UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SCOTT D. ROGERS

Appeal 2007-0514
Application 10/394,641
Technology Center 1700

Decided: February 8, 2007

Before HANLON, TORCZON and SPIEGEL, *Administrative Patent Judges.*

SPIEGEL*, Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1 through 4 and 14. Claims 5 through 13, the only other claims pending in the application, have been indicated to be allowable by the Examiner.

I. INTRODUCTION

Claims 1, 2 and 14 are illustrative of the subject matter on appeal and read as follows (emphasis added).

1. An interlocking mat system for temporary support structures comprising:

a plurality of uniformly sized rigid mats;

along at least one side and one end of said mats, the perimeter of said mats being sloped upward from the bottom of said mats to form a upper lip;

at least one opposite side and opposite end of said mats is sloped downward from top of said mats to form a lower lip;

the angle to which said mat edges are sloped to form said lips being substantially the same thus allowing for the overlapping of said upper and lower lips about the edges of said mat with respective like lower and upper lips of other like mats when placed adjacent thereto for joining therewith by which said overlapping mats form a generally flat continuous top and bottom surface; and,

said overlapping mats' lips are secured together by an attachment means.

2. The mat system of claim 1 wherein

the attachment means is **a composite integral fit joint, a snap fit joint or an integral design feature joint** in which the joint is held together by material interference with the contacting surfaces of the overlapping lips.

14. An interlocking mat system for temporary support structures comprising:

a plurality of uniformly sized rigid mats;

said mats are manufactured from one piece molded construction;

a top surface plate and said top surface plate affixed to said mats' top by attachment means; and

bottom surface plate and said bottom surface plate affixed to said mats' bottom by attachment means.

two adjoining edges about the perimeter of said mats being recessed from the bottom of said mats to form adjoining upper lips and lower risers along one side and one end of said mats;

wherein the remaining two adjoining edges about the perimeter of said mats being recessed from top of said mats to form adjoining lower lips and upper risers along the opposite side and opposite end of said mats;

wherein the depth to which said mat edges are recessed to form said lips about the entire perimeter of said mats being substantially the same such that two diagonally opposite corners of said mat are removed in the areas where said upper lips would otherwise intersect with said lower lips, thus allowing for the overlapping of said upper and lower lips about the edges of said mat with respective lower and upper lips of other like mats when placed adjacent thereto for joining therewith by which said overlapping mats have a generally flat continuous top and bottom surface;

said upper lips slope downward from edge of said mat to lower risers and said lower lips slope upward from edge of said mat to upper risers;

said overlapping mats' lips are secured together by **a composite integral fit joint, a snap fit joint or an integral design feature joint** in which the joint is held together by material interference with the contacting surfaces of the overlapping lips to produce a flush surface

between the adjoining lips and providing a generally continuous flat upper and lower mat surface.

said upper and lower lips have openings at spaced intervals along said lips to allow for alignment of said openings in said overlapping mats to receive a captive locking pin.

We make reference to the Appellant's Appeal Brief ("Brief," filed March 20, 2006) and to the Examiner's Answer ("Answer," mailed June 6, 2006).

The Examiner relies on the following references in her rejection:

Steaux	US 6,511,257	Jan. 28, 2003 (filed 31 May 2000)
Reese, Jr.	US 5,667,866	Sep. 16, 1997

Appellant's application was filed on March 21, 2003 and claims priority to provisional application 60/366,729, filed March 22, 2002. Steaux and Reese, Jr. qualify as prior art under 35 U.S.C. § 102(e) and 102(b), respectively.

II. ISSUES

Claims 1-3 stand rejected under 35 U.S.C. § 102(e) as anticipated by Steaux. Claims 4 and 14 stand rejected under 35 U.S.C. § 103(a) over Steaux in view of Reese, Jr.

III. GROUPING OF CLAIMS

Appellant has not presented separate patentability arguments for claims 3 and 4, both of which depend from claim 1. Therefore, we decide this appeal on the basis of claims 1, 2, 4 and 14. 37 CFR § 41.37(b)(viii).

IV. DISCUSSION

A. The prior art

Seaux describes an interlocking mat system comprising a plurality of uniformly sized, rigid mats (col. 1, ll. 19-34; figs. 3, 4 and 10). Figures 3 and 4 show top plan and side views, respectively, of an individual mat **20** (col. 7, ll. 21-24). The mat comprises mirror-image upper **21** and lower **22** half-pieces which are mutually offset and affixed to each other, thereby defining upper peripheral extensions **25***a* and **25***b* on two adjacent edges of the mat and lower peripheral extensions **26***a* and **26***b* on the remaining two adjacent edges (col. 8, ll. 16-28 and ll. 36-42; figs. 4 and 3, respectively). The peripheral edges of the upper and lower half-pieces, **27** and **28**, respectively, are chamfered (i.e., beveled) at substantially the same angle along the full extent of the half pieces (col. 8, ll. 28-31; fig. 4). When two mats are placed together laterally, upper peripheral extension **25***a* of one mat overlaps lower peripheral extension **26***a* of the other mat (col. 8, ll. 41-45). Similarly, if the two mats are placed together longitudinally, upper peripheral extension **25***b* of one mat overlaps lower peripheral extension **26***b* of the other mat (col. 8, ll. 45-49). Joining a plurality of individual mats together provides a generally continuous and smooth roadway or other support surface (col. 10, ll. 1-5; fig. 10). According to Seaux, the overlap/underlap relationship shared by the offset peripheral edges of adjoining mats provides increased frictional contact between mats which helps prevent separation of the mats (col. 10, ll. 1-10). Further according to Seaux, in many applications, the frictional contact is enough to keep the individual mats in contact with one another so that gaps will not develop between the mats (col. 10, ll. 11-13). However, recessed slots may be provided in the peripheral edges of the mats so that slots of adjoining mats may be aligned and clamped together with pins (col. 10, ll. 13-29; fig. 10, peg **90**).

Reese, Jr. describes affixing top **18** and bottom **24** surface plates to a core mat **12** to improve the load carrying properties of the mat (col. 1, ll. 6-10; col. 3, ll. 37-38 and 43-44; fig. 1). The top plate is made to withstand greater compressive forces, while the bottom plate provides enhanced tensility (col. 2, ll. 1-4).

B. The anticipation rejection of claims 1-3 over Seaux

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Appellant argues that Seaux fails to describe "overlapping sloping lips" of claim 1 (i.e., claim 1 requires "along at least one side and one end of said mats, the perimeter of said mats being sloped upward from the bottom of said mats to form a upper lip" and "at least one opposite side and opposite end of said mats is sloped downward from top of said mats to form a lower lip") (Brief, p. 6, para. 2). Appellant contends that the upper and lower peripheral extensions of Seaux (25 and 26) are described as planar, not sloped, and that the "chamfered" peripheral edges (27 and 28) of the upper and lower half-pieces of the mat are not a peripheral extension or lip (Brief, p. 6, para. 2). Appellant also maintains that Seaux does not describe the chamfered peripheral edges as forming part of the peripheral extension (Brief, p. 7, para. 3). The Examiner, however, contends that the claimed "sloping lips" does read on the chamfered (sloped) peripheral extension (lip) of Seaux because Appellant "did not claim that the upper and lower lips consist of just slopes but that the slopes merely form upper and lower lips giving room for the extended back part of the lip to also be considered as the upper and lower lips" (Answer, p. 7, para. 1).

During examination of a patent application, claims are given their broadest reasonable construction consistent with the specification. *In re Zletz*, 893 F.2d 319, 320-21, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). Further, while claims are read in light of the specification, specification limitations are not read into the claims. *Id*. Here, Appellant has not explained why the Examiner's interpretation of the claim term "lip" is in error or is inconsistent with Appellant's specification. Moreover, as noted by the Examiner, the claimed "lip" does not require any particular type of sloping or overlapping, e.g., that there be a continuous slope from the outer edge of the lip to where the lip meets the main body of the mat. Therefore, Appellant's argument that Seaux fails to describe "overlapping sloping lips" is not convincing. Furthermore, Appellant's argument that Seaux fails to describe the chamfered peripheral edges of the upper and lower half-pieces of the mat as part of the peripheral extension does not persuade us otherwise. Insofar as Seaux describes the edges of the mat half-pieces as forming the peripheral edges and the edges of the mat half-pieces as being chamfered, Seaux describes the peripheral edges as being chamfered. Accordingly, we affirm the decision of the Examiner to reject claims 1 and 3 under § 102(e) as anticipated by Seaux.

As to claim 2, Appellant argues that Seaux does not describe an integral joint (i.e., claim 2 requires that "the attachment means is a composite integral fit joint, a snap fit joint or an integral design feature joint in which the joint is held together by material interference with the contacting surfaces of the overlapping lips") (Brief, p. 8, para. 2). According to Appellant, the claimed integral joint does not require any separate attachment devices, e.g., stakes, pegs or other clamping means, as described by Seaux, to keep individual mats with sloped lips from sliding

apart (*id*., p. 8, para. 3). However, the Examiner is of the opinion that the "material interference" holding the joint together with the contacting surfaces of the overlapping lips reads on the separate devices described by Seaux (Answer, p. 8, para. 1). The Examiner explicitly identifies "figure 10 number 90" in Seaux as describing "an integral design feature joint, in which the joint is held together by material interference with the contacting surfaces of the overlapping lips" (*id*., p. 4, para. 1).

According to Appellant's specification (p. 10, ll. 10-16),

> [t]here are many well known means to assemble composite components such as composite integral fit joints, snap fit joints and integral design feature joints in which the joint is held together by material interference with the contacting surfaces. For example, the overlapping lips can be interlocked [sic, via] a mortise and tenon joint. Alternatively and additionally, the mat's overlapping lips can be secured together by any type of fastening device, stakes, bolts, screws, pins, clamps, peg or external fastening means.

The Examiner's interpretation of "material interference" is inconsistent with Appellant's specification. According to Appellant's specification, "material interference" is not an external or separate device. External or separate fastening devices, such as the pegs illustrated in Seaux "figure 10 number 90," are expressly described in Appellant's specification as alternative and addition to material interference joints. Finally, a peg is not a joint and, therefore, the Examiner has failed to explain where Seaux describes a mat having an integral design feature joint as claimed. Accordingly, we reverse the decision of the Examiner to reject claim 2 under § 102(e) as anticipated by Seaux.

C. The obviousness rejection of claims 4 and 14 over Seaux in view of Reese, Jr.

Establishing a prima facie case of obviousness not only requires some suggestion or motivation to combine the reference teachings and a reasonable expectation of success, but also the prior art must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). According to the Examiner, the only difference between the claimed invention and Seaux is that Seaux fails to disclose a mat having top and bottom surface plates attached thereto (Answer, p. 5, para. 3). However, claim 14, like claim 2, requires "a composite integral fit joint, a snap fit joint or an integral design feature joint in which the joint is held together by material interference with the contacting surfaces of the overlapping lips." The Examiner has failed to establish that Seaux describes a mat having an integral design feature joint as claimed for the reasons given above explaining why Seaux does not anticipate claim 2. The Examiner does not allege, and we do not find, where Reese, Jr. addresses this deficiency in Seaux. Accordingly, we reverse the decision of the Examiner to reject claim 14 as unpatentable under § 103(a) over Seaux in view of Reese, Jr. It is not necessary to our decision to address Appellant's argument that "the Examiner failed to address the language of Claim 14 that the lip slopes from the riser to the mat's edge" (Brief, p. 10, para. 3).

Claim 4 is dependent upon claim 1 are requires the mat to be manufactured from one piece molded construction and have top and bottom surface plates affixed thereto by attachment means. The Examiner argues that it would have been obvious to one of ordinary skill in the art at the time Appellant's invention was made to affix top and lower surface plates to the

mat described by Seaux in order to allow the mat to withstand greater compressive forces (top plate) and to provide enhanced tensility (bottom plate) as taught by Reese, Jr. (Answer, p. 6, para. 1). Appellant does not contest the obviousness of affixing top and lower surface plates to the mat of claim 1 in view of the disclosure of Reese, Jr. Appellant simply reiterates its arguments regarding the asserted deficiencies of Seaux vis-à-vis claim 1. Therefore, we reiterate our reasons as to why these arguments are unpersuasive vis-à-vis claim 1. Accordingly, since Apellant has not provided separate patentability arguments in regard to claim 4, we affirm the decision of the Examiner to reject claim 4 under § 103(a) as obvious over Seaux in view of Reese, Jr.

V. CONCLUSION

In conclusion, the decision of the Examiner (a) to reject claims 1 and 3 under 35 U.S.C. § 102(e) as anticipated by Seaux is affirmed, (b) to reject claim 2 under 35 U.S.C. § 102(e) as anticipated by Seaux is reversed, (c) to reject claim 4 under 35 U.S.C. § 103(a) as obvious over Seaux in view of Reese, Jr. is affirmed and (d) to reject claim 14 under 35 U.S.C. § 103(a) as obvious over Seaux in view of Reese, Jr. is reversed.

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

AFFIRMED-IN-PART; REVERSED-IN-PART

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