The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EGIDIO LUCAS DE OLIVEIRA

Appeal No. 2005-1716
Application No. 10/200,903

ON BRIEF

Before KIMLIN, GARRIS and TIMM, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal which involves claims 1, 5-7, 9-12 and 17.[1]

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[1]As indicated on page 3 of the answer, the examiner has withdrawn his Section 102 final rejection of claims 2-4 and 8. According to the examiner, these claims are now "objected to as being dependent upon a rejected based claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims" (answer, page 2). The examiner's aforequoted statement is seemingly inconsistent with his apparent argument in the last paragraph on page 6 of the answer that Block discloses the features recited in these claims (which it does not). This statement also is seemingly inconsistent with the examiner's continued rejection of independent claim 10 (and of claims 11, 12

The subject matter on appeal relates to a trolley assembly (independent claim 1), a mounting structure comprising a trolley assembly and a stud assembly (independent claim 6) and a moveable door mounting assembly comprising a track, a trolley assembly and a stud assembly (independent claim 10). With reference to the appellant's drawing, the trolley assembly 106 comprises a spring-biased cam piece 206 having a locking surface 315 for frictionally engaging a surface of track 102. In this way, the trolley assembly can be placed in a locking position (shown in figure 5A) until it is engaged with stud assembly 108 whereupon stud catch surface 312 interacts with cam catch surface 314 to thereby move cam piece 206 to the normal position (shown in figure 5B). This appealed subject matter is adequately represented by independent claim 1 which reads as follows:

> 1. A trolley assembly for a mounting structure in a movable door mounting assembly having a track, comprising:
>
> a carriage that moves the trolley assembly along the track; and
>
> a cam piece coupled to the carriage and pivotable between a normal position and a locking position, wherein

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and 17 which depend therefrom) since this independent claim is limited to the very features in claims 2 and 8 which the examiner now considers to be allowable. In light of our disposition of this appeal, these apparent inconsistencies need not be further discussed.

> the cam piece includes a locking surface that engages with a surface of the track in the locking position and releases from the surface of the track in the normal position.

The references set forth below are relied upon by the examiner in the Section 102 and Section 103 rejections before us:

Block	4,872,287	Oct. 10, 1989
Fort et al. (Fort)	6,374,456	Apr. 23, 2002

Claims 1, 5-7, 9-11 and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Block.

Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Block in view of Fort.

Rather than reiterate the respective positions advocated by the appellant and by the examiner, we refer to the brief and reply brief and to the answer for a complete exposition.

OPINION

For the reasons which follow, we cannot sustain either of these rejections.

Appealed independent claim 1 (as well as the other independent claims on appeal) requires a cam piece which "includes a locking surface that engages with a surface of the track in the locking position." In the examiner's view, "Block discloses a cam piece (14) that has a locking surface (92) that engages with a surface of the track (column 2, lines 45-49, where

the keeper 16 is the engaging member on the surface of the track) in the locking position, wherein the keeper is secured to the track by a fastening means (120) to form a[n] integral construction and thus causing a solitary track structure" (answer, page 5). We cannot subscribe to this view.

As both the examiner and the appellant understand, during examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification. See In re Hyatt, 211 F.2d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). We agree with the appellant, however, that the above quoted claim language cannot be reasonably interpreted consistent with the subject specification as defining Block's arrangement wherein hook 92 (i.e., the here claimed "locking surface") engages with keeper 16. As correctly explained by the appellant, patentee's keeper 16 is secured to the track 8 (e.g., see lines 49-50 in column 6) and thus cannot be regarded as a surface of the track as the examiner urges.

In this latter regard, it is appropriate to reiterate the examiner's previously quoted statement "wherein the keeper is secured to the track by a fastening means (120) to form a[n] integral construction and thus causing a solitary track structure" (answer, page 5). Apparently, the examiner believes

this statement supports his contention that the surface of Block's keeper 16 should be considered a surface of the track vis-á-vis the claim requirement under consideration. This is erroneous. Even regarding patentee's keeper and track to be an integral construction or structure, the fact remains that the keeper and track are distinct mechanical elements having unrelated mechanical functions. Therefore, because the keeper does not constitute a track and does not perform a track function, it is simply not reasonable or rational to consider the surface of this keeper to be the surface of a track.

In a further attempt to support his claim interpretation, the examiner advances the following contention on page 6 of the answer:

> . . . [T]he Appellant argues whether the Examiner gave the pending claims the broadest reasonable interpretation consistent with the specification. According to the Appellant's specification "the door mounting assembly 100 may incorporate any track 102 structure known in the art" (page 3, paragraph 16, lines 1-2 of Appellant's specification). Wherein Block's track structure is known in the art, as being displayed by the given patent. Therefore, using the broadest reasonable interpretation consistent with the specification, one would deduce that the track structure of Block is consistent with the specification, as it is disclosed that a cam piece engages with a surface of the track, where the keeper is a surface that is being possessed by the track structure in a unitary composition.

This contention is not well founded.

The basic deficiency of the examiner's rationale is that it is premised on the belief that "the keeper is a surface that is being possessed by the track structure in a unitary composition" (id.). In accordance with our detailed explanation above, it is not reasonable or rational to consider the surface of Block's keeper to be the surface of a track regardless of whether these mechanical elements are regarded as integral or unitary.

All of the appealed claims are limited in the manner previously discussed with respect to independent claim 1. Further, the aforenoted deficiency of the examiner's Section 102 rejection is not cured via his Section 103 rejection. As a consequence, we cannot sustain the examiner's Section 102 rejection of claims 1, 5-7, 9-11 and 17 as being anticipated by Block or his Section 103 rejection of claim 12 as being unpatentable over Block in view of Fort.

The decision of the examiner is reversed.

REVERSED

EDWARD C. KIMLIN Administrative Patent Judge	)	
BRADLEY R. GARRIS Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
CATHERINE TIMM Administrative Patent Judge	)	

BRG:hh

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