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22885	7590	06/22/2020	EXAMINER	
MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721			RAMSEY, JEREMY C	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DING GOU KUN

Appeal 2019-006158
Application 15/681,002
Technology Center 3600

Before CHARLES N. GREENHUT, MICHAEL L. HOELTER, and
ANNETTE R. REIMERS, *Administrative Patent Judges*.

GREENHUT, *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 1–14 and 17–21. *See* Non-Final Act. 1.
We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM IN PART.

¹ We use the term “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as CMECH (GUANGZHOU) LTD. Appeal Br. 1.

CLAIMED SUBJECT MATTER

The claims are directed to a cupboard door balance system. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A cupboard, comprising:
 - a box with an open front, a back, and opposite sides;
 - a door mounted to the box for vertical movement between open and closed positions relative to the open front;
 - pulley system mounted adjacent to the box back and connected to the door, wherein the pulley system comprises at least one pulley and at least one door belt extended substantially horizontally between the pull[e]y and the door, and wherein the door belt has a rear end secured to the pulley and a forward end secured to the door; and
 - a weight connected to the pulley system at a location behind the door to counter-balance the door.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
MacNeil	US 5,163,494	Nov. 17, 1992
Schenck	US 5,216,782	June 8, 1993
Kun	US 9,637,964 B1	May 2, 2017
DeCastro	US 2008/0009234 A1	Jan. 10, 2008
Lamsfuss	EP 0945575 A2	Sept. 9, 1999

REJECTIONS²

Claims 1–14 and 17 are rejected under 35 U.S.C. § 112(b), as being indefinite. Non-Final Act. 3. This rejection is not contested (Appeal Br. 13) and is therefore summarily affirmed and not further discussed herein. *In re Berger*, 279 F.3d 975 (Fed. Cir. 2002) (affirming the Board’s affirmance of

² The Examiner withdrew the double patenting rejection. Ans. 11 (“statutory [sic non-statutory] double patenting rejection has been withdrawn”).

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an uncontested rejection, holding that the appellant had waived the right to contest the rejection by not presenting arguments on appeal to the Board); *Hyatt v. Dudas*, 551 F.3d 1307, 1314 (Fed. Cir. 2008) (“the applicant can waive appeal of a ground of rejection”).

Claims 1, 2, 6–11, 14, and 17–21 are rejected under 35 U.S.C. § 103 as being unpatentable over Schenck and Lamsfuss. Non-Final Act. 5.

Claims 3–5 are rejected under 35 U.S.C. § 103 as being unpatentable over Schenck, Lamsfuss, and DeCastro. Non-Final Act. 10.

Claims 12 and 13 are rejected under 35 U.S.C. § 103 as being unpatentable over Schenck, Lamsfuss, and MacNeil. Non-Final Act. 11.

OPINION

In rejecting claims 1 and 18, the independent claims before us, based on Schenck and Lamsfuss, the Examiner begins by citing Schenck as disclosing a basic “cupboard” structure with a pulley-actuated door. Non-Final Act. 5. The Examiner then proposes to modify Schenck’s cables 53, 55 with belts, as taught by Lamsfuss, because “the flat belt will wind on top of itself, whereas, when using a cable, the cable must wind in a linear fashion along the drum, resulting in possible misalignment or tangles of the cable.” Non-Final Act. 6. Appellant takes issue with this reasoning, pointing out that Schenck’s cable, in its preferred embodiment, involves only a single wrap and is therefore unlikely to suffer from the problem the Examiner’s proposed modification purports to remedy. Appeal Br. 5. The Examiner also proposes a further modification to Schenck to have separate belts and pulleys. Non-Final Act. 6. The Examiner does not explain precisely why this further modification is proposed and this further modification does not appear to specifically address any of the elements the Examiner indicated

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Schenck was lacking in order to satisfy Appellant's claim language.

Non-Final Act. 5–6. We speculate that perhaps it is because the Examiner recognized that Schenck's design requires cables 53, 55 to include *at least* a single wrap, wherein the cables pass beside themselves at least once on sheaves 80, 82 (*see* Schenck Fig. 2), and this would not appear to be possible if, as the Examiner proposes, flat belts that wind on top of themselves were used to replace Schenck's cables. Thus, Schenck's sheave system must undergo a substantial redesign to accommodate the Examiner's proposed modification. That the Examiner cited Schenck seemingly only to redesign it is strong evidence that the Examiner improperly resorted to hindsight in the obviousness analysis. *See* MPEP § 2143.01(VI). Accordingly, we do not sustain the obviousness rejections on the grounds set forth by the Examiner.

CONCLUSION

The Examiner's indefiniteness rejection is summarily **AFFIRMED**.

The Examiner's obviousness rejections are **REVERSED**.

DECISION SUMMARY

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–14, 17	112(b)	Indefiniteness	1–14, 17	
1, 2, 6–11, 14, 17–21	103	Schenck, Lamsfuss		1, 2, 6–11, 14, 17–21
3–5	103	Schenck, Lamsfuss, DeCastro		3–5
12–13	103	Schenck, Lamsfuss, MacNeil		12–13
Overall Outcome			1–14, 17	18–21

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 IN PART³

³ “The affirmance of the rejection of a claim on any of the grounds specified constitutes a general affirmance of the decision of the examiner on that claim, except as to any ground specifically reversed. The Board may also remand an application to the examiner.” 37 C.F.R. § 41.50(a)(1).