

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 RONALD E. PRATER

Appeal 2006-2880
Application 10/226,387
Technology Center 3600

Decided: January 26, 2007

Before TERRY J. OWENS, JENNIFER D. BAHR, and LINDA E. HORNER,
Administrative Patent Judges.

HORNER, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 USC § 134(a) from the Examiner's final rejection of claims 23-28 and 30. Claims 31-34 and 36 are allowed. Claim 29 is objected to as being dependent upon a rejected independent claim. Claims 1-22 and 35 have been canceled.

We REVERSE.

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BACKGROUND

The Appellant's invention relates to a clutch housing assembly (Specification 1). Claim 23, reproduced below, is representative of the subject matter on appeal. A copy of all of the claims can be found in the appendix to the Appellant's Brief.

23. A housing for use as a vehicle driveline component, comprising:

a sidewall establishing an open end of the housing, the sidewall having a plurality of spaced splines and a strengthening member near the open end that is formed of the sidewall material having a folded over portion that is at least partially aligned with and adjacent the sidewall, an inner surface of the sidewall near the open end extending continuously and uninterrupted onto the strengthening member and establishing at least one surface of the strengthening member.

The Examiner relies upon the following as evidence of unpatentability:

Maruki US 5,934,126 Aug. 10, 1999

The Appellant seeks our review of the Examiner's rejection of claims 23-28 and 30 under 35 USC § 102(b) as anticipated by Maruki.

Rather than reiterate in detail the conflicting viewpoints advanced by the Examiner and the Appellant regarding this appeal, we make reference to the Examiner's Answer (mailed April 7, 2006) for the Examiner's complete reasoning in support of the rejection and to the Appellant's Brief (filed August 18, 2005) and Reply Brief (filed January 3, 2006) for the Appellant's arguments.

OPINION

In reaching our decision in this appeal, we have carefully considered the Appellant's specification and claims, the applied prior art, and the respective positions articulated by the Appellant and the Examiner. As a consequence of our review, we make the determinations that follow.

In the rejection of independent claim 23, the Examiner determined that Maruki discloses a housing (20, 36), where the housing has a folded reinforced/strengthening portion contiguous with the surfaces defining splines and spaces (31a, 31b) (Answer 3).

We disagree with the Examiner's application of Maruki to the claims. Claim 23 requires that a housing include a sidewall, where the sidewall has "a plurality of spaced splines" and a strengthening member "formed of the sidewall material having a folded over portion." The clutch depicted in Figure 2 of Maruki has a cylindrical member (36) welded to the outer side of a drum (20) (Maruki, col. 2, ll. 46-47). The sidewall of the drum (20) contains grooves (31) (Maruki, col. 1, ll. 36-39). The Examiner has taken the position that the grooves (31) are the "spaced splines" of claim 23 (Answer 3). The sidewall of the drum (20) does not, however, also have a folded-over portion that forms the strengthening member. Rather, the strengthening member is formed by the folded-over sidewall of the cylindrical member (36). We agree with the Appellant that Maruki fails to disclose a sidewall that contains both a folded-over portion that forms a strengthening member and a plurality of spaced splines as recited in claim 23 (Reply Brief 1). The Examiner argues that the weld near the open end of the housing that joins the cylindrical

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member (36) to the drum (20) yields integrally-formed elements resulting in a single monolithic or uniform whole (Answer 4). Even if we were to adopt this position of the Examiner, the limitations of claim 23 would still not be met because the inner surface of the sidewall near the open end would not extend continuously and uninterrupted onto the strengthening member. Using the Examiner's interpretation, the inner surface of the single monolithic sidewall of Maruki would be the inner surface of the wall of drum (20). Maruki does not show this wall extending continuously and uninterrupted onto the folded over portion of the cylindrical member (36). As such, we find that Maruki does not anticipate the invention of claim 23, because it does not disclose a sidewall having "a plurality of spaced splines" and "a strengthening member near the open end that is formed of the sidewall material having a folded over portion" and it does not show "an inner surface of the sidewall near the open end extending continuously and uninterrupted onto the strengthening member and establishing at least one surface of the strengthening member." Accordingly, we do not sustain the rejection of claim 23 and claims 24-28 and 30, which depend from claim 23, under 35 USC § 102(b) as being anticipated by Maruki.

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CONCLUSION

To summarize, the decision of the Examiner to reject claims 23-28 and 30 is reversed.

REVERSED

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