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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DENIS GAGNON, WILLIAM GAGNON, and
RICHARD ECKHARDT

Appeal 2019-005624
Application 13/437,618
Technology Center 3700

Before JILL D. HILL, LEE L. STEPINA, and
ARTHUR M. PESLAK, *Administrative Patent Judges*.

PESLAK, *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 1–7 and 9–20. *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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 Excel Dryer, Inc. Appeal Br. 3.

THE CLAIMED SUBJECT MATTER

Appellant's invention relates to a lavatory wash station with integrated sink and sanitizing hand dryer. Claims 1, 4, and 16 are independent. Claim 16, reproduced below, is illustrative of the claimed subject matter:

16. A lavatory wash station, comprising:
 - a wash station housing;
 - a sink basin connected to a front of the housing, wherein the sink basin has a washing section surface and a drying section surface wherein the drying section surface is sloped towards the washing section surface and a countertop surface, where water falling on the drying section surface runs down to the washing section surface;
 - a transition surface having a smooth contour that slopes upwardly from the drying section surface to the sidewall, wherein the wash station housing, sink basin and sidewall are a unitary formed component;
 - an automatic faucet that directs water into the washing section;
 - an automatic hand dryer assembly having an air outlet that directs forced air towards the drying section surface; and
 - a system that sanitizes one or more surfaces of the wash station proximate to the drying section surface.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Chardack	US 5,727,579	Mar. 17, 1998
Lee	US 6,640,049 B1	Oct. 28, 2003
Loberger	US 2009/0077736 A1	Mar. 26, 2009
Schluttig	US 2009/0211019 A1	Aug. 27, 2009
Sawabe	US 2010/0192399 A1	Aug. 5, 2010

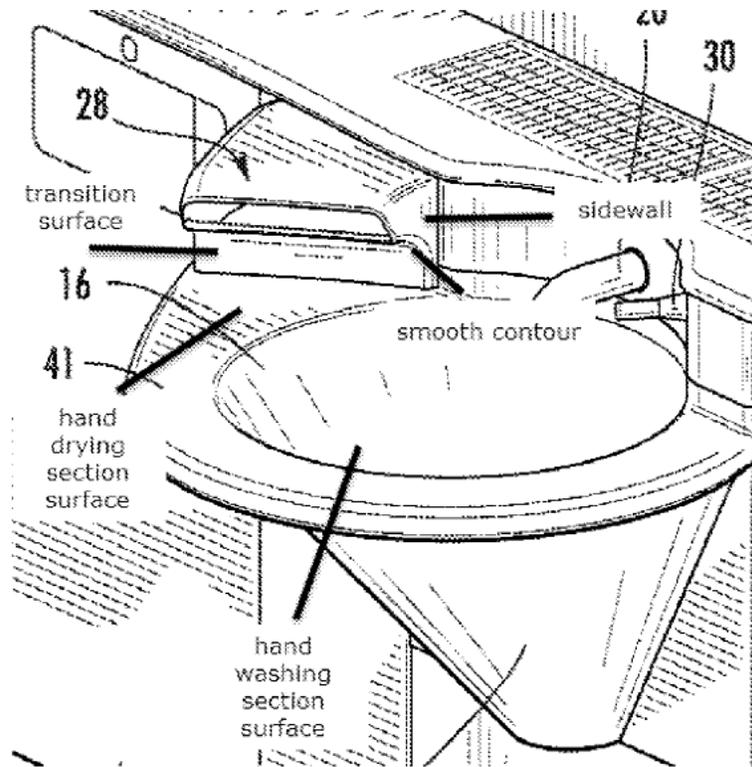
REJECTIONS

- I. Claims 16 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Loberger.
- II. Claim 1 is rejected under 35 U.S.C. § 103(a) as unpatentable over Loberger, Lee, Schluttig, and Chardack.
- III. Claims 2 and 3 are rejected under U.S.C. § 103(a) as unpatentable over Loberger, Lee, Chardack, Schluttig, and Sawabe.
- IV. Claims 4, 13, and 14 are rejected under 35 U.S.C. § 103(a) as unpatentable over Loberger, Chardack, and Lee.
- V. Claims 5, 9–11, and 15 are rejected under 35 U.S.C. § 103(a) as unpatentable over Loberger, Chardack, Lee, and Sawabe.
- VI. Claims 6, 7, and 12 are rejected under 35 U.S.C. § 103(a) as unpatentable over Loberger, Chardack, Sawabe, Lee, and Schluttig.
- VII. Claim 17 is rejected under 35 U.S.C. § 103(a) as unpatentable over Loberger, Lee, and Sawabe.
- VIII. Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as unpatentable over Loberger and Schluttig.

ANALYSIS

Rejection I, Claims 16 and 18

In rejecting claim 16 as anticipated by Loberger, the Examiner relies on an annotated version of Figure 36 of Loberger, reproduced below.

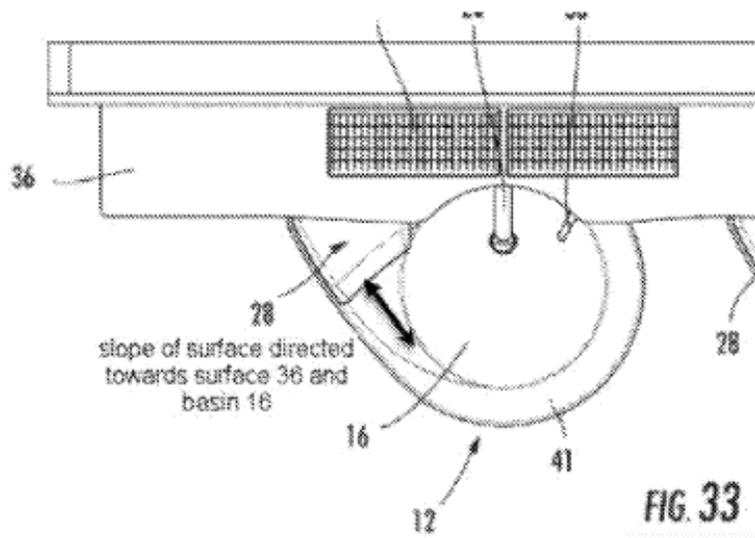
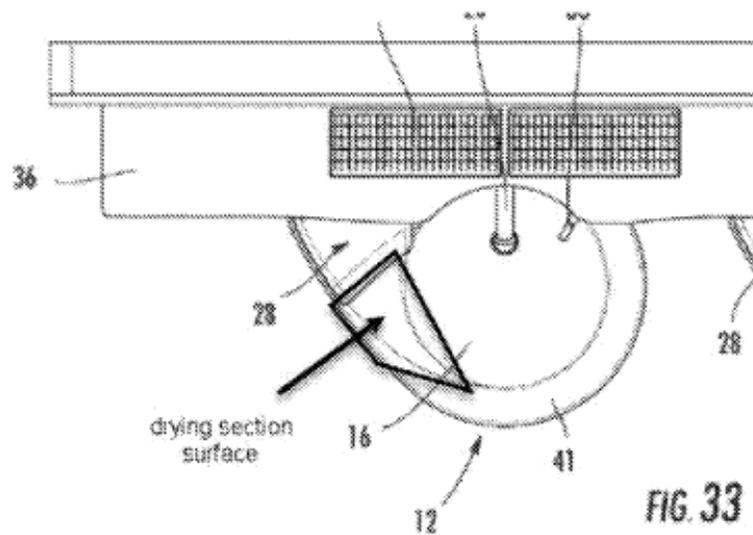


Final Act. 3. Figure 36 is a front perspective view of a lavatory system. Loberger ¶ 46. The Examiner’s annotated version of Loberger’s Figure 36 adds a first lead line with the annotation “hand drying section surface,” and adds a second lead line with the annotation “hand washing section surface.” Final Act. 3. In addition to the annotations, the Examiner finds that element 36 of Loberger meets the claimed countertop surface. *Id.* at 2.

Appellant asserts that, by the Examiner finding that Loberger’s element 36 is a countertop and that element 41 is a hand drying surface, Loberger’s element 41 is “not sloped to the shelf or platform 36, which is

located laterally away from and above the dryer.” Appeal Br. 14. Thus, Appellant concludes that “Loberger is incapable of anticipating claim 16 since Loberger fails to disclose at least the claimed features of ‘wherein the drying section surface is sloped towards the washing section surface and a countertop surface.’ Emphasis added.” *Id.*

In response, the Examiner provides two annotated versions of Loberger’s Figure 33, reproduced below.



Ans. 5. Figure 33 is a top view of the lavatory system of Figure 31. Loberger ¶ 43. The Examiner asserts that Loberger's Figure 33 "shows support that the drying section surface is sloped towards the countertop surface (36) since a sloped surface is directed towards an upper reference point as well as a lower reference point." Ans. 4. According to the Examiner, in Loberger's annotated Figure 33, "the drying section surface is sloped 'towards' the countertop surface (i.e. an upper reference point)." *Id.*

Appellant replies that the Examiner's finding that Figure 33 of Loberger has a sloped surface is not a fair and proper reading of Loberger as a whole because Figure 31 of Loberger, upon which Figure 33 is based, shows that the countertop 41 is planar. Reply Br. 1. According to Appellant, "towards" should be given its plain and ordinary meaning such that "sloped towards" should be "interpreted as sloped in the direction of or sloped along a course leading to." *Id.* at 2 (citing *Merriam-Webster.com*). Appellant asserts, moreover, that claim 16 requires that the drying section surface and the washing section surface are located below the rim of the sink basin, whereas the Examiner relies on countertop 41 of Loberger, which is not below the rim of the sink basin because countertop 41 forms the rim. *Id.* at 3. Appellant's arguments are not persuasive for the following reasons.

First, although we appreciate that Loberger discloses that Figure 33 is a top view of the lavatory system of Figure 31 (Loberger ¶ 43), and that Figure 31 may not show a sloped surface, Loberger discloses that "the top surface of countertop 41 may have a contour that is angled (e.g., slanted, sloped, etc.) downward and/or inward towards basin 16 as shown in FIG. 33." Loberger ¶ 123. Appellant's argument that Figure 31 does not show the sloped surface is not persuasive because it is specifically shown in and

disclosed with respect to Figure 33, and we understand Figure 33 to provide details that are not apparent in Figure 31.

Second, as to Appellant’s argument that “towards” should be given its plain meaning, we agree, but do not discern a difference between the slope in the present invention and that of Loberger. Under the broadest reasonable interpretation standard, and absent any special definitions, claim terms are generally given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art, in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Appellant’s “Summary of Claimed Subject Matter” provides guidance as to where the Specification discloses the claimed features, and states that “Features of Claim 16” are disclosed in paragraphs 21–23 and 40 of the Specification, and depicted in Figures 1, 5, and 7 as elements 14, 110, and 112. Appeal Br. 10. Appellant’s Figure 1 is reproduced below.

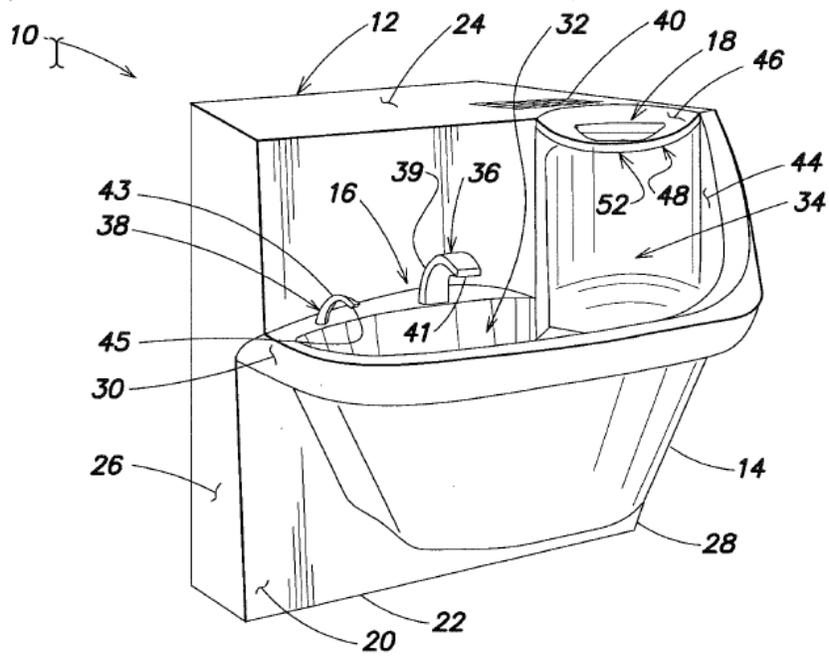


FIG. 1

Figure 1 is a pictorial illustration of a single wash station. Spec. ¶ 11.

The Specification discloses that wash station 10 as depicted in Figure 1 includes “a sink basin 14.” Spec. ¶ 21. The Specification further discloses that “[t]he sink basin 14 has a basin rim/countertop 30, a sink hand washing section 32 and a sink hand drying section 34.” Spec. ¶ 23.

The Specification also discloses that Figure 7 illustrates an alternative embodiment of wash station 70. Spec. ¶ 40. Figure 7 is reproduced below.

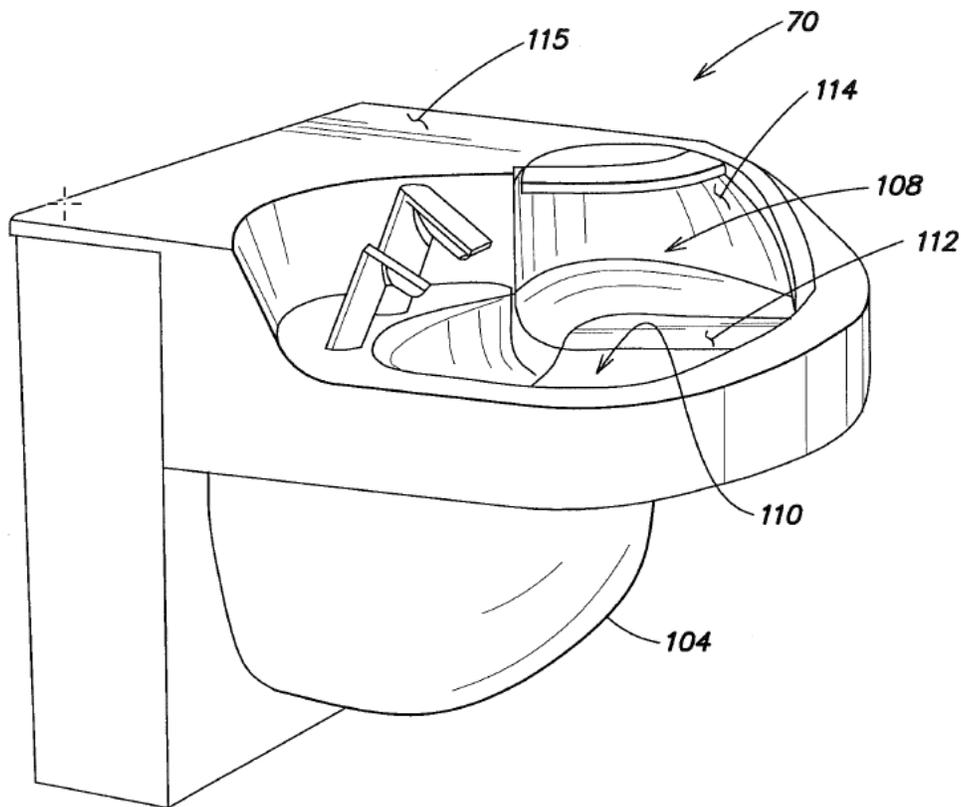


FIG. 7

Figure 7 is a perspective pictorial illustration of a wash station. Spec. ¶ 17.

Wash station 70 of Figure 7 “includes a sink basin 108 that includes a hand

washing section surface 110 and a hand drying section surface 112.” Spec. ¶ 40. The Specification further discloses that “surface 112 is slightly above and canted (e.g., sloped) towards the hand washing section surface 110 such that water falling on the surface 112 (e.g., from the hands of a user using the dryer) runs down to the surface 110 and into a drain.” *Id.*

Although Appellant argues that independent “claims 1, 4 and 16 each recite that the drying section surface and the washing section surface are located below the rim of the sink basin” (Reply Br. 3), this limitation is only in claims 1 and 4, not claim 16. Nonetheless, Figures 1 and 7 appear to show that the drying section surface (34 of Figure 1 and 112 of Figure 7) and the washing section surface (32 of Figure 1 and 110 of Figure 7) are located below the rim/countertop (30 of Figure 1) of the sink basin. Thus, in order to be sloped towards the countertop, the slope would need to be an upward slope. This is consistent with the Specification, which discloses:

The nozzle 52 directs air substantially vertically downward towards the sink hand drying section 34. This ensures that air from the dryer, which strikes the hand(s), flows primarily along the interior of the hand drying section inwardly towards the sink hand washing section 32. The surface of the hand drying section 34 preferably slopes inwardly so water runs into the hand washing section, which contains the drain.

Spec. ¶ 30. From this disclosure and the drawings, Appellant’s hand drying section slopes downwardly and inwardly towards the hand washing section, and slopes upwardly and outwardly towards the rim and countertop. Thus, the plain meaning of “towards,” consistent with the Specification, is that the drying section surface is sloped downwardly and inwardly towards, i.e., in the direction of, the washing section surface, and is sloped upwardly and outwardly towards, i.e., in the direction of, a countertop surface. This is

even more apparent from Figure 7, which includes “a countertop surface 115 substantially planar with a top surface of the dryer cover 72,” i.e., laterally away from and above the drying surface. Spec. ¶ 40; Fig. 7.

Given that Loberger discloses that “the output opening of hand dryer 28 is directed downward and inward towards basin 16,” and that “the top surface of countertop 41 may have a contour that is angled (e.g., slanted, sloped, etc.) downward and/or inward towards basin 16 as shown in FIG. 33” (Loberger ¶ 123), the Examiner’s annotated copy of Figure 33 of Loberger correctly depicts the sloped surface facing downwards and inwards towards basin 16 and upwards and outwards towards countertop 36. The Examiner’s rejection is, thus, consistent with the usage of the term “towards” in the Specification. Consequently, we are not apprised of Examiner error. We therefore, sustain the rejection of claim 16, and claim 18, which depends therefrom and is not argued separately.

Rejections II–VIII

For independent claim 1, Appellant argues that “[i]t is respectfully submitted that claim 1 is patentable for at least the reasons recited above with respect to claim 16.” Appeal Br. 15; *see also* Reply Br. 1–3. For independent claim 4, Appellant argues that “[i]t is respectfully submitted that claim 4 is patentable for at least the reasons recited above with respect to claims 1 and 16.” *Id.* at 16; *see also* Reply Br. 1–3. As discussed above, Appellant’s arguments for claim 16 do not apprise us of Examiner error. We sustain the rejection of independent claims 1 and 4 for the same reasons as for claim 16. Appellant does not separately argue any of the dependent

claims. *See* Appeal Br. 12–16; *see also* Reply Br. 1–3. The dependent claims fall with their respective independent claim.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
16, 18	102(b)	Loberger	16, 18	
1	103(a)	Loberger, Lee, Schluttig, Chardack	1	
2, 3	103(a)	Loberger, Lee, Chardack, Schluttig, Sawabe	2, 3	
4, 13, 14	103(a)	Loberger, Chardack, Lee	4, 13, 14	
5, 9–11, 15	103(a)	Loberger, Chardack, Lee, Sawabe	5, 9–11, 15	
6, 7, 12	103(a)	Loberger, Chardack, Sawabe, Lee, Schluttig	6, 7, 12	
17	103(a)	Loberger, Lee, Sawabe	17	
19, 20	103(a)	Loberger, Schluttig	19, 20	
Overall Outcome:			1–7, 9–20	

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