

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 RICHARD A. CHUBB

Appeal No. 2006-0978
Application No. 10/236,087

ON BRIEF

Before CRAWFORD, BAHR and LEVY, Administrative Patent Judges.

BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's rejection of claims 1-19.

We REVERSE.

BACKGROUND

The appellant's invention relates to a window frame for a door, a wall of a refrigerated room or cabinet or the like (present specification, page 1). Independent claims 1 and 11 are representative of the invention and read as follows.

1. A window frame for a door comprising

a glazing frame of extruded plastic elements, each said element having a first outwardly directed flange to abut one side of a door, a second flange and a stepped portion extending therefrom; and

a panel frame of extruded plastic elements, each said element of said panel frame having an outwardly directed flange to abut an opposite side of the door and being slidably mounted on said stepped portion of a respective element of said glazing frame in friction fit manner.

11. A window frame for a door comprising

a glazing frame consisting of extruded plastic elements, each said element having a first outwardly directed flange to abut one side of a door, a second flange and a stepped portion extending therefrom;

a panel frame of consisting of extruded plastic elements, each said element of said panel frame having an outwardly directed flange to abut an opposite side of the door and being slidably mounted on said stepped portion of a respective element of said glazing frame in friction fit manner;

a window frame abutted against said second flange of each respective element of said glazing frame; and

a plurality of plastic glazing beads, each said bead being removably mounted in a respective extruded element of said glazing frame for holding said window frame between said second flange of each extruded element of said glazing frame and said bead.

Applied Prior Art

Lewkowitz	3,750,358	Aug. 7, 1973
Guillemet (Guillemet '814)	4,996,814	Mar. 5, 1991
Guillemet (Guillemet '349)	5,692,349	Dec. 2, 1997

The Rejections

Claims 1, 2, 8, 9 and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lewkowitz.

Claims 1-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Guillemet '349.

Claims 1-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Guillemet '814.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding this appeal, we make reference to the examiner's answer (mailed August 29, 2005) for the examiner's complete reasoning in support of the rejections and to the appellant's brief (filed June 15, 2005) 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, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the following determinations.

We turn first to the rejection of claims 1, 2, 8, 9 and 19 as being anticipated by Lewkowitz. Lewkowitz discloses a self-locking door light molding comprising an interior frame member 16, an exterior frame member 18 and lock members 20. The exterior and interior frame members comprise flange members 46, 46', locking strips 42, 42' with teeth 44, 44' extending from the flanges and positioning strips 48, 48' also extending from the flanges parallel to the locking strips. The teeth 44, 44' of the locking strips cooperate with the lock members 20 to secure the interior and exterior frame members about an opening 12 provided in a solid wood or hollow metallic door 14 without the need for nails, screws or other external fastening means.

In reading claim 1 on the Lewkowitz molding, the examiner considers the stepped portion to read on the positioning strip 48' in combination with the locking member 20. As pointed out by the appellant on pages 5 and 6 of the brief, the locking member 20 is a separate and discrete element from the frame member 16 and the positioning strip 48' thereof and thus cannot fairly be considered, along with the positioning strip 48', to form a stepped portion of an element of the frame member 16.

In light of the above, the examiner's rejection of claim 1, as well as claims 2, 8, 9 and 19 depending from claim 1, as being anticipated by Lewkowitz cannot be sustained.

We turn our attention next to the examiner's rejection of claims 1-17 as being anticipated by Guillemet '349. In reading claims 1 and 11 on Guillemet '349, the examiner considers main frame member 11, right angle wall section 35, depending wall

30 and side jamb section 15 to respond to the glazing frame, first flange, second flange and stepped portion, respectively, of claims 1 and 11. Further, according to the examiner, the inner casing connecting frame molding 12 responds to the panel frame of claims 1 and 11, with the connection web 27 thereof "being slidably mounted on the stepped portion (15) of the glazing frame in a snap-fit engagement which is considered to be in a frictional fit as claimed" (answer, page 5).

The appellant argues that (1) the jamb section 15 is within the main frame member 11 and thus does not extend from the main frame member as required by claims 1 and 11 (brief, page 7) and (2) the snap retention of the connecting web 27 within the slot 21 of the jamb section 15 by retention rib 24 is not a friction fit, as called for in claims 1 and 11 (brief, page 8). We agree with the appellant on both points.

As for the first argument, the jamb section 15 extends between two features, the first flange (right angle wall section 35) and second flange (depending wall 30), of each element and thus extends within the element. As such, the jamb section 15 cannot reasonably be considered to be extending from an element having a first flange and a second flange as called for in claims 1 and 11.

With regard to the appellant's second argument, we note that Guillemet '349 discloses connecting slots 21 and 21' have a beveled edge at their outer longitudinal edges 23 to facilitate connection with the inner casing connecting frame molding 12 or outer sash connecting frame molding 13 and are further provided with "a retention rib 24

[or 24'] having a right angle undercut for snap retention over a right-angle ledge 25 [or 25'] formed on a flat outer face 26 in a top end of a connecting web 27 [or 27'] of the inner casing connecting frame molding 12 [or outer sash connecting frame molding 13]" (column 2, last paragraph). While there may be a friction fit arrangement between the connecting web 27 and the slot 21, Guillemet '349 does not explicitly disclose one or give any indication that such an arrangement is necessarily present and the undercut snap retention arrangement in no way implies or necessitates a friction fit arrangement between the slot 21 (or jamb section 15) and the connecting web 27.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). Under principles of inherency, when a reference is silent about an asserted inherent characteristic, it must be clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991). For the reasons discussed above, we conclude that Guillemet '349 does not disclose, expressly or under the principles of inherency, each and every element of claims 1 and 11. Accordingly, the rejection of independent claims 1 and 11, and claims 2-10 and 12-17 depending therefrom, cannot be sustained.

We turn finally to the rejection of claims 1-19 as being anticipated by Guillemet '814. The appellant contends that Guillemet lacks a panel frame of elements, wherein each element is slidably mounted on a stepped portion of a respective element of a glazing frame "in friction fit manner" as called for in independent claims 1 and 11 (brief, pages 9-10). In addressing this limitation, the examiner, referring to the marked-up reproduction of Figure 3 of Guillemet '814 on page 7 of the answer, states:

each said panel frame (12) having an outwardly directed flange (B1) having a glazing tape for abutting opposite side of the door, a second portion (B2) being slidably mounted on the stepped portion (18) of the glazing frame in a frictional fit manner" [answer, page 6].

The examiner, on page 13 of the answer, adds that

the elongated eng [sic] portion of the step flange being slidably inserted into and snap engaged with the panel frame (12) before secured the outer and inner frames (13, 12) together by securing screw (see Fig. 3). Although Guillemet does not directly define the panel frame (12) being slidably mounted to the stepped portion of the glazing frame in "a friction fit manner", its [sic] known in the art that when two elements being "slidable" and then "snap fit" together, a suitable friction force will be inherently created between two slidable and snap engaged surfaces, and therefore includes a manner of "friction [sic] fit" as claimed but the two engaged two [sic] members are not necessary being frictionally fitted. Therefore, the panel frame (12) of Guillemet is considered being slidably mounted on the step flange of the glazing panel (13) in a manner of "frictional fit" as claimed.

The examiner's findings with regard to the portion identified by the examiner as B2 being slidably mounted on the stepped portion or step flange 18 in a frictional fit manner and the elongated end portion of the step flange 18 being slidably inserted into and snap engaged with the panel frame (inner frame member) 12 before the frames 12, 13 are secured together by securing screws 16 are not supported by the reference. The only means of securement of the panels disclosed by Guillemet '814 are the screws 16.

In light of the above, we cannot sustain the examiner's rejection of claims 1 and 11, and dependent claims 2-10 and 12-19, as being anticipated by Guillemet '814.

CONCLUSION

To summarize, none of the examiner's rejections is sustained. The decision of the examiner is reversed.

REVERSED

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APPLICATION NO. 10/236,087

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DECISION: REVERSED

PREPARED: Aug 30, 2006

2 Person Conf. Onbrief

PALM:

3 Person Conf. Onbrief

ACTS:

3 Person Conf. Heard

DISK (FOIA):

ELPH:

BOOK:

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