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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/422,580	02/02/2017	Philippe LEHUE	0563-1385	1056
466	7590	07/01/2020	EXAMINER	
YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314			MACKAY-SMITH, SETH WENTWORTH	
			ART UNIT	PAPER NUMBER
			3753	
			NOTIFICATION DATE	DELIVERY MODE
			07/01/2020	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PHILIPPE LEHUE

Appeal 2019-006034
Application 15/422,580
Technology Center 3700

Before BIBHU R. MOHANTY, MICHAEL C. ASTORINO, and
BRADLEY B. BAYAT, *Administrative Patent Judges*.

ASTORINO, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), the Appellant¹ appeals from the Examiner's decision to reject claims 1–17 and 21–23. 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. The Appellant identifies the real party in interest as Continental Automotive France. Appeal Br. 2.

STATEMENT OF THE CASE

Claimed Subject Matter

Claim 1, reproduced below, is illustrative of the claimed subject matter.

1. A motor vehicle solenoid valve (10), comprising:
 - a fixed body (20) intended to be mounted in a hydraulic system of the vehicle,
 - a cylindrical coil support (40) mounted on said fixed body (20), the fixed body (20) extending along a longitudinal axis (X) in the coil support (40), the coil support comprising a first part extending along the longitudinal axis (X), a second top part extending radially from a top of the first part, and a third bottom part extending radially from a bottom of the first part,
 - a mobile body (30) slidingly mounted in said fixed body (20) through said coil support (40),
 - at least a first coil winding (50) arranged about the first part of the coil support (40) within the top part and the bottom part of the coil support (40), the at least a first coil winding (50) being suitable for generating a magnetic field for control of the sliding of said mobile body (30), the at least a first coil winding (50) having an outer surface, and
 - a second coil winding (60) arranged about the outer surface of the first coil winding (50) in order to contain the magnetic field generated by said first coil winding (50), the first coil winding (50) and the second coil winding (60) being coaxial, the second coil winding located radially outside the top and bottom parts of the coil support (40) and extending from the bottom part of the coil support (40) to the top part of the coil support (40).

Rejections

Claims 1–17 and 21–23 are rejected under 35 U.S.C. § 112(b) as indefinite.

Claims 1–17 and 21–23 are rejected under 35 U.S.C. § 103 as unpatentable over Heyer et al. (US 2014/0048732 A1, pub. Feb. 20, 2014) (“Heyer”) in view of Xu et al. (US 5,668,516, iss. Sept. 16, 1997) (“Xu”).

ANALYSIS

Indefiniteness

The Examiner rejects claims 1–17 and 21–23 as indefinite because “the top part” and “the bottom part,” as recited in claims 1, 2, and 23, lack antecedent basis. Final Act. 3. The Appellant does not present an argument for this rejection. Ans. 11. We summarily sustain the Examiner’s rejection of claims 1–17 and 21–23 as indefinite as no arguments have been presented.

Obviousness

The Examiner finds that Heyer teaches the subject matter of claim 1 except for a second coil winding. *See* Final Act. 4–5. The Examiner finds that Xu teaches a first coil winding (main magnet coil 36c) and a second coil winding (bucking magnet coils 38) radially positioned outside of the first coil winding 36c. *Id.* at 5. The Examiner modifies Heyer’s teachings with the teaching of Xu and finds that the result of the modification yields some but not all of the subject matter of claim 1, in particular “locating the outer coil between the ends of the inner coil support.” *Id.* In other words, the Examiner finds that the combined teachings of Heyer and Xu fail to teach

“the second coil winding located radially outside the top and bottom parts of the coil support (40) and extending from the bottom part of the coil support (40) to the top part of the coil support (40),” as recited in claim 1.

To remedy the deficiency of the combined teachings of Heyer and Xu, the Examiner reasons that it would have been obvious to one of ordinary skill in the art to further modify Heyer’s valve such that the second coil, as taught by Xu, would extend between the ends of the coil support of Heyer (element number 1.13 (Fig. 1a)) because this further modification is a simple rearrangement of parts that involves only routine skill in the art. *See* Final Act. 5–6 (citing *In re Japikse*, 181 F.2d 1019 (CCPA 1950)); Ans. 11.

The Appellant disputes the further modification of Heyer’s valve because the reasoning in the Examiner’s rejection lacks a proper motivation. Reply Br. 8–9. The Appellant’s argument is persuasive.

In this case, the Examiner’s reasoning to further modify Heyer’s valve is inadequate to support the obviousness rejection. Among other things, the Examiner fails to compare the relevant facts of *Japikse* to the relevant facts particular to the modification of Heyer’s valve in this case. In *Japikse*, the court held that moving a starter switch to a location different from the prior art was an unpatentable difference because the operation of the device would not be modified. *See In re Japikse*, 181 F.2d at 1023. The Examiner fails to adequately explain how the further modification of Heyer’s valve would not have modified the operation of Heyer’s valve. Therefore, we determine that the Examiner’s reasoning lacks articulated reasoning with rationale underpinning to support the rejection of record.

Thus, we do not sustain the Examiner’s rejection of claims 1–17 and 21–23.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	References/Basis	Affirmed	Reversed
1-17, 21-23	112(b)	Indefinite	1-17, 21-23	
1-17, 21-23	103	Heyer, Xu		1-17, 21-23
Overall Outcome			1-17, 21-23	

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED