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 JORGEN RASMUSSEN

Appeal No. 2006-1277
Application No. 10/221,711
Technology Center 3700

Decided: JULY 26, 2006

Before FRANKFORT, BAHR and NAPPI, *Administrative Patent Judges*.

BAHR, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal from the examiner's rejection of claims 1-4 and 6-10. Claims 5 and 11 stand objected to as being dependent on a rejected claim and claims 12-25 have been indicated by the examiner as allowable.

We REVERSE.

BACKGROUND

The appellant's invention relates to an inhaler for delivery of a medicament from a canister that is compressible to deliver a dose of medicament. Claim 1, the only independent claim on appeal, is representative of the subject matter on appeal and is reproduced *infra* in the opinion section of this decision.

The examiner relies upon the following as evidence of unpatentability:

Christrup et. al. US 2003/0230305 A1 Dec. 18, 2003 (Nov. 22, 1999) (Christrup)

The following rejection is before us for review.

Claims 1-4 and 6-10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Christrup.

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 October 3, 2005) for the examiner's complete reasoning in support of the rejection and to the appellant's brief (filed June 14, 2005) and reply brief (filed November 30, 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 Christrup publication, and to the respective positions articulated by the appellant and the examiner. For the reasons urged by the appellant on pages 4-6 of the brief, the examiner’s rejection cannot be sustained.

Independent claim 1 reads as follows:

> 1. An inhaler for delivery by inhalation of a medicament from a canister which is compressible to deliver a dose of medicament, the inhaler comprising
>
> a housing for holding a canister having a generally cylindrical body with the cylindrical axis of the body in predetermined direction;
>
> a loading mechanism for loading a resilient loading element which is arranged, when loaded, to bias compression of the canister, the loading mechanism comprising:
>
> a loading member engaging the resilient loading element; and
>
> at least one contact member movable relative to the housing in a movement direction orthogonal to said predetermined direction and arranged to drive the loading member to load the resilient loading element through a cam arrangement between the at least one contact member and the loading member.

Christrup's inhaler comprises two buttons 34a, 34b movable relative to the inhaler housing 2 in a direction orthogonal to the cylindrical axis of the canister 5 and arranged to drive the loading member 32 to load the loading spring 31 through the arrangement illustrated in Figure 10 including two torsion springs 35a, 35b fixed inside the upper housing portion 3 (para. 53). The examiner's rejection relies in part on the examiner's position that the torsion springs 35a, 35b of Christrup's inhaler constitute a "cam arrangement" as called for in appellant's claim 1. The basis for the examiner's position is the bold text of the MSN Encarta Dictionary definition of "cam," which reads, in its entirety, as follows:

Cam [kam] (*plural* cams)

noun

machine part that transfers motion: an irregularly-shaped projection on a rotating shaft that changes rotary motion into a reciprocating up-and-down motion in another machine part (**cam follower**) that touches it

According to the examiner,

> it is clear from the formatting and text of the MSN Encarta definition (see above) that the *primary definition* of cam is a "machine part that transfers motion". This is clear from the bold texting of the definition, indicating that this is the primary, broad definition of "cam". The definition is further qualified or limited by the language following the colon, which is clearly a secondary definition of the previous description of "cam". This secondary definition is a limitation of the previous definition, and does not constitute the complete broad definition of the term. The examiner is required to give claim language its broadest reasonable interpretation consistent with the specification, and maintains that the [Christrup] reference meets the broadest reasonable interpretation of "cam", which is believed to be a "machine part that transfers motion".

The appellant, on page 4 of the brief, contends that the examiner has erred in ignoring the remainder of the MSN Encarta definition following the bold text. Additionally, on page 5 of the brief, the appellant cites the Oxford English Dictionary Online definition, which defines "cam" as "A projecting part of a wheel or other revolving piece of machinery, adapted to impart an alternating or variable motion of any kind to another piece pressing against it, by sliding or rolling contact" and argues that, among other things, a torsion spring does not impart motion by sliding or rolling contact. The appellant urges that a person of ordinary skill in the art would not consider a torsion spring to be a "cam."

While it is true that the claims in a patent application are to be given their broadest reasonable interpretation consistent with the specification during prosecution of a patent application (*see, for example, In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)), it is also well settled that terms in a claim should be construed as those skilled in the art would construe them (*see Specialty Composites v. Cabot Corp.*, 845 F.2d 981, 986, 6 USPQ2d 1601, 1604 (Fed. Cir. 1988) and *In re Johnson*, 558 F.2d 1008, 1016, 194 USPQ 187, 194 (CCPA 1977). Further, as pointed out by our reviewing court in *Phillipps v. AWH Corp.*, 415 F.3d 1303, 1315, 75 USPQ2d 1321, 1327 (Fed. Cir. 2005), the claims, of course, do not stand alone but, rather, are part of a fully integrated written instrument consisting principally of a specification that concludes with the claims. For that reason, claims must be read in view of the specification, of which they are a part. "[T]he specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term." *Id*.

We agree with the appellant in this case that the examiner's interpretation of the term "cam" in claim 1 as requiring simply a "machine part that transfers motion" is not well founded. Even if the examiner is correct that the MSN Encarta Dictionary intends the bold texting as the primary, broad definition and the text following the bold texting as a further qualification which is a secondary definition of the previous description of "cam," such primary, broad definition is not the broadest *reasonable* interpretation of "cam" within the context of appellant's invention. We agree with the appellant that a person of ordinary skill in the art would not consider a torsion spring to be a cam, especially when read in light of appellant's specification, which describes a cam arrangement of the cam surfaces 8a of the spindle 8 and the cam followers 9a of the buttons 9 between the spindle 8 and buttons 9 (specification, p. 9 and Figure 8). Rather, such a person would understand a "cam" to be an element that imparts reciprocating linear motion to another element pressing against it, by sliding or rolling contact. Consequently, the rejection of

independent claim 1, as well as claims 2-4 and 6-10 depending from claim 1, cannot be sustained.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-4 and 6-10 is REVERSED.

REVERSED

CHARLES E. FRANKFORT Administrative Patent Judge	)	
JENNIFER D. BAHR Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
ROBERT NAPPI Administrative Patent Judge	)	

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