The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 KLAUS WALTER, GUENTER ESCHER
AND JUERGEN TOEPFER

Appeal No. 2006-1621
Application No. 10/107,672

ON BRIEF

Before HAIRSTON, KRASS, and MACDONALD, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 6, 8 through 11, 18 and 19.

The disclosed invention relates to a sensor housing.

Claim 1 is the only independent claim on appeal, and it reads as follows:

1. A sensor comprising:

   a retaining part;

   a cup-shaped element secured to the retaining part, one of the retaining part and the cup-shaped element including a lateral introduction opening for introducing a sealant, the retaining part covering a second opening located at the cup-shaped element; and an electronic system embedded in the cup-shaped element by way of the sealant.

The references relied on by the examiner are:

Gagliardi	5,121,289	June 9, 1992
Lock	5,451,868	Sept. 19, 1995
Izawa et al. (Izawa)	5,637,995	June 10, 1997
Riehl et al. (Riehl)	6,366,194	Apr. 2, 2002 (filed Sept. 20, 1999)

Claims 1, 2, 5, 6, 8 and 18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gagliardi.

Claims 1, 2, 5, 6, 11, 18 and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lock.

Claims 1, 2 and 6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Izawa.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Gagliardi or Lock.

Claims 3, 4 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gagliardi in view of Riehl.

Reference is made to the brief and the answer for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will sustain the anticipation rejections of claims 1, 2, 5, 6, 8, 11, 18 and 19, and the obviousness rejections of claims 3, 4, 9 and 10.

Turning first to the anticipation rejection of claim 1 based upon the teachings of Gagliardi, we agree with the examiner's findings (answer, page 3) that the sensor housing 2 is a

cup-shaped element, that the insert 5, the cover 6, and the connector 7 function as a retaining part for the electronic system (i.e., IC 3), that the opening 8 at the end of the sensor housing receives a sealant from dispenser 10, and that the retaining part and the sealant cover the opening at the top of the cup 2. Appellants' argument (brief, page 8) to the contrary notwithstanding, the noted elements 5, 6 and 7 in Gagliardi function to retain the electronic system 3. With respect to appellants' argument (brief, pages 7 and 8) that the opening 8 in Gagliardi is not a lateral opening because it is not located on a longer side of the sensor, we agree with the examiner's positions (answer, pages 5, 6, 8 through 11, 13 and 14) that the disclosed and claimed invention does not support such an interpretation of lateral opening, and that a lateral opening can be located in an end of the sensor. Thus, the anticipation rejection of claim 1 based upon the teachings of Gagliardi is sustained. The anticipation rejection of claims 2, 5, 6, 8 and 18 based upon the teachings of Gagliardi is sustained because appellants have not presented any patentability arguments for these claims.

Turning to the anticipation rejection of claim 1 based upon the teachings of Lock, we agree with the examiner's findings (answer, page 3 and 4) that bolt shaft 12 functions as a cup-shaped part, that the end 18 functions as a retaining part for the electronic system 30, that an opening at the end of the sensor receives a sealant that embeds the electronic system in the cup-shaped part (column 3, lines 5 through 7, column 4, lines 4 through 7), and that the retaining part covers an opening in the cup-shaped part. Appellants repeat the lateral opening argument to distinguish Lock's teachings from the invention set forth in claim 1 (brief, pages 7 and 8), but we agree with the examiner's position that the lateral opening can be in the end of the sensor.

Accordingly, the anticipation rejection of claim 1 based upon the teachings of Lock is sustained. The anticipation rejection of claims 2, 5, 6, 11, 18 and 19 based upon the teachings of Lock is likewise sustained because appellants have not presented any patentability arguments for these claims.

Turning next to the anticipation rejection of claim 1 based upon the teachings of Izawa, we agree with the examiner's findings (answer, page 4) that the case 73 in Izawa (Figure 32) functions as a cup-shaped element, that the magnet 69 and the housing 72 function together as a retaining part for the electronic sensing element 61, that the electronic sensing element is embedded in the cup-shaped element and the retaining part by a sealant 67, and that the retaining part covers an opening in the cup-shaped part. Again, appellants argue (brief, pages 7 and 8) that the opening for the sealant in Izawa is on the end of the sensor, and not on the side of the sensor. As indicated supra, claim 1 on appeal does not preclude the lateral opening from being on the end of the sensor. In summary, the anticipation rejection of claim 1 based upon the teachings of Izawa is sustained. The anticipation rejection of claims 2 and 6 based upon the teachings of Izawa is sustained because appellants have not presented any patentability arguments for these claims.

The obviousness rejections of claims 3, 4, 9 and 10 are sustained because appellants have not presented any patentability arguments for these claims.

DECISION

The decision of the examiner rejecting claims 1, 2, 5, 6, 8, 11, 18 and 19 under 35 U.S.C. § 102(b) is affirmed, and the decision of the examiner rejecting claims 3, 4, 9 and 10 under 35 U.S.C. § 103(a) 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).

AFFIRMED

KENNETH W. HAIRSTON Administrative Patent Judge	)))))
ERROL A. KRASS Administrative Patent Judge	) BOARD OF PATENT) APPEALS) AND) INTERFERENCES
ALLEN R. MACDONALD Administrative Patent Judge	))))

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