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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* DOGAN KILINC, KORHAN ORHAN, and TOLGA YEGIN

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Appeal 2019-006940  
Application 15/363,029  
Technology Center 3700

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Before MICHAEL C. ASTORINO, KENNETH G. SCHOPFER, and  
BRADLEY B. BAYAT, *Administrative Patent Judges*.

ASTORINO, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), the Appellant<sup>1</sup> appeals from the Examiner’s decision to reject claims 1, 13–15, and 19–26.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> 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 the assignee “BSH Hausgeraete GmbH of Muenchen, Germany.” Appeal Br. 1.  
<sup>2</sup> Claims 2–12 and 16–18 are cancelled. *See* Advisory Act. (mailed Dec. 26, 2018); Amendment 2–3 (filed Nov. 21, 2018).

STATEMENT OF THE CASE

*Claimed Subject Matter*

Claims 1, 20, and 22 are the independent claims on appeal. Claim 1, reproduced below, is illustrative of the claimed subject matter.

1. A home appliance device, comprising:  
a machine compartment having at least one wall section, the wall section having a slot formed therein;  
a compressor which is arrangeable inside the machine compartment; and  
a fixation unit for removably mounting the compressor to the wall section the fixation unit having a rail attached to the compressor, the rail having a hook, the hook configured for being received in the slot and displaceable in a longitudinal direction of the rail into a mounted position engaged with an edge of the slot for removably securing the rail to the wall section.

*Rejections*

The Examiner has maintained the following rejections, which we have presented below in an order different than presented in the Final Office Action.<sup>3</sup>

Claims 1 and 15 are rejected under 35 U.S.C. § 102(a)(1) as anticipated by Stupnik et al. (US 2011/0114818 A1, pub. May 19, 2011) (hereinafter “Stupnik”).

Claims 13, 14, and 19 are rejected under 35 U.S.C. § 103 as unpatentable over Stupnik and LaRocca (US 3,866,867, iss. Feb. 18, 1975).

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<sup>3</sup> The Examiner has withdrawn the rejections of claims 14, 16, 19, 23, and 24 under 35 U.S.C. § 112(b) and claim 16 under 35 U.S.C. § 102(a)(1) as anticipated by Stupnik. Ans. 11; *see also* Final Act. 3–4, 6.

Claims 20 and 21 are rejected under 35 U.S.C. § 112(b) as indefinite.

Claims 20 and 21 are rejected under 35 U.S.C. § 102(a)(1) as anticipated by LaRocca.

Claims 22, 25, and 26 are rejected under 35 U.S.C. § 102(a)(1) as anticipated by LaRocca.

Claims 23 and 24 are rejected under 35 U.S.C. § 103 as unpatentable over LaRocca and Stupnik.

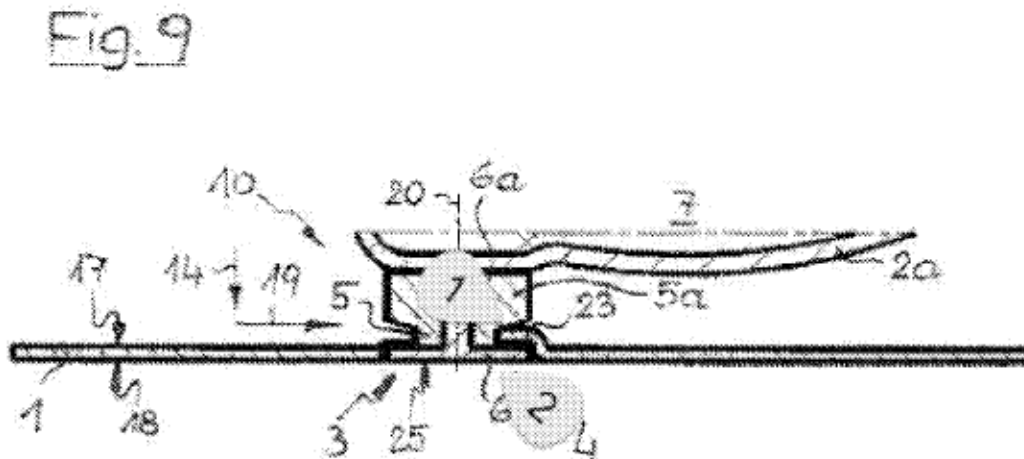
## ANALYSIS

### *Independent Claim 1 and Dependent Claims 13–15 and 19*

#### *Anticipation based on Stupnik*

The Examiner finds that Stupnik discloses “a fixation unit for removably mounting the compressor to the wall section the fixation unit having a rail attached to the compressor, the rail having a hook,” as recited in claim 1. Final Act. 5. More specifically, the Examiner finds that Stupnik discloses a “fixation unit having a rail attached to the compressor (see at least Annotated Figure 9, below: rail indicated by flag #1), the rail having a hook (see at least Annotated Figure 9, below: hook indicated by flag #2).”

*Id.* The Examiner’s annotated version of Stupnik’s Figure 9 is shown below:



*Id.* at 6. The annotated version of Stupnik’s Figure 9 shows flag #1 pointing to reference number 23 or an area near reference number 23 and flag #2 pointing to reference number 6. Stupnik’s reference number 6 is identified as the foot section of connection element 3. Stupnik ¶ 74. Therefore, the Examiner finds that connection element 3’s foot section 6 corresponds with the claimed “hook.” However, the depiction of flag #1 is not as clear as flag #2. Stupnik’s reference number 23 refers to the retaining lip of carrier element 1. *Id.* ¶ 103. It appears that the Examiner finds carrier element 1’s retaining lip 23 or the area near retaining lip 23, which could be shaft section 5 and/or spacer section 5a (*id.* ¶ 92), corresponds with the claimed “rail.” Consequently, we are uncertain what structure or structures the Examiner finds corresponds to the claimed “rail.”

The Examiner also finds that Stupnik discloses “the hook configured for being received in the slot and displaceable in a longitudinal direction of the rail into a mounted position engaged with an edge of the slot for removably securing the rail to the wall section,” as recited in claim 1, because “the hook engages with [carrier element 1’s retaining lip] #23.” Final Act. 5. However, the Examiner also finds that Stupnik’s “two slots formed on support element #1 on either side of each directional arrow #19” corresponds with the claimed “slot.” *Id.* (citing Stupnik Figs. 7–10). These two findings make it unclear which structure or structures correspond to the claimed “slot.” The Examiner’s position is that the findings are consistent because “one having ordinary skill in the art would understand that a lip is an edge at the intersection of the two slots.” Ans. 13. However, we are unclear of the basis on which the Examiner supports this position.

In response to the Examiner's rejection of claim 1, the Appellant's arguments demonstrate confusion as to how the Examiner applies Stupnik's disclosure to the subject matter of claim 1. *See* Appeal Br. 10–13. We share the Appellant's confusion. Thus, we do not sustain the Examiner's rejection of independent claim 1 and dependent claim 15.

*Obviousness based on Stupnik in view of LaRocca*

The Examiner fails to rely on LaRocca in any manner which would remedy the deficiency in the Examiner's rejection of claim 1 as discussed above. Thus, we do not sustain the Examiner's rejection of dependent claims 13, 14, and 19.

***Independent Claim 20 and Dependent Claim 21***

*Indefiniteness*

The Examiner determines that “bent-over” in “the wall section having a bent-over edge with a hole formed therein,” as recited in claim 20, is indefinite. Final Act. 4. It is the Examiner's position that “[i]t is unclear from where to where ‘bent-over’ is measured.” *Id.* To overcome the rejection, the Examiner suggests the Applicant (Appellant) include a reference point to specify the surface that the edge is bent-over as well as a direction in which the edge is bent. Ans. 12. For the same reason, the Examiner determines that “bent over” in the phrase, “is defined by a bent over portion of the rail,” as recited in claim 21, is indefinite. Final Act. 4.

The Appellant argues that one of ordinary skill in the art, upon reading the Specification, would understand the meaning of “bent-over” and that the meaning is broad and not indefinite. Appeal Br. 8. In support of

this argument the Appellant cites to Figure 4, which shows fixation element 58 arranged at a bent-over portion of wall section 12 and fixation element 56 arranged at a bent-over portion of support element 54 (e.g., rail). Spec. 17:4, 21:9–10, 26–27. We determine that the Appellant has the better position.

Notably, the Examiner determines “Figure 4 does not clarify what is included or excluded by ‘bent-over.’ Are multiple bends required? Is a single bend required?” Ans. 11. The Examiner’s concern is directed to a matter of breadth, not indefiniteness. *See In re Gardner*, 427 F.2d 786, 788 (CCPA 1970). Although Figure 4 shows wall section 12 and rail 54 bent more than once near where fixation elements 58 and 56 are arranged, respectively, one of ordinary skill in the art would understand that the term “bent-over” as it pertains to an “edge” or a “portion of the rail” does not require a material to be bent more than once.

Thus, we do not sustain the Examiner’s rejection of independent claim 20 as indefinite.

With regard to the term “bent over” in claim 21, we understand the use of a hyphen between “bent” and “over” as an alternative spelling to “bent over.” Therefore, we likewise do not sustain the Examiner’s rejection of dependent claim 21 as indefinite.

*Anticipation based on LaRocca*

Claim 20’s home appliance device includes “a machine compartment having at least one wall section.” Appeal Br. 23, Claims App. The Examiner finds LaRocca’s mounting pad 16 corresponds to the claimed “at least one wall section.” Final Act. 6. The Appellant argues that this finding

is in error. Appeal Br. 14–16. We determine that the Appellant has the better position.

The Examiner’s position is that a “‘wall section’ is broader than ‘wall’” and a “wall section is not required to form part of the machine compartment, it merely needs to be present.” Ans. 13–14. This position primarily explains what a wall section is not, rather than what a wall section is, and why the claimed “wall section” reads on LaRocca’s mounting pad 16.

Although the Specification does not explicitly define the term “wall section,” the Specification does provide one of ordinary skill in the art guidance as to its meaning. *See* Spec 3:5–23. More specifically, the Specification instructs that the term “wall section” may refer to a base plate (i.e., bottom wall) of a machine compartment as well as a front wall, a rear wall, two lateral walls, and a top wall section. *See id.* Additionally, we note that the term “wall” is defined as “a material layer enclosing space,” for example “the *wall* of a container.” *Wall Definition 5*, MERRIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/wall> (last visited June 26, 2019). A section of “a material layer enclosing space” appears consistent with the Specification’s use of the term “wall section,” but does not correspond to LaRocca’s mounting pad 16, which does not enclose a space. *See* LaRocca Figs. 1–2.

Thus, we do not sustain the Examiner’s rejection of independent claim 20 and dependent claim 21.



***Independent Claim 22 and Dependent Claims 23–26***

*Anticipation based on LaRocca*

Claim 22’s home appliance device includes a damper and “an evaporation tray having a tubular wall projecting from a base surface thereof for defining a recess, the recess receiving the damper therein.” Appeal Br. 24–25, Claims App.

The Examiner finds that LaRocca’s compressor flanges 76, 78 correspond to the claimed “damper,” mounting pad 16 corresponds to the claimed “evaporation tray,” and the vertical and outer portion of tubular sleeve’s 36, 38, 40, and 42 corresponds to the claimed “recess.” See Final Act. 8; Ans. 14–15. According to the Examiner, “sleeve #36 forms the vertical portion of the recess, and the washer #80/bolt head #68 forms the horizontal overhang of the recess.” Ans. 15.

The Appellant argues that this finding is in error at least because the Examiner misinterprets the limitation of claim 22 as recited above. See Appeal Br. 18–20. We determine that the Appellant has the better position.

The Examiner’s finding is based on the notion that claim 22 only requires the “tubular wall” to partly define the “recess.” We fail to understand how the Examiner would reach this construction of the claim. The Specification guides one of ordinary skill in the art that a recess defined by a tubular wall projecting from a base surface refers to a hollow cylinder, i.e., an area within the tubular wall. See, e.g., Spec. 23:5–11, Figs. 4, 5b. The construction implied by the Examiner’s application of LaRocca is one in which the claimed recess not only includes space outside of the tubular wall, but also one in which the tubular wall is just a part of the structure that helps create the recess. We cannot agree with the Examiner that this construction

is within the broadest reasonable interpretation of the claim limitation, “an evaporation tray having a tubular wall projecting from a base surface thereof for defining a recess, the recess receiving the damper therein.” Therefore, we determine that the Examiner’s finding that the vertical and outer portion of tubular sleeve’s 36, 38, 40, and 42 corresponds to the claimed “recess” is in error.

Thus, we do not sustain the Examiner’s rejection of independent claim 20 and dependent claims 25 and 26.

*Obviousness based on LaRocca in view of Stupnik*

The Examiner fails to rely on Stupnik in any manner which would remedy the deficiency in the Examiner’s rejection of claim 22 as discussed above. Thus, we do not sustain the Examiner’s rejection of dependent claims 23 and 24.

CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>References/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1, 15	102(a)(1)	Stupnik		1, 15
13, 14, 19	103	Stupnik, LaRocca		13, 14, 19
20, 21	112(b)	Indefinite		20, 21
20, 21	102(a)(1)	LaRocca		20, 21
22, 25, 26	102(a)(1)	LaRocca		22, 25, 26
23, 24	103	LaRocca, Stupnik		23, 24
<b>Overall Outcome</b>				1, 13–15, 19–26

REVERSED