

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 UWE MILITZ
and CHRISTIAN SCHMIDT

Appeal 2007-0827
Application 10/220,682
Technology Center 3600

Decided: April 30, 2007

Before EDWARD C. KIMLIN, CHARLES F. WARREN, and THOMAS A. WALTZ, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

ORDER REMANDING TO THE EXAMINER

This is an appeal from the final rejection of claims 12-23. Claim 12 is illustrative:

12. A device for securing a vehicle antenna to a vehicle body, comprising:

a plurality of projections that engage behind an orifice in the vehicle body for introducing the device on a side of the vehicle body facing away from the vehicle antenna;

wherein:

the projections are situated in such a way that the device, together with the projections, is introducible into the orifice in predetermined position with respect to the orifice, and

the projections engage behind the orifice by rotation of the projections with respect to the side of the vehicle facing away from the vehicle antenna after introduction into the orifice.

Appellants' claimed invention is directed to a device for securing a vehicle antenna to a vehicle body. The device comprises a plurality of projections that engage behind an orifice in the vehicle body by rotation of the projections with respect to the side of the body facing away from the antenna.

Appealed claims 12-23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Chadowski.

The Examiner appreciates that the device of Chadowski for securing an antenna to a vehicle body comprises a nut 6 for effecting the securement of the antenna to the body. Appellants' sole argument is that projections (27) of Chadowski do not engage behind the orifice by rotation of the projections with respect to the side of the vehicle facing away from the antenna.

Appellants submit that nut (6) is rotated, not the projections.

The Examiner agrees with Appellants that rotation of nut (6) results in engaging projections (27) against the vehicle body, but explains that "the holding of the nut in place with an appropriate tool, such as a wrench, and

the turning of the antenna, would also achieve the engagement of the projections (27) with the vehicle body, the projections also rotating with the antenna and with respect to the vehicle body" (page 5 of Answer, second para.).

Appellants respond to the Examiner's rationale by stating that the Examiner's "assertions are not only unsubstantiated, but plainly wrong since Chadowski explicitly [sic] states that the nut (6) is 'rigidly secured' to the lower section 3 of the antenna," citing the reference at column 2, lines 22-24 (page 2 of Reply Br., last para.). Appellants contend that "the antenna and the nut 6 cannot be rotated independently of one another, as suggested by the Examiner, but instead, rotate in unison to upwardly lift the clamping fingers 27 into their locking position" (page 3 of Reply Br., first sentence). Appellants maintain that "the rotation of the nut 6 and/or the antenna merely threads the lower portion 39 of the actuating element 37a through the bushing 33 to lift rather than rotate the clamping fingers 27" (page 3 of Reply Br., first para.).

We note that while the Examiner noted and entered Appellants' Reply Brief, the Examiner did not respond to Appellants' argument in the Reply Brief.

Accordingly, this application is remanded to the Examiner to afford her the opportunity of responding to the pertinent argument alleged by Appellants in the Reply Brief.

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This remand to the Examiner pursuant to 37 C.F.R. § 41.50(a)(1) is made for further consideration of a rejection. Accordingly, 37 C.F.R. § 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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