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THE WEBB LAW FIRM, P.C. ONE GATEWAY CENTER 420 FT. DUQUESNE BLVD, SUITE 1200 PITTSBURGH, PA 15222			HIDALGO-HERNANDEZ, RUTH G	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DUANE FETKO

Appeal 2019-005939
Application 13/095,253
Technology Center 3700

Before JOHN C. KERINS, DANIEL S. SONG, and BRETT C. MARTIN,
Administrative Patent Judges.

MARTIN, *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 1–12. Oral arguments were heard in this case on August 19, 2020, a transcript of which will be entered into the record in due course. 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 Ductmate Industries, Inc. Appeal Br. 3.

CLAIMED SUBJECT MATTER

The claims are directed “to creating a seal in the joint of a fitting.”
Spec. ¶ 6. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for creating a manufactured sealed latched sheet metal circular HVAC fitting comprising:
 - (a) providing a first subcomponent having an HVAC end;
 - (b) providing a second subcomponent having an HVAC end;
 - (c) applying a sealant to the first subcomponent or the second subcomponent; and
 - (d) joining the first subcomponent to the second subcomponent by:
 - (i) creating a first subcomponent coupling on the first subcomponent;
 - (ii) creating a second subcomponent coupling on the second subcomponent; and
 - (iii) using the first subcomponent coupling, the second subcomponent coupling, and the sealant to join the first subcomponent to the second subcomponent to create a manufactured sealed latched sheet metal circular HVAC fitting having a sealed latched joint.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Jensen	US 2005/0017507 A1	Jan. 27, 2005
Wang	US 2007/0042193 A1	Feb. 22, 2007
Bloom	US 2008/0303276 A1	Dec. 11, 2008
Bloom	US 2008/0303276 A1	Dec. 11, 2008

REJECTIONS

Claims Rejected	35 U.S.C. §	Reference(s)/Basis
1-10	103	Bloom, Jensen
11, 12	103	Bloom, Jensen, Wang

OPINION

Obviousness

Appellant argues that “[a]n integral latch connection in a fitting, as claimed is different from sealing the connection of two individual pieces of ductwork.” Reply Br. 1. Appellant further asserts that “Bloom does not teach a latched integral fitting” as defined in the Specification. Reply Br. 2. The Specification defines “a manufactured sealed latched sheet metal HVAC fitting” as follows:

A manufactured sealed latched sheet metal HVAC fitting is an HVAC fitting which is sold as one piece that is constructed of two or more parts having a latched connection that has sealant in the latch connection when it is manufactured that reduces air leakage from the HVAC fitting when the fitting is placed in an HVAC system. The mechanical connection or latch connection is meant to be permanent such that once it is formed it is not meant to be separable.

Spec. ¶ 23. The definition further states that “[t]he integral joins [sic, joints] are joints within the fitting itself and not connections to other pieces of HVAC ductwork.” *Id.*

As Appellant correctly notes, “Bloom teaches sealing the connection between two separate pieces of ductwork.” Reply Br. 2. The joint in Bloom, where the seal is located, is a typical ductwork joint that can be easily assembled *and disassembled*. As seen in the definition above, a manufactured sealed latch joint “is meant to be permanent such that once it is formed it is not meant to be separable.” Spec. ¶ 23. Therefore, the joint and seal in Bloom is not a manufactured sealed latched joint as defined in the Specification and recited in the claims.

Appellant further argues that “there is no explanation of how a manufacturer would use the Bloom duct manufacturing process to make a

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HVAC fitting” as taught in Jensen, because “[t]hose products are produced differently.” Appeal Br. 10. The joint in Jensen shows two interlocking hook portions 20 and 26, but there is nothing in Jensen stating that such a joint is meant to be permanent. *See* Jensen Fig. 2A. Further, Jensen discloses that the joint in the fitting allows for rotation of the fitting so as to achieve different angles. Such rotation may be possible with a seal, but it would certainly at least be frustrated to an extent by the insertion of a sealant material and the Examiner offers no explanation as to why or how one of skill in the art would have incorporated such a seal while still maintaining the desired rotational functionality taught in Jensen.

In sum, the Examiner has not given proper weight to the definition found in the Specification of certain terms in the claims. Although the Examiner has found a sealed ductwork joint in the prior art as taught in Bloom, Bloom does not teach the specifics of a manufactured sealed latch joint as defined in the Specification. Accordingly, we do not sustain the Examiner’s rejections.

CONCLUSION

The Examiner’s rejection is REVERSED.

More specifically,

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-10	103	Bloom, Jensen		1-10
11, 12	103	Bloom, Jensen, Wang		11, 12
Overall Outcome				1-12

REVERSED