

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte TSER-WEN CHOU

Appeal No. 2004-0053
Application No. 09/678,635

ON BRIEF

Before COHEN, STAAB, and NASE, Administrative Patent Judges.
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 15, which are all of the claims pending in this application.¹

We AFFIRM-IN-PART.

¹ Claims 1, 3 and 10-12 were amended subsequent to the final rejection.

BACKGROUND

The appellant's invention relates to the field of window coverings and more particularly for improvements in stabilizing any window covering which moves within a track, particularly at the terminus of its travel to achieve complete closure, with completion of closure transmitted to the user and which permits operation of the control wand at the point of complete closure without inadvertently dislodging the window covering from its fully closed position (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Frisbie	469,968	March 1, 1892
Kressel	3,231,847	Jan. 25, 1966

Claims 1 to 6 and 10-14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kressel.

Claims 1 to 5, 7 to 13 and 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Frisbie.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the final rejection (Paper No. 6, mailed April 16, 2002) and the answer (Paper No. 13, mailed February 25, 2003) for the examiner's complete reasoning in support of the rejections, and to the brief (Paper No. 12, filed November 27, 2002) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

The claimed subject matter

Claims 1 and 10, the only independent claims on appeal, read as follows:

1. A system for providing a positive stop for a lead carrier in a window covering system, comprising:
 - an anchoring structure for being supported along a path of travel of a lead carrier for a window covering mechanism;
 - an engagement structure having an extension having a first end with an enlarged portion and a second end, said engagement structure for attachment to said lead carrier such that said first end is alignable with an engagement aperture in said anchoring structure to cause said enlarged portion of said first end of said engagement structure to be at least one of momentum and force engageable

with said engagement aperture to hold said lead carrier in place to facilitate the manual operation of control structures supported by said lead carrier.

10. An engagement structure comprising an extension having a first end with an enlarged portion and a second end, said engagement structure having a lateral slot capable of fitting over an upper through slot of a lead carrier of a window covering mechanism in a position alignable with an engagement aperture carried by said window covering mechanism for enabling said engagement structure to be at least one of momentum and force engageable to hold said lead carrier in place to further facilitate the manual operation of control structures supported by said lead carrier.

The anticipation rejection based on Kressel

We will not sustain the rejection of claims 1 to 6 and 10-14 under 35 U.S.C. § 102(b) as being anticipated by Kressel.

Kressel's invention relates to terminal strip covers and more particularly, to devices in combination with terminal strips for protecting the electrical terminals connected thereto and for providing ready access thereto. Kressel teaches (column 1, lines 13-20) that:

Terminal strips according to prior inventions have been difficult to remove and have been inefficient in operation. The present invention proposes the use of a generally rectangular strip of material made of synthetic plastic or the like with holes at either end and studs fixed to the terminal strip at each end. The studs have heads which can be forced through the terminal strip and, when forced through will hold it in position.

Figures 1 to 4 of Kressel show a terminal block 11 having a terminal strip 10 supported thereon. The terminal strip 10 is an elongated, flat, generally rectangular piece of material which may, in practice, be approximately one-eighth inch thick with a hole at each end thereof. The holes receive bodies 15 of headed studs 12. The body 15 is relatively slender and the base of the frusto-conical head is substantially larger than the slender body and defines a shoulder that faces the base 13 and extends outwardly from the slender body around substantially the entire outside surface thereof. The studs 12 have heads 14 which have a frusto-conical end 20', which terminates in a lower flange 21. The flange 21 is of considerably larger diameter than the body 15. The body 15 is generally cylindrical and integrally fixed to the base 13 at 22. Holes 16 receive screws which hold the device to the terminal block 11. The terminal block 11 has spaced ridge members thereon which define spaces 20 therebetween. Terminal screws 29 may secure the terminal ends of electrical wires in place. The terminal strip 10 is forced down over the terminal ends after the wires are fastened in position with the screws 29.

In the embodiment of Kressel's invention shown in Figure 5 molded plastic terminal strip supports 112 have bodies 115 integrally fixed thereto on a base 113. These bodies terminate at their upper ends in a frusto-conical head 114. A lateral slot 118 is cut in the body 115 and up through the frusto-conical head 114 so that the side

edges of the head can be forced together to force the head up through the openings in the terminal strip.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Verdegaal Bros. Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.), cert. denied, 484 U.S. 827 (1987). The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984), it is only necessary for the claims to "'read on' something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or 'fully met' by it."

The examiner states (answer, pp. 6-7) that the claimed functional recitations regarding the blind structure (e.g., the lead carrier) are met by (i.e., readable on) Kressel since Kressel is capable of being used in the claimed manner.

The appellant argues that the claims are limited to the window covering environment and that the claimed functional recitations are not met by Kressel.

In our view, independent claims 1 and 10 are not readable on Kressel. With regard to claim 1, it is our determination that Kressel's terminal strip 10 (which the examiner equates to the claimed anchoring structure) is not capable of being used in the claimed manner (e.g., being supported along a path of travel of a lead carrier for a window covering mechanism). As to claim 10, Kressel's headed stud 12 or 112 (which the examiner equates to the claimed engagement structure) does not have a lateral slot capable of fitting over an upper through slot of a lead carrier of a window covering mechanism.

For the reasons set forth above, the decision of the examiner to reject claims 1 and 10, and claims 2 to 6 and 11-14 dependent thereon, under 35 U.S.C. § 102(b) as being anticipated by Kressel is reversed.

The anticipation rejection based on Frisbie

We sustain the rejection of claims 1, 5 and 7 under 35 U.S.C. § 102(b) as being anticipated by Frisbie but not the rejection of claims 2 to 4, 8 to 13 and 15.

Frisbie's invention relates to improvements in door checks and holders. The objects of his invention are (1) to check and break the force of a temporarily opened

door without jar or shock; and (2) to provide means whereby the door, when so required, may be retained in an open position and readily disengaged therefrom.

To this end Frisbie's invention consists of two parts as shown in Figures 1-7. The first part includes (1) a metal thimble 1 secured by screws 4 to a door 3, and (2) a rubber tip 2 placed within the metal thimble 1. The second part is a check or holding stud 5 secured to a base-board 6 by means of a central screw 7. The stud 5 has an acorn-shaped head 8; a reduced portion or neck 9 with which a lip 10 of the rubber tip 2 engages to hold the door open; and a neck 12.

The examiner states (answer, pp. 6-7) that the claimed functional recitations regarding the blind structure (e.g., the lead carrier) are met by (i.e., readable on) Frisbie since Frisbie is capable of being used in the claimed manner.

The appellant argues that the claims are limited to the window covering environment and that the claimed functional recitations are not met by Frisbie.

In our view, independent claim 10 is not readable on Frisbie. In that regard, Frisbie's check or holding stud 5 (which the examiner equates to the claimed engagement structure) does not have a lateral slot capable of fitting over an upper

through slot of a lead carrier of a window covering mechanism. Accordingly, the decision of the examiner to reject claim 10, and claims 11-13 and 15 dependent thereon, under 35 U.S.C. § 102(b) as being anticipated by Frisbie is reversed.

In our view, independent claim 1 is readable on Frisbie. Frisbie's rubber tip 2 placed within a metal thimble 1 (which the examiner equates to the claimed anchoring structure) is fully capable of being used in the claimed manner (e.g., being supported along a path of travel of a lead carrier for a window covering mechanism) and Frisbie's check or holding stud 5 having an acorn-shaped head 8 and a reduced portion or neck 9 (which the examiner equates to the claimed engagement structure) is fully capable of being used in the claimed manner (e.g., for attachment to the lead carrier such that the first end is alignable with an engagement aperture in the anchoring structure to cause the enlarged portion of the first end of the engagement structure to be at least one of momentum and force engageable with the engagement aperture to hold the lead carrier in place to facilitate the manual operation of control structures supported by the lead carrier). In that regard, Frisbie's check or holding stud 5 having an acorn-shaped head 8 and a reduced portion or neck 9 is capable of being attached to a lead carrier for a window covering mechanism and Frisbie's rubber tip 2 placed within a metal thimble 1 is capable of being supported along a path of travel of the lead carrier for engaging the

acorn-shaped head 8 and reduced portion or neck 9 of Frisbie's check or holding stud 5. As such claim 1 is readable on Frisbie.

The appellant has grouped claims 1 and 7 as standing or falling together.² Thereby, in accordance with 37 CFR § 1.192(c)(7), claim 7 falls with claim 1.

In our view, dependent claim 5 is readable on Frisbie. Frisbie's rubber tip 2 placed within a metal thimble 1 is an end cap capable of being supported along a path of travel of the lead carrier for engaging the acorn-shaped head 8 and reduced portion or neck 9 of Frisbie's check or holding stud 5. As such claim 5 is readable on Frisbie.

For the reasons set forth above, the decision of the examiner to reject claims 1, 5 and 7 under 35 U.S.C. § 102(b) as being anticipated by Frisbie is affirmed.

In our view, dependent claims 2, 8 and 9 are not readable on Frisbie. With regard to claim 2, it is our determination that Frisbie's check or holding stud 5 having an acorn-shaped head 8, neck 12 and a reduced portion 9 lacks the claimed lateral side spacing protrusion for setting the lateral interfit position of said engagement structure with respect to said lead carrier. With regard to claim 8, it is our determination that

² See page 7 of the appellant's brief.

Frisbie's check or holding stud 5 having an acorn-shaped head 8, neck 12 and a reduced portion 9 lacks the claimed conical portion aft of the enlarged portion and sized to stoppingly engage the engagement aperture. In that regard, Frisbie's reduced portion is shown in Figures 1 and 3 as being curved not conical.³ With regard to claim 9, it is our determination that Frisbie lacks a support member having a stop accommodation bore through and beyond which the extension may pass in order to engage the engagement aperture. The examiner's attempt to read this limitation on Frisbie's lip 10 of rubber tip 2 is without merit since lip 10 of the rubber tip 2 engages the reduced portion 9 of check or holding stud 5 and therefore must be considered to be part of the claimed anchoring structure.

For the reasons set forth above, the decision of the examiner to reject claims 2, 8 and 9, and claims 3 and 4 dependent thereon, under 35 U.S.C. § 102(b) as being anticipated by Frisbie is reversed.

³ The American Heritage Dictionary, Second College Edition, (1982) defines "conical" as "[o]f, relating to, or shaped like a cone" and defines "cone" as "[t]he surface generated by a straight line, the generator, passing through a fixed point, the vertex, and moving along a fixed curve, the directrix."

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 to 6 and 10-14 under 35 U.S.C. § 102(b) as being anticipated by Kressel is reversed and the decision of the examiner to reject claims 1 to 5, 7 to 13 and 15 under 35 U.S.C. § 102(b) as being anticipated by Frisbie is affirmed with respect to claims 1, 5 and 7 and reversed with respect to claims 2 to 4, 8 to 13 and 15.

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

AFFIRMED-IN-PART

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LAWRENCE J. STAAB)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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