections. Because, as discussed above, we are not persuaded that the Examiner erred in finding that Walker teaches the claimed target frame, we sustain the Examiner’s rejection of claims 3, 5, 7, 8, 10, 12, 14, 15, and 17 as unpatentable over Walker and McGovern, and of claims 4, 11, and 18 as unpatentable over Walker, McGovern, and Pulkrabek.

CONCLUSION

The Examiner’s rejections are affirmed, as follows:

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1,9,16, 19, 20	102	Walker	1, 9, 16, 19, 20	
3, 5, 7, 8, 10, 12, 14, 15, 17	103	Walker, McGovern	3, 5, 7, 8, 10, 12, 14, 15, 17	
4, 11, 18	103	Walker, McGovern, Pulkrabek	4, 11, 18	
Overall Outcome			1, 3–5, 7–12, 14–20	

Appeal 2019-005116
Application 15/373,299

TIME PERIOD FOR RESPONSE

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