

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 RUSSELL POINTON

Appeal 2007-3304
Application 10/488,775
Technology Center 3600

Decided: August 21, 2007

Before DONALD E. ADAMS, LORA M. GREEN, and NANCY J. LINCK,
Administrative Patent Judges.

GREEN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1 and 9. We have jurisdiction under 35 U.S.C. § 6(b). The claims read as follows:

1. A display device including, a planar element having a face adapted to carry for display purposes an image or images, the planar element being formed of a flexible or resilient material and being secured to or being adapted to be connected to a securing means by which the device is adapted

to be supported on a leg of a human body so that said face is visible, the device having means to ensure that the face remains substantially flat enough for the images to remain viewable during normal movement of the body and normal external forces, wherein the material of the planar element is inherently of sufficient stiffness to lie against the leg, in use, but is not so stiff as to cause injury if another person collides with the person wearing the device, and wherein the securing means comprises a substantially non-resilient tie or resilient band from which, in use when mounted on a leg, the planar element depends, and which serves to secure the planar element to the leg.

9. A device according to claim 1, wherein the planar element is double-sided.

The Examiner relies upon the following reference:

Raeburn US 3,020,558 Feb. 13, 1962

We affirm.

DISCUSSION

Claims 1 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Raeburn.

As Appellant does not argue the claims separately, we focus our analysis on independent claim 1. Due to its brevity, the entire rejection is set forth below.

Raeburn teaches a sash comprising a planar element . . . having a face adapted to carry for display purposes an image or images, the planar element being formed of a flexible woven sash material and is secured to securing means such as a belt . . . by which the device is adapted to be supported on a human body so that the face is visible. The sash has means comprising a loop member . . . to ensure that the face remains substantially flat enough for the images to remain viewable during normal movement of the body and normal external forces. (See column 3, lines 25- 35).

(Answer 4.)

“It is well settled that a claim is anticipated if each and every limitation is found either expressly or inherently in a single prior art reference.” *Celeritas Techs. Ltd. v. Rockwell Int’l Corp.*, 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522 (Fed. Cir. 1998). We find that Raeburn teaches each and every limitation of claim 1, as set forth by the Examiner, and the rejection is affirmed.

In the case before us, Appellant is arguing that the sash of Raeburn, as it is made from a woven material, allows the tassel to hang freely from the waist of the wearer (Br. 5). Therefore, Appellants assert, the tassel does not lie against the leg and remain upright and viewable during normal movement of the wearer (Br. 5). According to Appellant:

Claim 1 of the present application had been previously amended to clarify that the material of the planar element is of *sufficient stiffness to lie against the leg and allow the images to remain viewable during normal movement of the wearer*. As described in the specification of the present application and mentioned above, the planar element could be “formed of a flexible or resilient material such as polyester which is sufficiently stiff or is treated to be sufficiently stiff to ensure that, in normal circumstances such as normal movement or normal external forces such as the wind, it lies against the leg of the wearer in a sufficiently flat manner that the images remain viewable at all times . . .” In other words, the material is *not* free to move like the tassel member . . . described [by] Raeburn.

(*Id.* at 5-6 (emphasis in original).)

All that is required by claim 1 is that material of the planar element be “of sufficient stiffness to lie against the leg, in use” such that “the images to remain viewable during normal movement of the body and normal external

forces.” All that is taught by the Specification is that the “planar element . . . is formed of a flexible or resilient material such as polyester which is sufficiently stiff or is treated to be sufficiently stiff to ensure that, in normal circumstances such as normal movement or normal external forces such as the wind, it lies against the leg in a sufficiently flat manner that the images remain viewable at all times, but is not so stiff as to cause injury if another person collides with the wearer.” (Specification 3.) Therefore, as taught by the Specification, while the image must remain viewable, there is still a certain amount of flexibility in the planar element, such as flexibility imparted by a material such as polyester.

Raeburn teaches that the sash and tassel are made from “woven sash material.” (Raeburn, col. 2, ll. 46-49.) Raeburn further teaches, as quoted by the Examiner (Answer 5, quoting Raeburn col. 3, ll. 25-35), that “[t]his looped area maintains the tassel member in position.” Thus, in conjunction with the looped area, the woven sash material is of sufficient stiffness that it allows the tassel member, which hangs below the sash, to maintain its position. Raeburn therefore does teach that the woven material of the sash and tassel are “of sufficient stiffness to lie against the leg, in use” such that “the images . . . remain viewable during normal movement of the body and normal external forces.”

CONCLUSION

In summary, we find that Raeburn anticipates appealed claims 1 and 9, and the rejection is affirmed.

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

AFFIRMED

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STITES & HARBISON, PLLC
400 W MARKET STREET
SUITE 1800
LOUISVILLE, KY 40202-3352