

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

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN H. MCMANUS, J. DOHN HETHCOCK
and JOHN MCCULLOUGH

Appeal No. 2004-2304
Application No. 09/886,735

ON BRIEF

Before TIMM, JEFFREY T. SMITH, and PAWLIKOWSKI, **Administrative Patent Judges**.

PAWLIKOWSKI, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal under § 134 from the examiner's final rejection of claims 1, and 3-15. Claims 1, 8, and 12 are representative of the subject matter on appeal and are set forth below:

1. A combination snowshoe and ski that operates in both a snowshoe mode and a ski mode, the combination snowshoe and ski comprising:

- a peripheral platform;
- a deck spanning an interior of the peripheral platform;
- a portion for receiving a shoe of a user mounted on the deck wherein the portion fits in an aperture in the platform and wherein the portion pivots to allow a front of the portion and a rear of the portion to move in an upward motion and a downward motion; and
- a plurality of traction portions which extend generally downward from a horizontal plane of the deck when in snowshoe mode.

8. A combination snowshoe and ski that operates in both a snowshoe mode and a ski mode, the combination snowshoe and ski comprising:

- a peripheral platform;
- a deck spanning an interior of a peripheral platform;
- a flat bottom surface of the deck, wherein the flat bottom portion is used to traverse a snow covered area when in ski mode; and
- a portion for receiving a shoe of a user mounted on the deck wherein the portion pivots and retards movement when the portion extends downward below the flat bottom surface of the deck.

12. A combination snowshoe and ski that operates in both a snowshoe mode and a ski mode, the combination snowshoe and ski comprising:

- a peripheral platform;
- a deck spanning an interior of the peripheral platform;
- a portion for receiving a shoe of a user mounted on the deck;
- a smooth flat bottom surface of the deck, wherein the smooth flat bottom portion is used to traverse a snow covered area; and
- a removable plurality of traction portions which extend generally downward from the flat bottom surface of the deck when in snowshoe mode.

On page 2 of the brief, appellants group claims 1 and 3-7 together, claims 8-11 together, and claims 12-15 together.

We accordingly consider claims 1, 8, and 12 in this appeal. We also note that with regard to any dependent claims, appellants argue the same issue with respect to the independent claims 1, 8, and 12. Therefore our consideration of these claims, address any arguments in connection with any dependant claims and the respective rejections.

The examiner relies upon the following references as evidence of unpatentability:

Rinkinen	2,769,250	Nov. 06, 1956
Brunel	4,334,369	Jun. 15, 1982
Ramboz	4,604,817	Aug. 12, 1986

Claims 1-5 and 7-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ramboz.

Claims 12-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Ramboz.

Claim 6 stands rejected under 35 U.S.C. § 103 as being unpatentable over Ramboz in view of Rinkinen.

Claim 11 stands rejected under 35 U.S.C. § 103 as being obvious over Ramboz in view of Brunel.

We have carefully reviewed appellants' brief, the examiner's answer, and the prior art of record. This review has led us to conclude that the examiner's rejections are well-founded.

OPINION

In an effort to streamline this decision, our focus is on the single issue raised in appellants' brief. This issue is whether the applied art anticipates or makes obvious the claim language of a "combination snowshoe and

ski that operates in both a snowshoe mode and a ski mode." This recitation is found in each of the three claims under consideration in this appeal (claims 1, 8, and 12).

On pages 3-4 of the answer, the examiner makes findings regarding the teachings of Ramboz. Appellants only dispute with these findings is that Ramboz teaches an improved snowshoe, but does not teach a ski, and provides reasons as set forth on page 3 of the brief.

On page 6 of the answer, the examiner explains that Ramboz teaches that the sliding fin element 41 serves to form a sliding surface for allowing longitudinal sliding motion of the snowshoe device with respect to a snow-covered surface. On page 7 of the answer, the examiner states that the claims are interpreted based on the limitations explicitly recited in the claims, namely a combination snowshoe and ski, which may operate in a snowshoe mode and a ski mode, and states that Ramboz teaches a device which includes both elements associated with a snowshoe, and at least one element associated with a skiing operation, and as such, is deemed to be a snowshoe and ski combination.

We begin with the claim interpretation of the claimed "combination snowshoe and ski". Paragraph 8 on page 4 of appellants' specification indicates that the multipurpose snowshoe/ski includes an interchangeable, hinged foot plate that may have a smooth bottom surface for functioning as a ski, or a corrugated bottom surface for functioning as a snowshoe. This combination concept is not recited in claims 1, 8, and 12. Claim 1 recites "a plurality of traction portions which extend generally downward from a horizontal plane of the deck when in snowshoe mode". Claim

1 does not recite any structure regarding the ski mode (e.g., converting the structure into a ski by interchanging a foot plate). Claim 8 recites "a flat surface of the deck" when in ski mode, but it is not disputed that a surface of the deck in Ramboz has a flat surface (e.g., fin 41 has a flat surface). Claim 12 similarly recites "a smooth flat bottom surface of the deck".

Hence, we agree with the examiner's explanation of the teachings of Ramboz regarding the combination snowshoe and ski mode functions. The outer side fin 41 of Ramboz allows for a "sliding bearing surface".¹ A ski in the ski mode also provides for a "sliding bearing surface".

Appellants emphasize the claimed recitation, found in the preamble, of a "combination snowshoe and ski that operates in both a snowshoe mode and a ski mode" as being distinguishable from the teachings of Ramboz. However, each of claims 1, 8, and 12, does not recite structure that imparts the more narrow interpretation that appellants wish imparted to these claims. For example, none of the claims recite an interchanging foot plate that converts the structure from a snowshoe (imparting one structure) to a ski (imparting a different structure). We note that in determining the patentability of claims, the PTO gives claim language its "broadest reasonable interpretation" consistent with the specification and claims. In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997) (citations omitted). Appellants' desired interpretation of the claims is simply narrower than such a reasonable interpretation.

¹See claim 1, for example, of Ramboz. See also the examiner's position on pages 3, 4, and 6-8 of the answer.

In view of the above, we determine that both the anticipation and obviousness rejections are well-founded. We need not discuss the other references of Rinkinen and Brunel in making this determination.

Conclusion

Each of the rejections is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv)(effective September 13, 2004; 69 Fed. Reg. 49960 (August 12, 2004); 1286 Off. Gaz. Pat. Office 21 (September 7, 2004)).

AFFIRMED

CATHERINE TIMM)
Administrative Patent Judge)
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)BOARD OF PATENT
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JEFFREY T. SMITH) INTERFERENCES
Administrative Patent Judge)
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