

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 JEREMY R. BERNARD,
JOHN L. CAGNEY and JAMES A. MORLEY

Appeal 2006-3393
Application 10/270,862
Technology Center 3700

Decided: May 18, 2007

Before TERRY J. OWENS, ROBERT E. NAPPI, and
ANTON W. FETTING

OWENS, *Administrative Patent Judge*.

ORDER REMANDING TO THE EXAMINER

The Appellants appeal from a rejection of claims 1-9 and 11-18. Claims 10 and 19 stand objected to as dependent from a rejected base claim but allowable if rewritten in independent form, and claim 20 stands allowable. The claims stand rejected as follows: claims 1-6, 8, 9, 11-15, 17 and 18 under 35 U.S.C. § 102(b) as anticipated by Allport (US 6,062,104), and claims 7 and 16 under 35 U.S.C. § 103 as obvious over Allport alone or in view of either Colford (US 5,695,176) or Sisco (US 5,231,893).

For the Board to have jurisdiction over an appeal there must be a claim rejection before the Board. *See* 37 C.F.R. §§ 6 and 134. In a Decision on Petition under 37 C.F.R. § 1.181 mailed August 30, 2005, the Director of Patent Technology Center 3600 vacated the rejections in the Final Rejection (Decision on Petition, last page). The Examiner then issued an Advisory Action mailed October 11, 2005 wherein those rejections were maintained. The Examiner stated in the Advisory Action that the claim limitations upon which the Director's vacatur was based had been deleted by the Appellants (October 11, 2005 Advisory Action 2). The last page of the Advisory Action bears a signature which, the Examiner subsequently stated (Advisory Action mailed February 2, 2006), is that of the Technology Center Director (February 2, 2006 Advisory Action 3). The meaning of that signature is not clear. There is no statement on the record by the Technology Center Director that the Director's vacatur of the Examiner's final rejections has been withdrawn.

We therefore remand the application for the Examiner to obtain on the record a clarification by the Technology Center Director as to whether the Director's vacatur of the Examiner's final rejections has been withdrawn. *See* 37 C.F.R. § 41.50(a)(1)(2004).

We further remand the application for the Examiner to consider applying Allport to the Appellants' independent claims (1 and 11) as follows, and to consider applying Allport similarly, alone or in combination with other prior art, to the dependent claims.

Claim 1

Consider the Appellants' hub to be the entire portion in Allport's figure 1 including peripheral ring 17, concentric annular member 11, disc 13, central hub 15, and the comparable structure on the other side of rotary drive shaft S. Consider the Appellants' guide to be the portion of that structure from concentric annular member 11 to central hub 15 and the comparable structure on the other side of rotary drive shaft S. That portion has a plurality of mounting holes 30 (for bolts 31) formed in a fixed pattern (fig. 3) and adapted to engage shaft S (fig. 1).

Consider the Appellants' damping element on an outer perimeter of the hub to be Allport's intermediate elastomer member 19 (fig. 1).

Consider the Appellants' inertia ring disposed on an outer perimeter of the damping element to be Allport's annular inertia member 18 (fig. 1).

Consider the Appellants' reinforcing plate on the hub to be Allport's support ring 28 (fig. 1). Threaded fasteners (bolts 31) secure, through holes (30) in the ring and the guide (fig. 1), that ring and the above-discussed portion that corresponds to the Appellant's guide.

Claim 11

Consider the Appellants' pilot to be the portion of the above-discussed hub structure from concentric annular member 11 to central hub 15, and the corresponding structure on the other side of shaft S. That portion includes a platform (concentric annular member 11, disc 13 and central hub 15) disposed on a cylindrical wall (peripheral ring 17),¹ has a plurality of

¹ The Appellants' platform likewise is integral with the cylindrical wall (fig. 4).

mounting holes (30, for bolts 31) formed in the platform in a fixed pattern (fig. 3), and engages shaft S (fig. 1).

Consider the Appellants' reinforcing plate disposed on the hub to be Allport's support ring 28. That ring has a plurality of holes (30, for bolts 31) formed in a fixed pattern (fig. 3) such that threaded fasteners (31) secure the platform between the ring and shaft S (the central hub 15 portion of the platform is between the ring and shaft S (fig. 1)) through holes (30) in the ring and the platform portion of the hub (fig. 1).

This remand to the Examiner includes an order for further consideration of a rejection. Accordingly, 37 CFR § 41.50(a)(2) applies if a supplemental Examiner's answer is written in response to this remand by the Board.

REMANDED

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