

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 JOSEPH J. BERKE and CHARLES T. MICHAEL

Appeal No. 2005-1802
Application No. 10/199,648

ON BRIEF

Before GARRIS, PAK and KRATZ, Administrative Patent Judges.
KRATZ, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-5, 11-14 and 26-28.

BACKGROUND

Appellants' invention relates to a liquid dispensing system for a bathtub. The liquid dispensing system can be arranged for discharging a mixture of water (from a household water supply) and a liquid household product such as soap, shampoo, or bath oil (from storage in a storage unit) through an outlet of the storage unit and through a spray head for use in bathing/showering.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A bathtub liquid dispensing system for discharging a mixture of water and a liquid household product such as a soap, shampoo, or bath oil through an outlet of a storage unit, comprising: a bathtub having an outlet such as a faucet for dispensing water from a household water supply; a storage unit for storing at least one household liquid, said storage unit having another outlet for dispensing a mixture of water and said household liquid; at least one household liquid stored in said storage unit; a means for introducing a portion of said household liquid into said water from said household water supply; and a detachable coupling for operatively connecting and disconnecting said storage unit to and from said faucet of said bathtub.

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

Glou	3,034,137	May 15, 1962
Kozlowski	3,720,352	Mar. 13, 1973
O'Hare	3,917,172	Nov. 04, 1975
Greenhut et al. (Greenhut)	4,358,056	Nov. 09, 1982

Claims 1, 11, 12 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Hare in view of Glou. Claims 2-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Hare in view of Glou and Greenhut. Claims 13, 17 and 26-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over O'Hare in view of Glou and Kozlowski.

OPINION

Having carefully considered each of appellants' arguments set forth in the brief and reply brief and the evidence of record, appellants have not persuaded us of reversible error on the part of the examiner in concluding that the appealed claimed subject matter would have been obvious to one of ordinary skill in the art at the time the invention was made within the meaning of § 103(a). Accordingly, we will affirm the examiner's obviousness rejections for substantially the reasons set forth in the answer and below.

Concerning the examiner's obviousness rejection of claims 1, 11, 12 and 14 over O'Hare in view of Glou, appellants argue the claims together as a group. Thus, we select claim 1 as representative of those rejected claims.

Appellants do not dispute that O'Hare discloses a liquid dispensing system for discharging a mixture of water and a liquid household product through an outlet of a storage unit corresponding to appellants' representative claim 1 device but for the argued lack of disclosure of a connection of the storage unit to a bathtub faucet and the use of a detachable coupling for

that connection (brief, pages 9 and 10).¹ In this regard, appellants assert that O'Hare connects the dispensing system to a shower head via a fixed mounting, not to a tub faucet using a detachable coupling for operatively connecting and disconnecting said storage unit to and from said faucet of said bathtub, as appellants claim.

¹ While appellants assert that a side by side comparison of representative claim 1 with O'Hare demonstrates that O'Hare can not be adapted to that which is claimed (brief, page 12), appellants have not furnished a comparison that substantiates that summarily presented assertion. In this regard, appellants have not pointed to any of the claim 1 limitations that they regard as differentiating over the teachings of O'Hare other than the tub faucet connection and detachable coupling used therefore noted at pages 9 and 10 of the brief.

We are not persuaded by this argument. In this regard, we note that O'Hare (column 1, lines 15-27) teaches that bathroom showers include valved hot and cold water supplies. O'Hare further discloses that the dispensing apparatus can be secured to a wall of a tub or shower via a pipe 18 and a valve 22 via a threaded coupling, as an option. See, e.g., column 2, lines 40-47, column 3, lines 30-37 and drawing figures 1 and 4 of O'Hare.

The bathtub faucet and detachable connection for the liquid dispensing system of appellants' representative claim 1 does not patentably distinguish over the aforementioned structure of O'Hare. In this regard, the threaded coupling disclosed in O'Hare furnishes a detachable connection for the liquid dispensing unit of O'Hare to a tub faucet. Giving the claim term faucet the broadest reasonable meaning consistent with appellants' specification as would be understood by one of ordinary skill in the art, we determine that "faucet" merely requires a device or fixture for regulating the liquid flow from a pipe for use in a tub environment.² The valved hot and cold

² See the definition of "faucet" at page 424 of Merriam Webster's Collegiate Dictionary (10th Ed.), 1996. A copy of that dictionary page is enclosed with this decision.

water supplies associated with the pipe (18) of O'Hare clearly provides or at least suggests such a faucet for regulating the water flow.

Moreover, to the extent the claim 1 language could be considered to require a connection of the liquid dispensing and storage system to a tub faucet spout, a claim interpretation with which we disagree, we agree with the examiner that one of ordinary skill in the art would have readily recognized that a detachable hose could be used to connect such a tub faucet spout to the liquid storage and dispensing unit because the use of detachable hoses for connecting to a faucet spout as a source of household water supply is known as an alternative water source connection as evidenced by Glou (Fig. 1, hose 28).

Appellants contend that a lack of motivation exists for a tub faucet connection in O'Hare taken with Glou given the sitz bath application disclosed in Glou. We disagree because O'Hare alone provides the requisite disclosure and motivation to detachably connect a household liquid (shampoo, etc.) storage and dispensing unit to a tub/shower water supply (faucet) for reasons discussed above. If we could agree that representative claim 1 called for a tub faucet spout water supply connection to the liquid storage and dispensing unit, Glou is merely relied on to

show a conventional faucet spout hose connection for supplying household water from the faucet spout. One of ordinary skill in the art concerned with a plumbing problem of supplying water for taking a shower where only a working faucet spout outlet exists in a tub environment would have readily recognized employing available hoses, as shown by Glou, as an available option useful for that connection. Thus, appellants' arguments concerning a lack of motivation to use conventional tub faucet spouts and hoses to accomplish such a plumbing connection are not persuasive.

Appellants group claims 2-5 with the examiner's rejection of independent claim 1 and do not separately contest the examiner's separate obviousness rejection of dependent claims 2-5 over O'Hare, Glou and Greenhut. Because we do not find appellants' arguments persuasive as to independent claim 1 as set forth above, we shall also affirm the examiner's separate obviousness rejection of claims 2-5, on this record.

Appellants argue against the examiner's separate obviousness rejection of claims 13, 17 and 26-28 over O'Hare, Glou and Kozlowski treating the claims as a group. Thus, we select claim 13 as the representative claim for this ground of rejection. Appellants do not dispute that Kozlowski is combinable with

O'Hare. Other than the arguments for claim 1 which we find unpersuasive for reasons set forth above, appellants seemingly furnish the additional argument that a normally closed control that includes a resilient bias for disconnecting household liquid from the bath tub water supply when the control is released is not taught by Kozlowski for use in combination with O'Hare so as to result in the subject matter of representative claim 13. We disagree. Kozlowski discloses a device for selectively dispensing liquids, such as soap, from storage into a water stream for use in a shower. In drawing Figure 7, Kozlowski discloses a spring (resiliently) biased piston valve that controls the flow of the liquid to be dispensed into the water flow. As explained at column 5, lines 36-64 of Kozlowski, a user pulls downwardly on a handle (94, Fig. 2)) to dispense liquid into the water flowing through a pipe (22, Fig. 2). Since the spring (74, Fig. 7) biases the piston (50, Fig. 7) to a closed position, release of the handle (94, Fig., 2) disconnects liquid flow from the container (28, Fig. 7) to the water flowing in pipe (22, Fig. 2). Thus, appellants' arguments concerning a lack of a teaching of the claimed control that is resiliently biased to disconnect liquid flow from the storage units into the water supply is not persuasive.

Consequently, we shall sustain the examiner's rejection of Claims 13, 17 and 26-28 over O'Hare in view of Glou and Kozlowski.

CONCLUSION

The decision of the examiner to reject claims 1, 11, 12 and 14 under 35 U.S.C. § 103(a) as being unpatentable over O'Hare in view of Glou; to reject claims 2-5 under 35 U.S.C. § 103(a) as being unpatentable over O'Hare in view of Glou and Greenhut; and to reject claims 13, 17 and 26-28 under 35 U.S.C. § 103(a) as being unpatentable over O'Hare in view of Glou and Kozlowski is affirmed.

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

AFFIRMED

BRADLEY R. GARRIS)
Administrative Patent Judge)
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CHUNG K. PAK) BOARD OF PATENT
Administrative Patent Judge) APPEALS
) AND
) INTERFERENCES
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PETER F. KRATZ)
Administrative Patent Judge)

PK/sld

ALEX RHODES
UNIT NO. 9
50168 PONTIAC TRAIL
WIXOM, MI 48393-2019

Comment [jvn1]: Type address

APPEAL NO. - JUDGE KRATZ
APPLICATION NO.

APJ KRATZ

APJ

APJ

DECISION: ED

Prepared By:

DRAFT TYPED: 01 Aug 06

FINAL TYPED: