The opinion in support of the decision being entered today is *not* binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JOSEPH J. HARDING

Appeal 2006-3186
Application 10/700,364
Technology Center 3700

Decided: September 12, 2007

Before: TERRY J. OWENS, MURRIEL E. CRAWFORD, and DAVID B. WALKER *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection of claims 12-15. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellant invented a packaging system for providing a controlled quantity of dunnage material for top-filling a container in which one or more objects are packed for shipping (Specification 1).

Claim 12 under appeal reads as follows:

12. A void-fill system for automatically determining and producing an amount of dunnage material sufficient to fill the void left in a container in which one or more objects have been placed, comprising:

a dunnage dispenser which is operable to dispense a controlled amount of a dunnage material;

a void-measuring apparatus which measures the amount of void left in a container after one or more objects have been placed in the container, the void-measuring apparatus being operative to command the dunnage dispenser to dispense a prescribed amount of dunnage material; and

an input device connected to the void-measuring apparatus which enables selection of a void-fill density from a plurality of void-fill densities, and wherein the void-measuring apparatus, in response to a selected void-fill density, varies the amount of dunnage material that the dunnage dispenser is commanded to dispense per measured volume of void, thereby to obtain the selected void-filled density.

The Examiner rejected claims 12 and 14 under 35 U.S.C. § 102(b) as being anticipated by, or in the alternative under 35 U.S.C. § 103 as being unpatentable over Harding.

The Examiner rejected claims 13 and 15 under 35 U.S.C. § 103 as being unpatentable over Harding in view of Hale or Reynolds.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Hale	US 3,819,918	Jun. 25, 1974
Reynolds	US 5,719,678	Feb. 17, 1998
Harding	US 5,871,429	Feb. 16, 1999

Appellant contends that Harding does not disclose or suggest an input device connected to a void-measuring apparatus which enables the selection of a void-fill density from a plurality of void-fill densities.

ISSUE

The issue is whether Appellant has shown that the Examiner erred in finding that Harding discloses or suggests an input device connected to a void-measuring apparatus which enables the selection of a void-fill density from a plurality of void-fill densities.

FINDINGS OF FACT

Appellant's invention is a void-fill system which includes an input device 98 connected to a logic device 76. An operator may select a void fill density from a plurality of void fill densities (Specification 11). Upon the selection of a void-fill density an input or logic device 76 varies the amount of dunnage material to be dispensed per measured volume of void (Specification 11). For example, if minimal protection is needed a less dunnage is dispensed per unit volume but if maximum protection is needed more dunnage is dispensed per unit volume. (Specification 11).

Harding discloses a void-fill system which includes a void volume probe which measures the void volume of a container to determine the volume of padding necessary to fill the container (Harding, col 18, ll. 29-34). The information from the probe is transferred to a logic device 48 (Harding, col. 18, ll. 19-21). The logic device 48 determines the amount of pad and length of pad to produce to adequately cushion the container (Harding, col. 18, ll. 10-14). Harding does not include an input device or logic device which enables the selection of a void-fill density from a plurality of void-fill densities. Harding discloses only one void-fill density i.e., the density necessary to fill the container. Harding does not allow the operator to vary the amount of dunnage to fill the container.

Hale and Reynolds do not disclose an input device which enables the selection of void-fill density from a plurality of void-fill densities.

DISCUSSION

We will not sustain the rejection of claims 12 and 14 under 35 U.S.C. § 102 as anticipated by Harding or in the alternative under 35 U.S.C. § 103 as being unpatentable over Harding. Harding does not disclose nor does Harding suggest an input or logic device which enables an operator to select a void-fill density from a plurality of void-fill densities as required by claims 12 and 14.

We will also not sustain the rejection of claims 13 and 15 under 35 U.S.C. § 103 as being unpatentable over Harding in view of Hale or Reynolds because claims 13 and 15 depend from claims 12 and 14 and thus require the input device which enables an operator to select a void-fill density from a plurality of void-fill densities and neither Hale nor Reynolds remedies the deficiency of Harding.

CONCLUSION

The decision of the Examiner is reversed.

REVERSED

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