UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LG ELECTRONICS INC.

Appeal 2007-4122
Reissue Application 10/994,217
Patent 6,116,061
Technology Center 1700

Decided: 24 April 2008

Before TEDDY S. GRON, ADRIENE LEPIANE HANLON, and CAROL A. SPIEGEL, *Administrative Patent Judges*.

GRON, *Administrative Patent Judge*.

DECISION ON APPEAL

Introduction

This is an appeal under 35 U.S.C. § 134 from an Examiner's final rejections of Claims 3-10 and 13-15[1] of Reissue Application 10/994,217, filed November 18, 2004. The patentee requests reissue of U.S. Patent 6,116,061 (hereafter OH), which issued September 12, 2000, from

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[1] "Claims 1, 2, 11 and 12 have been canceled" (Amended Appeal Brief under 37 C.F.R. § 41.37, page 5 (App. Br., p. 5)).

Application 08/984,025, filed December 3, 1997. Claims 3-10 and 13-15 stand rejected under 35 U.S.C. § 112, second paragraph, for not particularly pointing out and distinctly claiming the subject matter which the Applicant regards as his invention. Claims 3-5, 10, and 13-15 stand rejected under 35 U.S.C. § 102(b) over:

Cur et al. (CUR),	U.S. 4,987,627,	issued Jan. 1991;
Pastryk et al. (PASTRYK)	U.S. 5,167,722	issued Dec. 1991;
Pastryk et al. (PASTRYK)	U.S. 5,031,427	issued July 1991;
Pastryk et al. (PASTRYK)	U.S. 4,986,093	issued Jan. 1991.

Claims 4-5, 10, 13 and 15 stand rejected under 35 U.S.C. § 102(b) over:

Brenner et al. (BRENNER),	U.S. 4,784,666,	issued Nov. 1988.

Claims 6-10 stand rejected under 35 U.S.C. § 103 in view of the combined teachings of CUR and JAPAN 3-168195, published July 1991 (English translation (ET) of record), or PASTRYK and JAPAN 3-168195.

The Examiner concedes, and Appellant does not deny, that the PASTRYK patents "are substantially cumulative to Cur" (Examiner's Answer (Ans), pp. 4-5, bridging sentence; App. Br. e.g., 18-19 and 24). Therefore, the rejections over, or in view of, the PASTRYK patents stand or fall with the rejections over, or in view of, CUR. Appellant's traverse of the Examiner's rejections under 35 U.S.C. § 103 in view of the combined prior art teachings including JAPAN is based entirely on the argument that "the Japanese Patent Publication does not supply the deficiencies of CUR, or the other cumulative references" (Amended Appeal Brief (App. Br.), p. 24). Accordingly, the rejections under 35 U.S.C. § 103 stand or fall with the rejections under 35 U.S.C. § 102 over CUR.

Claims 3, 4, and 13 are representative of the subject matter claimed and are reproduced below (App. Br. Claims On Appeal):

3. A washing machine, comprising:

[a] an outer tub;

[b] an inner tub located inside the outer tub and configured to hold cloth;

[c] fluid supplying means for pumping fluid from the outer tub such that the fluid is sprayed directly onto cloth in the inner tub;

[d] fluid storing means, located at the bottom of the outer tub, for storing fluid and for providing the stored fluid to the fluid supplying means, wherein the washing machine is configured such that during a first washing cycle, the inner tub rotates, and fluid is sprayed directly onto cloth in the inner tub by the fluid supplying means, wherein the washing machine is configured to vary a rotational speed of the inner tub during the first washing cycle, and wherein varying the rotational speed of the inner tub causes the fluid to change a path it takes in passing through cloth in the inner tub;

[e] a pulsator located in the inner tub, wherein the pulsator is selectively activated; and

[f] wherein the washing machine is configured such that during a second washing cycle, the pulsator is activated while the inner tub is held stationary.

4. A washing machine, comprising:

[a] an outer tub;

[b] an inner tub located inside the outer tub and configured to hold cloth;

[c] fluid supplying means for pumping fluid from the outer tub such that the fluid is sprayed directly onto cloth in the inner tub;

[d] fluid storing means, located at the bottom of the outer tub, for storing fluid and for providing the stored fluid to the fluid supplying means, wherein the washing machine is configured such that during a first washing cycle, the inner tub rotates, and fluid is sprayed directly onto cloth in the inner tub by the fluid supplying means, wherein the washing machine is configured to vary a rotational speed of the inner tub during the first washing cycle, and

wherein varying the rotational speed of the inner tub causes the fluid to change a path it takes in passing through cloth in the inner tub; and

[e] wherein the fluid storing means includes an inlet connected to the outer tub, and an outlet for supplying fluid to the fluid supplying means.

13. A washing machine, comprising:

[a] an outer tub;

[b] an inner tub located inside the outer tub and configured to hold cloth;

[c] a fluid supplying device that is configured to pump fluid from the outer tub such that the fluid is sprayed into the inner tub;

[d] a fluid storing device that is configured to store fluid and to supply the stored fluid to the fluid supplying device, wherein the washing machine is configured such that during a first washing cycle, a fluid level in the outer tub is maintained below the inner tub, and such that a travel path of fluid sprayed into the inner tub by the fluid supplying device varies during the first washing cycle in response to changes in a rotational speed of the inner tub;

[e] a pulsator located in the inner tub, wherein the pulsator is selectively activated; and

[f] wherein the washing machine is configured such that during the first washing cycle, the inner tub rotates, and such that during a second washing cycle, the pulsator is activated.

We AFFIRM all the Examiner's final rejections under 35 U.S.C. §§ 102 and 103 and REVERSE the rejection under 35 U.S.C. § 112, second paragraph.

Discussion

Patentability determinations under 35 U.S.C. §§ 102/103 should not be based on speculation and assumptions as to the scope of the claims. *In re Steele*, 305 F.2d 859, 862 (CCPA 1962). Thus, claim interpretation is our first step in review of the final rejections. "[I]n proceedings before the PTO,

claims in an application are to be given their broadest reasonable interpretation consistent with the specification." *In re Sneed*, 710 F.2d 1544, 1548 (Fed. Cir. 1983).

1. Rejections under 35 U.S.C. § 112, second paragraph

The Examiner argues that the phrase "wherein the washing machine is configured to vary a rotational speed in the inner tub during the first washing cycle, and wherein varying the rotational speed of the inner tub causes the fluid to change a path it takes in passing through cloth in the inner tub" in independent Claims 3, 4, 6, and 10, and the phrase "wherein the washing machine is configured such that during a first washing cycle, a fluid level in the outer tub is maintained below the inner tub, and such that a travel path of fluid sprayed into the inner tub by the supplying device varies during the first washing cycle in response to changes in a rotational speed of the inner tub" in independent Claims 13 and 15, are vague and indefinite. Given that the language "is configured" is not specifically defined in the Specification, the Examiner questions whether the configuration is mechanical or electrical (Ans., p. 3). Left with that question unanswered, the Examiner concludes that the Appellant's claims do not particularly point out and distinctly claim the subject matter the Applicant regards as his invention, as is required under 35 U.S.C. § 112, second paragraph. However, the Examiner proceeds to examine the full scope of the claimed subject matter with the understanding that "the 'configured' language reads on the mechanical configuration of the claimed apparatus" (Ans., p. 4).

Appellant responds that the claim language is not vague and indefinite. Specifically, the Appellant maintains that one having ordinary skill in the art of washing machines at the time of Appellant's invention

"would certainly have known how to configure an electrical or electro-mechanical control for the washing machine motor, and/or mechanical drive components of the inner tub 3 such that the washing machine would be 'configured' to change or vary the rotational speed of the inner tub 3 as recited in Appellants' [sic] independent claims" (App. Br., p. 13, second para.). The Appellant further submits that at the time of Appellant's invention, one of ordinary skill in the art would have known of various ways to control the motor of a washing machine, any of which would result in a change or variation in the speed of the inner tub (App. Br., p. 15). The Appellant cites exemplary prior art for support (App. Br., p. 15). Thus, Appellant appears to urge that, given the state of the art of record and the level of ordinary skill in the art, the scope and content of the subject matter claimed is sufficiently clear to allow persons having ordinary skill in the art to understand the full scope of the subject matter claimed and allow the Examiner to compare it to the prior art subject matter.

We remind the Examiner that, under U.S. patent laws "the subject matter . . . set out [in the claims] must be presumed, in the absence of evidence to the contrary, to be that 'which the applicant regards as his invention.'" *In re Moore*, 439 F.2d 1232, 1235 (CCPA 1971). The Examiner points to no contrary evidence.

Moore teaches, 439 F.2d at 1235:

> [D]efiniteness of the language employed must be analyzed--not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art.

Furthermore, breadth is not to be equated with indefiniteness. *In re Miller*, 441 F.2d 689, 693 (CCPA 1971).

Based on the record before us, it is reasonable to conclude that the phrase "wherein the washing machine is configured to vary a rotational speed in the inner tub" encompasses any electrical and/or mechanical elements known to change or vary the rotational speed of the inner tub.

Next, independent Claims 3, 4, 6, and 10 recite the following functional language, "wherein varying the rotational speed of the inner tub causes the fluid to change a path it takes in passing through cloth in the inner tub," and independent Claims 13 and 15 recite the following functional language, "such that a travel path of fluid sprayed into the inner tub by the supplying device varies during the first washing cycle in response to changes in a rotational speed of the inner tub."

All claims on appeal are directed to a washing machine. No process claims with process steps stand before us. In that light, to the extent the phrases contain process limitations, the limitations may or may not functionally distinguish the claimed machine from prior art machines which are capable of performing the same function. The structural elements which comprise the claimed washing machine may or may not differ from the structural elements of the prior art washing machines, depending on the functional language. *In re Pearson*, 494 F.2d 1399, 1403 (CCPA 1974) (terms which recite intended use may or may not distinguish the new thing from the old thing).

We conclude that "varying the rotational speed of the inner tub causes the fluid to change a path it takes in passing through cloth in the inner tub" and varying the "travel path of fluid sprayed into the inner tub by the supplying device . . . during the first washing cycle in response to changes in a rotational speed of the inner tub" do not differentiate the electrical and/or

mechanical elements of the claimed washing machine from the electrical and/or mechanical elements of the prior art washing machines cited by the Appellant. The results of varying the rotation of the inner tub or the machine's responses to changes in a rotational speed of the inner tub necessarily occur when washing machines are "configured to vary a rotational speed of the inner tub during the first washing cycle" (App. Br., Claims On Appeal, Claims 3, 4, 6, and 10).

Finally, we ask what the phrase "during [the/a] first washing cycle" means. The claimed washing machine is "configured to vary a rotational speed of the inner tub 'during the first washing cycle'" (App. Br., Claims on Appeal; Claims 3, 4, 6, 10) and "configured such that . . . a travel path of fluid sprayed into the inner tub by the supplying device varies 'during a first washing cycle' in response to changes in a rotational speed of the inner tub" (App. Br., Claims on Appeal, Claims 13 and 15).

The phrase "during [the/a] first washing cycle" is not explicitly defined in the Specification. However, the Specification teaches (OH, col. 4, ll. 6-35):

> In the case of washing, the torque from the motor is transmitted to the rotating shaft 6 via the clutch mechanism 7, according to which the pulsator 4, the inner tub 3 and the rotating blade 30, coupled to the rotating shaft 6, are rotated as one unit. That is, though the pulsator 4 only is rotated in a washing cycle of the conventional washing machine, the pulsator 4, the inner tub 3 and the rotating blade 30 are rotated as one unit in the present invention. . . . The water pumped to the nozzle 42 thus is discharged to the laundry in the inner tub 3. The water discharged to the laundry is exerted of a centrifugal force in a radial direction, a rotational force in a circumferential direction and the gravity. If rotational speed of the inner tub 3 is changed, interaction between these forces is changed. . . . Therefore, by an appropriate change of the rotational speed of the inner tub 3, the water

> can be made to thread through every corners [sic] of the laundry to remove contaminants therefrom. . . . [T]he water escaped from the inner tub 3 through the discharge holes flows down along a wall of the outer tub 2 to fill in the water storage tank 50, which is then pumped again into the inner tub 3 by the drawing force of the rotating blade 30, to carry out the filtering washing.

We learn from the above that the inner tub and the pulsator of the washing machine must rotate as a single unit during the first washing cycle. We also learn that water is discharged into the rotating inner tub and made to thread through the laundry and escape the rotating inner tub as a result of centrifugal force in a radial direction, rotational force in a circumferential direction, and gravity during the first washing cycle. Thus, a washing machine "configured to vary the rotational speed of the inner tub during the first washing cycle" and "configured such that . . . a travel path of fluid sprayed into the inner tub by the supplying device varies 'during a first washing cycle' in response to changes in a rotational speed of the inner tub" must include means for changing the rotational speed of the inner tub and pulsator as a single unit during the first washing cycle and allowing water to discharge into the rotating inner tub, thread through the laundry, and escape from the rotating inner tub as a result of centrifugal force in a radial direction, rotational force in a circumferential direction, and gravity during the first washing cycle. We also conclude that a washing machine configured to vary the speed at which the inner tub rotates during the first washing cycle, according to Oh's disclosure, is a washing machine having a rotatable inner tub whose speed of rotation is changeable at any time or for any period of time during the washing cycle sufficient to thread water "through every corner . . . of the laundry to remove contaminants therefrom"

(Oh, col. 4, ll. 29-30). Accordingly, we conclude that a washing machine which is "configured to vary the rotational speed of the inner tub" means a washing machine having elements which enable the machine to vary the rotational speed of the inner tub at any time during the first washing cycle so as to remove contaminants from the laundry to the extent desired during the first washing cycle. Similarly, we conclude that a washing machine "configured such that . . . a travel path of fluid sprayed into the inner tub by the supplying device varies 'during a first washing cycle' in response to changes in a rotational speed of the inner tub" means a washing machine having elements which enable the washing machine to vary the travel path of fluid sprayed into the inner tub by the supplying device at any time during the first washing cycle in response to changes in the rotational speed of the inner tub so as to remove contaminants from the laundry to the extent desired during the first washing cycle.

Because the evidence of record indicates that persons having ordinary skill in the art reasonably would have been able to comprehend the full scope of the subject matter covered by the claims in Appellant's patent application in light of the supporting disclosure and the prior art teachings, we conclude that the claim language is not vague and indefinite. The evidence of record establishes that the washing machine Appellant claims would have been reasonably understood by persons having ordinary skill in the art to comprise any means which causes the rotation of the inner tub and the pulsator to be varied as one unit during the first washing cycle and permits water to discharge into the rotating inner tub, thread through the laundry, and escape from the rotating inner tub as a result of centrifugal force in a radial direction, rotational force in a circumferential direction, and

gravity during the first washing cycle. Because persons having ordinary skill in the art would have understood the metes and bounds of the claimed subject matter, the Examiner's rejections under 35 U.S.C. § 112, second paragraph, are reversed.

Appellant maintains that the subject matter it regards as its invention is clearly and distinctly claimed. Thus, if we find that a washing machine described by the prior art, i.e., described by CUR or BRENNER, comprises any means which causes rotation of its inner tub and the pulsator as one unit to be varied during the first washing cycle and water to discharge into the rotating inner tub, thread through the laundry, and escape from the rotating inner tub as a result of centrifugal force in a radial direction, rotational force in a circumferential direction, and gravity at any time or for any period of time during the first washing cycle, then the Examiner did not err in rejecting the patentability of the subject matter Appellant claims over the applied prior art.

2. <u>Rejections over CUR</u>

As we understand the debate between the Examiner and Appellant with regard to the patentability of the claimed washing machines over CUR, the Examiner finds that CUR's "washing machine is configured to vary a rotational speed of the inner tub during the first washing cycle" and Appellant argues that it is not. In support of his finding, Examiner points to CUR's disclosure at Column 5, lines 7-22, and Figs. 6 and 7 (emphasis added):

> The automatic wash cycle . . . begins and valves 34 and 35 are opened . . . causing water to flow into the washer. <u>At the same time</u>, the basket 25 [, i.e., the inner tub,] begins rotating at a relatively slow spin speed, for example 40 rpm. Applicants have not determined an

> optimum spin speed, however, a low spin speed lessens the tendency for setting wrinkles and creating an over sudsing [sic] problem in this particular washing cycle. Spin speed[s] significantly below 420 rpm are believed to offer significant improvements in wrinkle performance. However, <u>in this system, the pump 28 is operated by the same motor that drives the basket 25 and when the motor rpm is reduced below that required to produce a 420 rpm rotation of the basket, there is reduced pumping and reduced soil removal during the recirculation portion of this wash cycle</u>.

We take particular notice of the fact that the motor rpm of the motor driving the pump and rotation of the basket, i.e., the water pump and the inner tub, of CUR's washing machine may be increased or decreased so to increase or decrease the water pumping rate and rpm rotation of the basket as desired to remove the soil from the laundry without wrinkling the laundry "during the recirculation portion of this wash cycle" (CUR, col. 5, ll. 17-24). We therefore find that the washing machine CUR describes is (1) "configured to vary the rotational speed of the inner tub" and (2) "configured such that . . . a travel path of fluid sprayed into the inner tub by the supplying device varies 'during a first washing cycle' in response to changes in a rotational speed of the inner tub" because CUR's washing machine has electrical and/or mechanical elements which can change the rotational speed of the inner tub and cause the travel path of fluid sprayed into the inner tub by the supplying device to vary and contaminants to be removed from the laundry.

Moreover, CUR's first washing cycle begins when water flows into the washing machine and, at the same time, the basket begins rotating at a relatively slow spin speed (CUR, col. 5, ll. 7-11). CUR does not expressly disclose that the rotation of the wash basket must accelerate to the rotational

speed chosen for the first washing cycle. However, persons having ordinary skill in this art would have understood that the rotational speed of CUR's basket must be brought up to speed, whether to achieve an optimum constant rotational speed of 40 rpm or 420 rpm, when the first washing cycle begins. Persons having ordinary skill in the art would have understood that a basket rotating at a constant speed had to have been accelerated to that constant rotational speed sometime during the first washing cycle.

Persons having ordinary skill in the art apply the ordinary skill they are presumed to possess. The suggestion that CUR would have led the hypothetical person having ordinary skill in the art to believe that the basket of a washing machine which is designed to rotate at a constant speed need not be brought up to the selected rotational speed when the automatic washing cycle begins "presumes stupidity rather than skill." *In re Sovich*, 769 F. 2d 738, 743 (Fed. Cir. 1985).

"During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow." *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989). Where, as here, the specification does not define the phrase "during the[/a] first washing cycle", the phrase may reasonably be interpreted to mean at any time or for any period of time during the first washing cycle, i.e., including the beginning or start of the first washing cycle. The Federal Circuit explained, *Zletz*, 893 F.2d at 321-22:

> *See In re Prater*, 415 F.2d 1393, 1404-05 . . . (CCPA 1969) (before the application is granted, there is no reason to read into the claim the limitations of the specification). The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. . . . An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous.

> Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.

3. Rejections over BRENNER

In BRENNER's washing machine, there is "a concentrated washing operation . . . in which the clothes are spun in the wash basket while a concentrated detergent solution is sprayed on the clothes and recirculated" (BRENNER, col. 2, ll. 22-25). "[A] nozzle or spray head located adjacent to the top basket opening can be used to direct the liquid onto the clothes load as it spins" (BRENNER, col. 2, ll. 58-60). In the first washing cycle, "the clothes load . . . is spun with the wash basket and held by centrifugal force against the basket wall during the spinning while the concentrated solution is applied to the spinning wash load" (BRENNER, col. 5, ll. 37-41). According to BRENNER (BRENNER, col. 5, ll. 61-68):

> Washability tests have been conducted using 420 RPM and 640 RPM spins [sic] speeds during the spin wash step. Little difference in performance was observed. However, Applicants believe that the performance of the spin wash would fall off considerably if a very low spin speed was used. A low spin speed would greatly reduce the quantity of detergent solution being passing through the load during a given period of time.

BRENNER adds (BRENNER, col. 6, ll. 14-23):

> It has been found that it is desirable during the spin wash step 72 to recirculate and reapply the concentrated detergent solution against the clothes load as many times as is possible during a given time period which enhances and assures complete wetting of the clothes load. Thus, spin speeds in the range of 420-640 RPM are desirable in order to cause the detergent solution to quickly and directly pass through the clothes load to be recaptured in the sump area and recirculated and resprayed on to the clothes load.

BRENNER expressly states that "[t]he application of the solution is done by directing the detergent solution through the spray head 64 which directs the solution against the clothes load held against the basket wall" (BRENNER, col. 5, ll. 41-44) and "the saturation point [of the clothes] varies inversely with spin speed due to liquid removal under the action of centrifugal force" (BRENNER, col. 5, ll. 56-58). BRENNER further explains (BRENNER, col. 7, ll. 32-44):

> From tests it appears that the centrifugal force moving the water through the clothes load during a spin operation provides a more uniform wetting of the load than merely spraying a concentrated solution on a fixed (non-spinning) load. The centrifugal force is also believed to effect a more rapid wetting of the clothes than could be achieved through the use of gravity alone. Also, a more uniform washability level is achieved for a load that has been spun for several minutes with continuous recirculation of the concentrated detergent than for a load which has spun only for a period long enough to wet the fabric, after which the load was brought to rest.

BRENNER's claimed method requires "delivering a concentrated detergent solution . . . onto said [wash] load <u>during at least a portion of the time during which said wash load is [being] spun in an amount sufficient to permeate the entire load</u> a number of times, yet without mechanical agitation of the wash load" (BRENNER, col. 11, Claim 11(3); emphasis added). For example, the "period of time [may be] in the order of about one to [about] ten minutes" (BRENNER, col. 11, Claim 10).

During BRENNER's first washing cycle, concentrated liquid detergent solution is applied to the wash load in the spinning wash basket. Like CUR, BRENNER does not state that the rotational speed of the wash basket accelerates to achieve the rotational speed selected for the first washing cycle. However, like CUR, persons having ordinary skill in this art

would have understood that BRENNER's basket must be brought up to the rotational speed selected for washing while conserving water, whether the optimum rotational speed is 420 rpm or 640 rpm, as the first washing cycle begins. Persons having ordinary skill in the art would have understood that a basket rotating at a constant speed had to have been accelerated to achieve that constant rotational speed. Persons having ordinary skill in the art would have had the ordinary skill they are presumed to possess. The suggestion that BRENNER would have led the hypothetical person having ordinary skill in the art to believe that the basket of a washing machine claimed to rotate at a constant optimum speed of from 420-640 RPM need not have been brought up to that rotational speed when the automatic washing cycle begins presumes no knowledge of the art whatsoever. *In re Sovich*, 769 F.2d 738, 743 (Fed. Cir. 1985).

"During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow." *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989). Where, as here, the specification does not define the phrase "during the [/a] first washing cycle", the phrase may reasonably be interpreted to mean any time or for any period of time during the first washing cycle, i.e., including the start of the first washing cycle.

Furthermore, we find that Brenner's washing machine is "configured to vary a rotational speed of the inner tub during the first washing cycle" (App. Br., Claims On Appeal, Claim 4). The rotational speed of BRENNER's wash basket can be varied between about 420-640 RPM "during at least a portion of the time during which said wash load is spun" (BRENNER, col. 11, Claim 11), while at the same time delivering the concentrated detergent solution onto the wash load. BRENNER teaches

(BRENNER, col. 5, ll. 61-68), "Washability tests have been conducted using 420 RPM and 640 RPM spin speeds during the spin wash step." BRENNER believes that, while the performance of the spin wash falls off considerably at a very low spin speed, as compared to a high spin speed, during a given period of time, the low spin speed greatly reduces the quantity of detergent solution passing through the load during any given period of time.

Based on the aforementioned evidence, we find that BRENNER's washing machine is in fact "configured to vary a rotational speed of the inner tub" during at least a portion of the time during which said wash load is spun while concentrated detergent is applied to the clothes load. So configured, Brenner's washing machine is configured such that the path of the fluid sprayed into the inner tub varies with the rotational speed of the inner tub. Thus, given the broadest reasonable interpretation of the language of Appellant's claims consistent with a supporting Specification without definitions, we find that BRENNER describes a washing machine as Appellant claims.

Conclusion

Having determined the full scope of the subject matter claimed, and having considered all the evidence for and against the patentability thereof, we conclude that a washing machine Appellant clearly and distinctly claims is described by CUR and is also described by BRENNER. Accordingly, we reverse the Examiner's final rejection under 35 U.S.C. § 112, second paragraph, and affirm all the Examiner's final rejections under 35 U.S.C. § 102(b) and § 103(a).

Order

For the reasons stated herein, it is

ORDERED THAT:

(1) the Examiner's final rejection of Claims 3-10 and 13-15 under 35 U.S.C. § 112, second paragraph, for not particularly pointing out and distinctly claiming the subject matter which the Applicant regards as his invention, is REVERSED;

(2) the Examiner's final rejection of Claims 3-5, 10, and 13-15 under 35 U.S.C. § 102(b) over CUR or PASTRYK is AFFIRMED;

(3) the Examiner's final rejection of Claims 4-5, 10, 13 and 15 under 35 U.S.C. § 102(b) over BRENNER is AFFIRMED; and

(4) the Examiner's final rejection of Claims 6-10 under 35 U.S.C. § 103(a) in view of the combined teachings of CUR or PASTRYK and JAPAN 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).

AFFIRMED

William E. Lyddane, Esq.
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191