UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DOUGLAS G. SEYMOUR, DAVID HUMPHREY,
and MICHAEL J. SWANTNER

Appeal 2008-1562
Application 10/737,048
Technology Center 3600

Decided: September 24, 2008

Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and
JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

JOSEPH A. FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. §§ 6(b) and 134(a) (2002) from the final rejection of claims 1-3.

The reference set forth below is relied upon as evidence of anticipation:

Champ	US 6,189,407 B1	Feb. 20, 2001

Claim 1 the only independent claim of the three claims on appeal is as follows:

> 1. An assemblage comprising:
> an electrical connector having a metal body with a tubular projection having a push-through portion having a first diameter and an engaging portion having a second diameter larger than said first diameter;
> and a metal support having a major part that is substantially rigid and includes an aperture formed by a plurality of deflectable spokes, said aperture having a center opening with a third diameter greater than said first diameter and less than said second diameter, whereby said tubular projection push-through portion slides through said aperture and said spokes engage said second diameter of said engaging portion and mount said electrical connector with said support.

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Champ.

The Examiner maintains that

> [t]he patent to Champ et al. discloses a metal (Col. 9, line 4) electrical connector having a body (20) with two diameters (See Figure Below), the second being larger than the first.
> The patent to Champ et al. also teaches a support (30), having a major part (31) that is a substantially rigid and has an aperture having a center opening with a third diameter larger than the first, but smaller than the second diameter, and a plurality of deflectable spokes (34) which diverge away from a plane of the major part of the support, the second diameter of the connector limiting the movement of the connector through the support (30).

(Answer 3.)

The Examiner's annotated Figure 1 of Champ referred to above indicates the third diameter to be at the opening defined by the annular base portion 31 of the body 32 of the lock member 30. The Examiner's position is thus that the spokes form the aperture at their bases about flange 31 in Champ and not at their free ends where the opening formed thereby is considerably narrower.

Appellants argue however "***every*** diameter of the sleeve member 20 of Champ et al. is larger than the diameter of the spoke end of Champ et al. lock member 30." (Appeal Br. 3.) Appellants thus maintain that the third diameter opening in Champ is defined by the deflectable members 34 at the free ends thereof (spoke end).

Thus, at issue is what structure defines Appellants' center opening of the aperture and accordingly, where such a center opening should be read on the lock member 30 in Champ.

Claim 1 requires that the "aperture [is] formed by a plurality of deflectable spokes, said aperture having a center opening with a third diameter greater than said first diameter and less than said second diameter…." The support for this limitation is found in the Specification which describes that

> [a] support 20 for the electrical connector has a major part 22 that is substantially rigid and includes an aperture 24 formed by a plurality of deflectable spokes or beams 26 …. The aperture 24 has a center opening 28 with a third diameter that is greater than the first diameter and less than the second diameter, whereby the tubular projection push-through portion 16 slides through

> the aperture 24 and the spokes 26 engage the second diameter of the engaging portion 18 ….”

(Specification 4:4-10.) Furthermore, Appellants’ Figure 2 shows the center opening 28 defined by the tips of the spokes 26 while the aperture 24 is defined by the base of the spokes. We thus find that Appellants’ central opening 28 must be defined by the tips or free ends of the deflectable spokes 26 and not by the bases thereof. As such, we read the free ends and not the bases of the deflectable members 34 in Champ to define the central opening. Thus, in Champ, the third diameter is the diameter of the opening of the lock member 30 at the tips of the deflectable members 34, and this third diameter is not greater than the first and second diameters of the sleeve 20 identified by the Examiner. The requirement of claim 1 is thus not met.

Accordingly, we cannot sustain the 35 U.S.C. § 102(e) rejection of claim 1 based on Champ.

With regard to remaining rejected dependent claims 2 and 3, because these claim rejections rely upon the underlying rejection of independent claim 1, we also reverse the examiner’s rejection of these claims. *See In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

We reverse the rejection of claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by Champ.

<u>REVERSED</u>

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