

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROLF MEINHARD and MATTHIAS SCHNEIDER

Appeal 2007-1794
Application 10/847,748
Technology Center 3600

Decided: December 13, 2007

Before WILLIAM F. PATE, III, JENNIFER D. BAHR, and ANTON W. FETTING *Administrative Patent Judges.*

BAHR, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Rolf Meinhard and Matthias Schneider (Appellants) originally appealed under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1 through 18. The Examiner withdrew the rejections of claim 17 under 35 U.S.C. §102(b) as anticipated by Beneton and of claims 8-10 and 18 under 35 U.S.C. §103(a) as unpatentable over Beneton in view of Doman (Ans. 2, ¶ 6). Accordingly, this appeal involves only claims 1-7 and 11-16. We have jurisdiction over this appeal under 35 U.S.C. § 6 (2002).

THE INVENTION

Appellants' invention is directed towards a drive train including an engine (2), a transmission (4), and a clutch assembly (3, 103) for transmitting torque between the engine (2) and the transmission (4) (Spec. 6, ¶ 26 and fig. 1). The clutch assembly (103) includes two friction clutches (173, 174) for connecting an input drive shaft (151) to at least one output shaft (input transmission shafts 152, 153) and a clutch actuating mechanism (185) for axially moving the two friction clutches (173, 174) (Spec. 7-8, ¶¶ 36 and 38 and fig. 2). The clutch assembly (103) is furthermore supported by an axially flexible disk part (207), an antifriction bearing (187), and a screw (211) connecting the axially flexible disk part (207) to the transmission housing (206) (Spec. 10, ¶ 44 and fig. 2).

Claim 1, the only independent claim in the instant appeal, reads as follows:

1. A drive train comprising:
 - an engine;
 - a transmission having a transmission housing;
 - at least one input shaft; and
 - a clutch assembly selectable for transmitting torque between the engine and the transmission, the clutch assembly including at least one friction clutch, the clutch assembly being supported on the transmission housing so that the clutch assembly is radially fixed and displaceable in an axially limited manner.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

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Appellants seek review of the Examiner's rejection of claims 1 through 7 and 11 through 16 under 35 U.S.C. § 102(b) as anticipated by Beneton.

The Examiner provides reasoning in support of the rejection in the Answer (mailed November 2, 2006). Appellants present opposing arguments in the Appeal Brief (filed August 9, 2006) and the Reply Brief (filed December 7, 2006).

OPINION

Appellants argue all the claims rejected under 35 U.S.C. § 102(b) together as a group. Therefore, in accordance with 37 C.F.R. 41.37(c)(1)(vii), we have selected claim 1 as the representative claim to decide the appeal of the anticipation rejection, with claims 2 through 7 and 11 through 16 standing or falling with claim 1.

Appellants' argument as to why Beneton does not anticipate claim 1 is that Beneton does not disclose a clutch assembly that is supported on the transmission housing such that the clutch assembly is (1) radially fixed; and (2) displaceable in an axially limited manner (App. Br. 3 and Reply Br. 2). "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 (Fed. Cir. 1987).

The Examiner finds that Figures 1 and 2 of Beneton disclose a drive train including an engine (2), a transmission (4) having a transmission housing (206), a clutch assembly (103) including at least one friction clutch (171, 172), a support antifriction bearing (187), an actuating mechanism (185), and an axially flexible disk part (207) (Ans. 3).

With regard to Appellants' first argument, we agree with the Examiner that the clutch assembly is supported on the transmission housing. “[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (en banc). Being “supported” means “to hold up or serve as a foundation or prop for” (*Merriam Webster’s Collegiate Dictionary* 1184 (Tenth Ed. 1997)). The term “fixed” is used to show that an object is “securely placed or fastened... immobile” (*Merriam Webster’s Collegiate Dictionary* 441 (Tenth Ed. 1997)). Hence, the limitation of the clutch assembly being “supported” on the transmission housing does not require that the clutch assembly be “fixed” on the transmission housing with the aid of a screw or fastener as Appellants’ arguments seem to imply. As such, we find that the clutch assembly of Beneton is “supported” on the transmission housing (206) by the axially flexible disk part (207), the antifriction bearing (187), the non-rotatable member (203), and the connection (208) (col. 9, ll. 5-27 of Beneton). Furthermore, from Figure 2 of Beneton, it appears to us that the radial extension of connection (208) and its engagement with transmission

housing (206) in conjunction with the antifriction bearing (187) and non-rotatable member (203) radially fixes (securely places) the clutch assembly. While Appellants correctly point out that Beneton's arrangement achieves centering (App. Br. 4, Reply Br. 2), this in no way demonstrates that Beneton's clutch assembly is not radially fixed relative to the transmission housing. In particular, the clutch assembly of Beneton cannot move radially because connection (208) includes a circular array of male components that are engaged with transmission housing (206) (col. 9, ll. 22-32 of Beneton), thereby preventing radial movement in all radial directions. Therefore, we agree with the Examiner that the clutch assembly of Beneton is radially fixed.

With regard to Appellants' second argument, we find that the clutch actuating mechanism (185) allows for axial motion of the two friction clutches (171, 172). Specifically, actuating means (188) and (194) of actuating mechanism (185) allows axial motion of the two friction clutches (171, 172) (col. 7, ll. 27-53 of Beneton). Otherwise, if axial displacement of the friction clutches in Beneton were not possible, as Appellants argue, clutch assembly (103) would not be able to selectively transmit torque between the engine (2) and the transmission (4), and hence the invention of Beneton would not function as described. Hence, we agree with the Examiner that the clutch assembly of Beneton is displaceable in an axially limited manner.

For the foregoing reasons, Appellants' arguments do not persuade us the Examiner erred in rejecting claim 1 as anticipated by Beneton. The rejection of claims 1 through 7 and 11 through 16 is sustained.

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SUMMARY

The decision of the Examiner to reject claims 1 through 7 and 11 through 16 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2006).

AFFIRMED

JRG

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