

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 EDWARD A. ENYEDY

Appeal 2006-2370
Application 10/800,929
Technology Center 3600

Decided: March 28, 2007

Before MURRIEL E. CRAWFORD, STUART S. LEVY, and ROBERT E. NAPPI, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This appeal involves claims 1-20, the only claims pending in this application. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

The claims are directed to a wire feeding mechanism for advancing a continuous length of wire along a pathway. Claim 1 is illustrative:

1. A wire feeding mechanism for advancing a continuous length of wire along a pathway, comprising:

a housing having two roller supports each rotatable about a corresponding axis transverse to a wire pathway, said roller supports being on opposite sides of said pathway and being driveably engaged with each other;

a drive roller on each of said roller supports for rotation therewith, said drive roller including an outer surface extending circumferentially about said corresponding axis that defines a groove having an included angle between a pair of intersecting walls defining the groove that is about thirty degrees (30°) or greater and less than ninety degrees (90°), said drive roller on each of said roller supports compressively contacting a continuous length of wire between said roller supports such that said wire is advanced along said pathway in response to rotation of said drive rollers.

The Examiner relies on the following prior art references to show unpatentability:

Gilliland	US 5,540,371	Jul. 30, 1996
Blank	US 6,427,894 B1	Aug. 6, 2002

Appellant's discourse of Prior Art ("AAPA") Application No. 10/800,929, pp. 1-3 and Fig. 5.

The rejections as presented by the Examiner are as follows:

1. Claims 1-10 and 14-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gilliland in view of Appellant's disclosure at page 1 line 15 to page 3 line 29 and Fig. 5.

2. Claims 11-13 are rejected under 35 U.S.C § 103(a) as unpatentable over Gilliland in view of Appellant's disclosure page 1 line 15 to page 3 line 29 and Fig. 5 and Blank.

Appellant contends that the cited prior art does not disclose a pair of intersecting walls defining a groove and that there is no motivation to combine the teachings of the cited references.

The Examiner contends that the cited prior art does disclose a pair of intersecting walls defining a groove and there is ample motivation to combine the teachings of the cited references.

ISSUES

The first issue is whether Appellants have shown that the Examiner erred in finding that the prior art discloses a pair of intersecting walls defining a groove.

The second issue is whether Appellants have shown that the Examiner erred in holding that there is motivation to combine the teachings of the prior art.

FINDINGS OF FACT

Appellant's claim 1 is directed to a wire feeding mechanism that includes a pair of intersecting walls on a drive roller defining a groove. Appellant's disclosure describes this feature on page 8 and depicts this feature in Fig. 3. Claim 14 similarly recites a wire feeding mechanism which includes a drive roller having a groove formed by first side wall intersecting a second side wall. The groove that is formed by the intersecting walls is about thirty degrees or greater and less than ninety degrees (Specification 8-9). Claims 1 and 14 require two drive rollers

disposed opposite one another. The Specification discloses these two drive rollers at page 3.

Appellant's AAPA describes a wire feeding mechanism with a drive roller having a groove formed by walls 126 and 128 which are at an angle between thirty and sixty degrees (Specification 3; Fig. 5). In this prior art device there is only one drive roller which is disposed opposite a flat idler roller. The groove formed in the Fig. 5 device is not formed by opposing intersecting side walls. Rather the side walls themselves never intersect but rather are joined by a curved portion.

Gilliland discloses a wire feeding mechanism having two drive rollers opposite one another and a groove disposed within each drive roller (Fig. 3B). Gilliland discloses that the use of two grooves, i.e., grooves on both rollers, provides more contact with the wire than using the arrangement of a single groove in one drive roller opposite a flat idler and therefore minimizes the possibility of the rollers slipping on the wire while using the least amount of pressure to grip the wire (Gilliland, col. 6, ll. 56-60). The groove disclosed in Gilliland is not formed by opposing side walls that intersect. The side walls never intersect but rather are joined by a flat portion.

A person of ordinary skill in the art would have been motivated to modify the device of Appellant's Fig. 3B to include a groove on an opposite drive roller to achieve the advantage of minimizing the possibility of roller slippage on the wire while using the least amount of pressure to grip the wire.

ANALYSIS

Neither Gilliland nor AAPA describes a groove on a drive roller that is formed by intersecting side walls. Therefore, the Appellant has shown that the Examiner erred in finding that elements of claims 1 and 14 as taught by the combination. On the record before us, it follows that the Examiner erred in rejecting claims 1 and 14 and claims 2-5 and 15-20 dependent thereon.

There is motivation to combine the teachings of Gilliland and AAPA so that the AAPA is modified to include two opposing drive rollers with a groove in each drive roller. A person of ordinary skill in the art would have been motivated to modify AAPA in this matter to achieve the advantages of two drive rollers i.e. less roller slippage while using the least amount of pressure. Therefore, the Appellant has not shown that the Examiner erred in holding there was motivation to combine the teachings of Gilliland and AAPA.

On the record before us, it follows that the Appellant has not shown that the Examiner erred in rejecting claims 6-10 as being unpatentable by Gilliland and APA and rejecting claims 11-13 as being unpatentable by Gilliland and AAPA and further in view of Blank.

CONCLUSION/ORDER

The Examiner's rejection of claims 1-5 and 14-20 is not sustained.

The Examiner's rejection of claim 6-13 is sustained. However, since our reasons for sustaining the rejection as to these claims is materially different from those set forth in the Answer, we denominate this as a new ground of rejection pursuant to 37 C.F.R. §41.50(b) (2004).

This decision contains a new ground of rejection pursuant to 37 C.F.R. § 41.50(b) (effective September 13, 2004). 37 C.F.R. § 41.50(b) provides "[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review."

37 C.F.R. § 41.50(b) also provides that the Appellant, *WITHIN TWO MONTHS FROM THE DATE OF THE DECISION*, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

(1) *Reopen prosecution*. Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner

(2) *Request rehearing*. Request that the proceeding be reheard under § 41.52 by the Board upon the same record

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a) (2006).

AFFIRMED-IN-PART – 37 § C.F.R. 41.50(b)

hh

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