

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte G. DAVID JANG

Appeal 2008-1593
Application 10/374,774
Technology Center 3700

Decided: June 17, 2008

Before TONI R. SCHEINER, ERIC GRIMES, and FRANCISCO C.
PRATS, *Administrative Patent Judges*.

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DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 involving claims to an intravascular stent. The Examiner has rejected the claims as anticipated and obvious. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.¹

¹ In this decision we consider only those arguments actually made by Appellant. Arguments that Appellant could have made but chose not to

STATEMENT OF THE CASE

Claims 1 and 135, the appealed independent claims, are representative of the appealed subject matter and read as follows:

1. A stent comprising:

a first expansion strut column, the first expansion strut column being comprised of a plurality of adjacent first expansion strut pairs, each first expansion strut pair having a first expansion strut and a second expansion strut, the first expansion strut column having a plurality of first joining portions, the first expansion strut in communication with the second expansion strut at a first joining portion, the first expansion strut column having a plurality of second joining portions, each first expansion strut pair in communication with an adjacent first expansion strut pair at each second joining portion;

a second expansion strut column, the second expansion strut column being comprised of a plurality of adjacent second expansion strut pairs, each second expansion strut pair having a first expansion strut and a second expansion strut, the second expansion strut column having a plurality of first joining portions, the first expansion strut in communication with the second expansion strut at a first joining portion, the second expansion strut column having a plurality of second joining portions, each second expansion strut pair in communication with an adjacent second expansion strut pair at each second joining portion;

a first connecting strut column, the first connecting strut column comprising at least one connecting strut, the at least one connecting strut comprising a first end region, a second end region and an intermediate region therebetween,

the first end region being engaged to a portion of one of the first expansion strut pairs at a location in closer proximity to the first expansion strut than to the second expansion strut,

make in the Briefs have not been considered and are deemed to be waived.
See 37 C.F.R. § 41.37(c)(1)(vii).

the intermediate region comprising a plurality of bend portions,

at least a portion of the at least one connecting strut comprising at least one wrap portion, the at least one wrap portion being at least partially wrapped about at least one of the first joining portions of at least one of the first expansion strut column and the second expansion strut column, the at least one wrap portion being substantially parallel to the at least one of the first joining portions about which the at least one wrap portion is wrapped.

135. A stent comprising:

a plurality of interconnected first expansion struts, the first expansion struts forming a first expansion column having a proximal end region and a distal end region, each first expansion strut in communication at a proximal end with one first expansion strut adjacent thereto and at a distal end with another first expansion strut adjacent thereto;

a plurality of interconnected second expansion struts, the second expansion struts forming a second expansion column having a proximal end region and a distal end region, each second expansion strut in communication at a proximal end with one second expansion strut adjacent thereto and at a distal end with another second expansion strut adjacent thereto;

a first connecting strut column comprising a plurality of first connecting struts, each first connecting strut having a first end region extending from the distal end region of the first expansion column at a location in closer proximity to one first expansion strut than to any other of the plurality of first expansion struts, a second end region extending from the proximal end region of the second expansion column at a location in closer proximity to one second expansion strut than to any other of the plurality of second expansion struts and an intermediate region between the first end region and the second end region, the intermediate region defining at least two bends of each first connecting strut, at least a portion of each first connecting strut comprising at least one wrap portion, the at least one wrap portion being at least partially wrapped about at least a portion of at least one of the distal end of one first

expansion strut and the proximal end of one second expansion strut, the at least one wrap portion being substantially parallel to the at least one of the distal end of one first expansion strut and the proximal end of one second expansion strut about which the at least one wrap portion is wrapped.

The Examiner applies the following documents in rejecting the claims:

| | | |
|-----------|----------------|---------------|
| Globerman | US 5,776,161 | Jul. 7, 1998 |
| Yan | US 5,843,172 | Dec. 1, 1998 |
| Ehr | US 6,033,433 | Mar. 7, 2000 |
| Globerman | WO 97/33534 A1 | Sep. 18, 1997 |

The following rejections are before us for review:

Claims 1, 2, 4, 5, 7, 16, 27, 28, 39-41, 43-61, 65, 66, 72, 73, 85, 87, 110-124, and 135 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ehr (Ans. 3-4).

Claims 67-70 and 81-84 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ehr in view of Globerman '161 (Ans. 4-5).

Claims 74 and 75 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ehr alone (Ans. 5).

Claims 77-80 and 125-128 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ehr in view of Globerman '534 (Ans. 5).

Claims 101, 102 and 104-109 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ehr in view of Yan (Ans. 5-6).

ANTICIPATION

ISSUE

The Examiner states that "Ehr anticipates the claim language where the structure disclosed therein reads on the claimed invention; see especially

Figures 2, 14, and 17” (Ans. 3). The Examiner provides an annotated copy of Ehr’s Figure 2 to show which structures in Ehr’s disclosure correspond to which claim limitations (*see* Ans. 4). The Examiner urges that, given the breadth of the language delimiting the claimed stent’s “wrap portion” (*see* claims 1 and 135), it is reasonable to interpret the claims as encompassing Ehr’s stent (*id.* at 6).

Appellant also submits annotated copies of Ehr’s Figure 2 (*see* App. Br. 7, 10). Appellant contends that, given the structure of Ehr’s stent, it is unreasonable to interpret Ehr as meeting the limitations regarding the “wrap portion” of the claimed stent’s connecting strut (*id.* at 7-11). Specifically, Appellant urges that “not only does the Ehr connector fail to include any aspect which is wrapped about a joining portion, but Ehr also fail[s] to provide any aspect of a connector which is parallel to a joining portion as the instant claims describe. Therefore, Ehr does not teach or suggest all of the elements of instant claims” (App. Br. 11).

Appellant submits arguments only regarding limitations in claims 1 and 135. The issue with respect to this rejection, then, is whether the Examiner erred in concluding that claims 1 and 135 encompass the stent disclosed by Ehr.

FINDINGS OF FACT (“FF”)

1. Claim 1 recites a stent having a first and second column of expansion struts. Each column of expansion struts is composed of a plurality of expansion strut pairs. The struts in each pair are connected by a first joining portion, and the adjacent strut pairs are connected by second joining portions.

Claim 1's stent also has a connecting strut column with at least one connecting strut. The connecting strut has a first end, a second end, and an intermediate region. The first end of the connecting strut must engage one of the first expansion strut pairs at a location closer to the first expansion strut than to the second expansion strut. The connecting strut's intermediate portion must have a plurality of bend portions.

The connecting strut must have at least one "wrap portion." Claim 1 requires the wrap portion to be "at least partially wrapped about at least one of the first joining portions of at least one of the first expansion strut column and the second expansion strut column." Claim 1 also requires the wrap portion to be "substantially parallel to the at least one of the first joining portions about which the at least one wrap portion is wrapped."

2. Claim 135 is directed to a similar stent having first and second expansion columns, with each expansion strut in communication with one adjacent expansion strut at a proximal end, and another adjacent strut at a distal end. Claim 135's stent also has a connecting strut column between the two expansion columns.

Claim 135's connecting struts must extend from the distal end region of the first expansion column at a location closer to one first expansion strut than to any other expansion struts in the first column, and also extend from the proximal end region of the second expansion column at a location closer to one second expansion strut than to any other expansion strut. The intermediate region of each connecting strut must also have at least two bends.

Like claim 1, claim 135 requires the connecting strut to have a "wrap portion." Claim 135 requires the wrap portion to be "at least partially

wrapped about at least a portion of at least one of the distal end of one first expansion strut and the proximal end of one second expansion strut.” Claim 135 also requires the wrap portion to be “substantially parallel to the at least one of the distal end of one first expansion strut and the proximal end of one second expansion strut about which the at least one wrap portion is wrapped.”

3. The Specification does not define the terms “wrap portion” or “wrapped about.” However, Appellant’s disclosure provides several examples of wrap portions that wrap about the joining portions of adjacent expansion columns. For example, Appellant’s Figure 15, reproduced below, shows one embodiment of Appellant’s stent having a wrap portion:

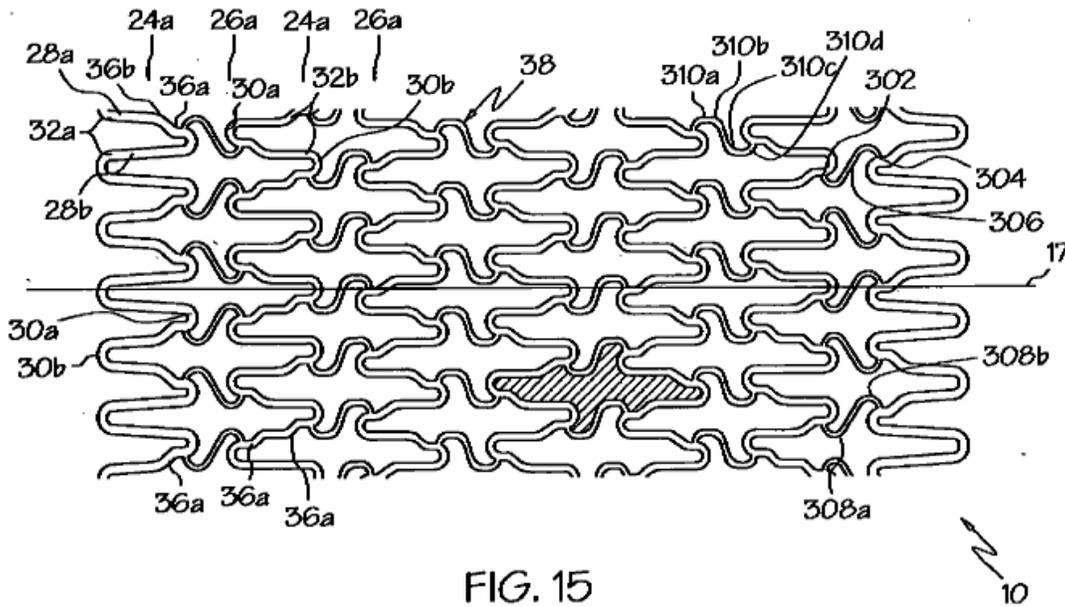


FIG. 15

Regarding Figure 15, the Specification states:

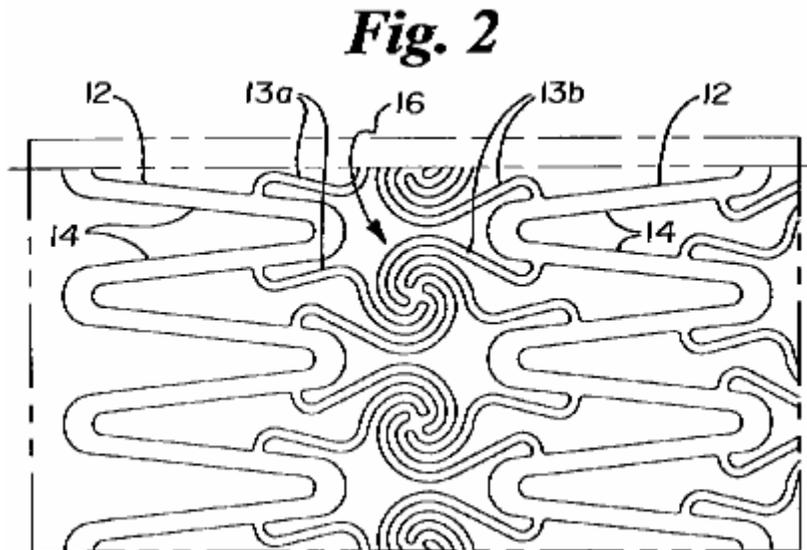
The connectors shown in FIGs 13-15 are provided with four bend portions 310a, 310b, 310c and 310d.

As a result of the unique shape of the connectors 38 and the longitudinally offset arrangement of adjacent first expansion strut pairs 32a and second expansion strut pairs 32b, *as the*

wrap portion 308 of each connector 38 wraps about the first joining strut 30a of the first expansion strut pair 24a it also wraps about the first joining strut 30a of the second expansion strut pair 24b.

(Spec. 41 (emphasis added).) In Figure 15 wrap portion 308 is shown as two portions 308a and 308b at the bottom right corner of the figure.

4. Ehr discloses “stents of improved configuration which incorporate spiral articulations which unwind to form bracing structures or scaffolding upon expansion” (Ehr, col. 1, ll. 7-9). Ehr’s stents are metal tube-like structures that are cut into specific configurations allowing for their expansion (*id.* at col. 2, ll. 15-26). Figure 2 of Ehr, reproduced below, shows one configuration of the expandable elements:



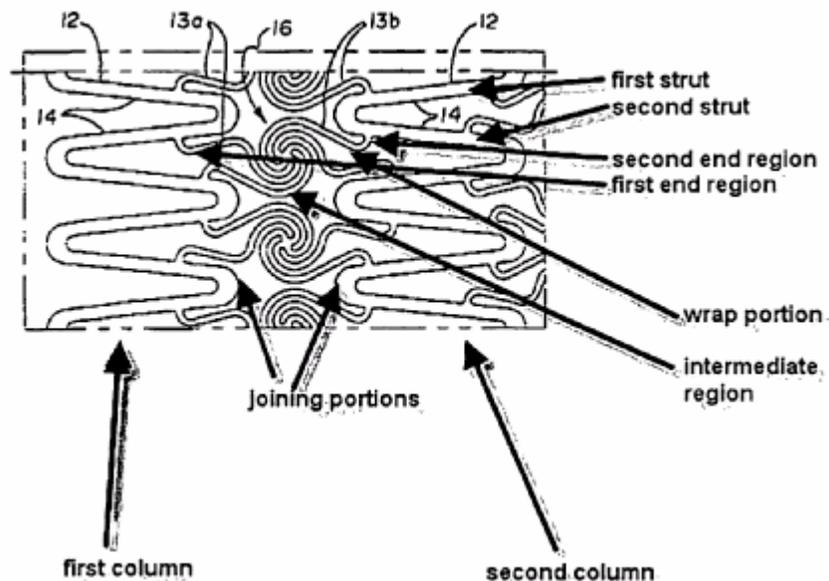
Ehr describes Figure 2 as follows:

Elements 12 are interconnected by pairs of elongated members 13a and 13b which are attached at one end to successive loops 14 of a segment 12 and which are joined at their other ends to adjacent pairs of elongated members 13a and 13b Members 13a and 13b are preferably of narrower gauge than

members 12 and are joined together in a coiled or spiral arrangement as shown generally at 16. Spiral 16 forms a structure about which members 13 may uncoil or unwind in a counterclockwise direction or clockwise direction to a substantially straight condition, depending on the spiral winding direction, upon radial expansion of members 12.

(Ehr, col. 2, ll. 26-37.)

5. The Examiner provided the following annotated version of Ehr's Figure 2 in support of the anticipation rejection (Ans. 4):



The Examiner's annotated copy of Ehr's Figure 2 shows Appellant's claimed first and second expansion strut columns with the intermediate region between the two columns, as well as the first and second strut of the second column, and the expansion struts' joining portions (Ans. 4). The Examiner's annotated copy of Ehr's Figure 2 also shows the claimed wrap portion adjacent to the joining portions of the expansion struts (*id.*).

PRINCIPLES OF LAW

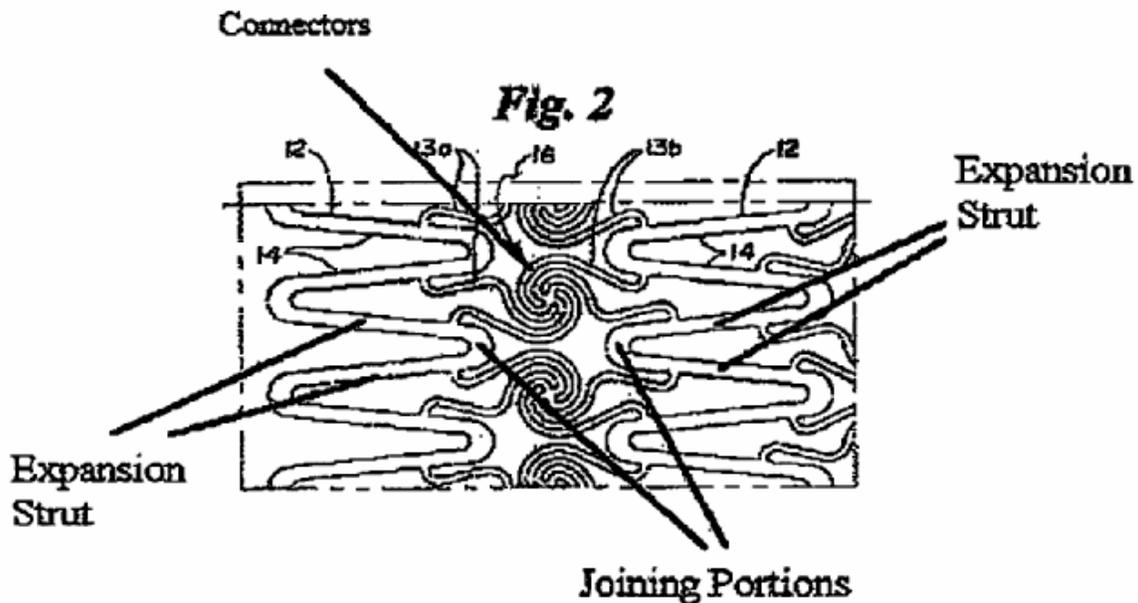
“To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently.” *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). During examination, the PTO must interpret terms in a claim using “the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant’s specification.” *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

ANALYSIS

We agree with the Examiner that it was reasonable to conclude that claims 1 and 135 encompass Ehr’s stent. Ehr’s stent has the first and second expansion columns consisting of pairs of expansion struts interconnected in the manner recited in claim 1, as well as claim 1’s intermediate portion with a connecting strut connected more closely to one expansion strut of a pair than the other (*see* FF 5). Ehr’s connecting strut (i.e. the intermediate region in the Examiner’s annotated version of Ehr’s Figure 2), has a plurality of bends as required in claim 1 (*see* FF 5).

The configuration of Ehr’s stent shown in Figure 2 also meets claim 135’s limitations requiring two sets of interconnected expansion struts that form columns, and a connecting strut column (i.e. the intermediate region in the Examiner’s annotated version of Ehr’s Figure 2), with the connecting struts connected more closely to one expansion strut of the expansion strut pairs (FF 5). Ehr’s connecting struts have at least two bends, as required by claim 135 (*see id.*).

With respect to the disputed limitations, Appellant argues that the Examiner, “throughout the prosecution, has yet to identify any portion of the Ehr connector which is at least partially *wrapped about* a joining portion (or in the case of claim 135 a distal end or proximal end of an expansion strut) of the expansion column as the instant claims describe” (App. Br. 7). In support of this argument, Appellant submits an annotated copy of Ehr’s Figure 2, reproduced below (App. Br. 7):



Appellant’s annotated copy of Ehr’s Figure 2 identifies the expansion struts, joining portions, and connectors (App. Br. 7).

Appellant notes that connecting segments 13a and 13b initially extend perpendicularly away from the expansion struts, and argue that “a segment extending perpendicularly to the expansion column cannot, by any interpretation of the word ‘wrapped’ be considered to be substantially wrapped about a portion of said column” (App. Br. 8). Appellant also argues that elements 13a and 13b do not meet the “wrapped about” limitation because “a segment which extends toward a joining portion but

then diverges away from the joining portion before and without reaching it cannot be reasonably interpreted to be at least partially wrapped about said joining portion” (*id.*).

We are not persuaded by these arguments. As noted above, it is well settled that during examination the PTO must interpret terms in a claim using “the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant’s specification.” *In re Morris*, 127 F.3d at 1054.

In addition to the Specification, Appellant’s drawings may be consulted to determine the meaning of claim terms. *See Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d. 1294, 1298 (Fed. Cir. 2003) (“The ordinary and customary meaning of a claim term may be determined by reviewing a variety of sources. Some of these sources include the claims themselves; dictionaries and treatises; and the written description, *the drawings*, and the prosecution history.” (citations omitted, emphasis added)).

In the instant case, in reference to Figures 13-15, the Specification describes the wrap portion 308 of connecting portion 38 as “wrap[ping] about the first joining strut 30a of the first expansion strut pair 24a [and] also wrap[ping] about the first joining strut 30a of the second expansion strut pair 24b” (Spec. 41 (FF 3)). From viewing Figure 15, the wrap portions 308a and 308b initially extend from their attached struts in a perpendicular manner before extending across U-shaped joining struts (*see* FF 3), in a manner similar, if not identical, to the way Ehr’s elements 13b extend from their respective struts (*see* FF 4, 5).

Thus, given the fact that the Specification and drawings consider a wrap portion having an initial perpendicular extension to be “wrapped about” an adjacent joining segment, we do not agree with Appellant that the initial perpendicular extensions on elements 13b of Ehr’s stent renders them incapable of wrapping about the adjacent joining portion.

Moreover, the Specification describes the wrap portions in Figures 13-15 as “wrap[ping] about” joining struts 30a (Spec. 41 (FF 3)). However, it is evident from viewing Figure 15 that, once they extend from their attached struts and bend toward the intermediate region, the wrap portions 308a and 308b merely extend across a portion of the joining struts 30a at a relatively great distance, rather than being closely associated with the joining struts 30a (*see* Fig. 15 (FF 3)).

Ehr’s elements 13b extend across a portion of the joining strut in a manner very similar to that shown in Appellant’s Figure 15 (*see* FF 3, 5). We therefore do not agree with Appellant that Ehr’s elements 13b cannot be reasonably interpreted to be “at least partially wrapped about” the attached joining portion as required by claims 1 and 135 merely because they have a segment that extends toward a joining portion and then diverges away it.

Appellant argues that element 16 in Ehr’s Figure 2 is “circumferentially and longitudinally offset from not just one joining portion but all the joining portions of both expansion strut columns,” and that therefore, there “is no reasonable interpretation of the phrase ‘wrapped about’ which one of ordinary skill in the art would attempt to impose on element 16 of Ehr that would meet the description of the connector described in the instant claims” (App. Br. 8).

We are not persuaded by this argument. From viewing the Examiner's annotated copy of Ehr's Figure 2, it is evident that the Examiner considers elements 13b, not element 16, as corresponding to the wrap portion recited in claims 1 and 135.

In sum, when the limitation requiring the wrap portion to be "at least partially wrapped about at least one of the first joining portions of at least one of the first expansion strut column and the second expansion strut column" is given its broadest reasonable interpretation consistent with the Specification and drawings, and is compared with the stent configuration shown in Ehr's Figure 2 as discussed above, we agree with the Examiner that Ehr meets the "wrapped about" limitation in claims 1 and 135.

Appellant argues that Ehr fails to meet the claim 1's limitation requiring the at least one wrap portion to be "substantially parallel to the at least one of the first joining portions about which the at least one wrap portion is wrapped," and claim 135's limitation requiring the at least one wrap portion to be "substantially parallel to the at least one of the distal end of one first expansion strut and the proximal end of one second expansion strut about which the at least one wrap portion is wrapped" (App. Br. 9-10). Specifically, Appellant provides a second annotated copy of Ehr's Figure 2, which, Appellant urges, shows a wide region and a narrow region between Ehr's wrap portion and joining portion (*id.* at 10).

Appellant argues that "[t]he lack of any aspect of the connector being substantially parallel to the joining portion is evidenced, at least partially, by the fact that the joining portion and the segments 13a and 13b are initially separated by a *wide region* which tapers to a *narrow region* along their mutual lengths" (App. Br. 10-11). Appellant urges that "[t]his narrowing

space illustrates the fact that the segments 13 a and 13b are *angled toward* the joining portion or strut end as opposed to being substantially parallel to the joining portion or strut end as recited in the instant claims” (*id.* at 11).

We are not persuaded by this argument. Claims 1 and 135 only require the wrap portion to be “*substantially* parallel” (emphasis added) to the joining portion (claim 1) or the ends of the expansion struts (claim 135). Thus, the fact that Ehr’s wrap portion does not precisely parallel these elements does not demonstrate non-anticipation, because that is not what the claims require. Moreover, because Ehr’s wrap portions 13b extend in substantially the same overall direction, in a path substantially parallel to that of the U-shaped joining portions (*see* FF 5), we agree with the Examiner that Ehr’s wrap portions meet the “substantially parallel” limitations in claims 1 and 135.

In sum, we agree with the Examiner that when claims 1 and 135 are given their broadest reasonable interpretation consistent with the Specification, Ehr meets all of the limitations in those claims. Because Ehr’s stent meets all of the limitations of claims 1 and 135, we affirm the Examiner’s anticipation rejection of claims 1 and 135.

Because they were not argued separately, claims 2, 4, 5, 7, 16, 27, 28, 39-41, 43-61, 66, 65, 66, 72, 73, 85, 87, and 110-124 fall with claims 1 and 135. *See* 37 C.F.R. § 41.37(c)(1)(vii).

OBVIOUSNESS -- EHR AND GLOBERMAN ‘161

Claims 67-70 and 81-84 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ehr in view of Globerman ‘161 (Ans. 4-5). Conceding that Ehr lacks “the notch or bend in the strut as claimed,” the Examiner contends that one of ordinary skill in the art would have

considered it obvious “to put a notch or bend in the struts of Ehr for the same reasons that Globerman [‘161] does the same or in order to provide greater support per unit area than that provided with a straight strut of a shorter length” (*id.* at 5).

Appellant does not contest the Examiner’s rationale for modifying Ehr in accordance with Globerman ‘161. Instead, Appellant argues that because claims 67-70 and 81-84 “all depend directly or indirectly from instant claim 1,” and because Ehr fails to meet all of claim 1’s limitations for the reasons argued in the anticipation rejection above, “[t]he proposed addition of [Globerman ‘161’s] bent or notched struts to Ehr does nothing to address Ehr’s failure to teach or suggest all of the elements of the instant claims” (App. Br. 11).

We are not persuaded by this argument. For the reasons discussed above, we agree with the Examiner that Ehr meets all of the limitations in claim 1. Because we detect no deficiency in the Examiner’s conclusion that claims 67-70 and 81-84 would have been obvious in view Ehr and Globerman ‘161, we affirm the Examiner’s obviousness rejection of those claims over the cited references.

OBVIOUSNESS -- EHR

Claims 74 and 75 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ehr alone (Ans. 5). The Examiner states that “Ehr et al meets the claim language except for the dimensions or proportions as claimed” (*id.*). The Examiner contends that the claimed dimensions or proportions, in and of themselves, do not render the claimed device patentable over Ehr’s otherwise identical device (*see id.* (citing MPEP § 2144.04 (IV)(A), and (B))).

Appellant does not contest the Examiner's conclusion that one of ordinary skill would have considered it obvious to provide Ehr's device the cell perimeter lengths recited in claims 74 and 75. Instead, Appellant argues that because claims 74 and 75 "depend from claim 1 via claim 73," and because Ehr fails to meet all of claim 1's limitations for the reasons argued in the anticipation rejection above, "Ehr also fails to the render the instant claims obvious for at least the same reasons discussed above" (App. Br. 12).

We are not persuaded by this argument. For the reasons discussed above, we agree with the Examiner that Ehr meets all of the limitations in claim 1. Because we detect no deficiency in the Examiner's conclusion that it would have been obvious to provide Ehr's device the cell perimeter lengths recited in claims 74 and 75, we affirm the Examiner's obviousness rejection of those claims over Ehr.

OBVIOUSNESS -- EHR AND GLOBERMAN '534

Claims 77-80 and 125-128 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ehr in view of Globerman '534 (Ans. 5). Conceding that Ehr lacks "the use of radiopaque elements or materials as claimed," the Examiner contends that one of ordinary skill in the art would have considered it obvious to use the radiopaque elements disclosed by Globerman '534 as being useful in similar stents "in the stent of Ehr in order to make it more visible via X-ray during implantation and after implantation so as to monitor its placement and status" (*id.*).

Appellant does not contest the Examiner's rationale for modifying Ehr in accordance with Globerman '534. Instead, Appellant argues that because claims 77-80 and 125-128 "all depend directly or indirectly [from] independent claim 1," and because Ehr fails to meet all of claim 1's

limitations for the reasons argued in the anticipation rejection above, “[t]he proposed addition of [Globerman ‘534] does nothing to address the failure of Ehr alone to teach or suggest all of the elements of the instant claims” (App. Br. 12).

We are not persuaded by this argument. For the reasons discussed above, we agree with the Examiner that Ehr meets all of the limitations in claim 1. Because we detect no deficiency in the Examiner’s conclusion that claims 77-80 and 125-128 would have been obvious in view of Ehr and Globerman ‘534, we affirm the Examiner’s obviousness rejection of those claims over the cited references.

OBVIOUSNESS -- EHR AND YAN

Claims 101, 102, and 104-109 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ehr in view of Yan (Ans. 5-6). Conceding that “Ehr fails to disclose the use of a therapeutic coating or element as claimed” (*id.* at 5), the Examiner contends that one of ordinary skill in the art would have considered it “obvious to use a therapeutic coating or element in the Ehr device for the same reasons that Yan does the same or in order to improve the value of the stent in treating the patient” (*id.* at 6).

Appellant does not contest the Examiner’s rationale for modifying Ehr in accordance with Yan. Instead, Appellant argues that because claims 101, 102, and 104-109 “all depend directly or indirectly from instant claim 1,” and because Ehr fails to meet all of claim 1’s limitations for the reasons argued in the anticipation rejection above, “[t]he proposed addition of Yan’s therapeutic coating or element to Ehr does nothing to address Ehr’s failure to teach or suggest all of the elements of the instant claims” (App. Br. 13).

We are not persuaded by this argument. For the reasons discussed above, we agree with the Examiner that Ehr meets all of the limitations in claim 1. Because we detect no deficiency in the Examiner's conclusion that claims 101, 102, and 104-109 would have been obvious in view of Ehr and Yan, we affirm the Examiner's obviousness rejection of those claims over the cited references.

SUMMARY

We affirm the Examiner's rejection of claims 1, 2, 4, 5, 7, 16, 27, 28, 39-41, 43-61, 66, 65, 66, 72, 73, 85, 87, 110-124, and 135 under 35 U.S.C. § 102(e) as being anticipated by Ehr.

We affirm the Examiner's rejection of claims 67-70 and 81-84 under 35 U.S.C. § 103(a) as being unpatentable over Ehr in view of Globerman '161.

We affirm the Examiner's rejection of claims 74 and 75 under 35 U.S.C. § 103(a) as being unpatentable over Ehr alone.

We affirm the Examiner's rejection of claims 77-80 and 125-128 under 35 U.S.C. § 103(a) as being unpatentable over Ehr in view of Globerman '534.

We affirm the Examiner's rejection of claims 101, 102 and 104-109 under 35 U.S.C. § 103(a) as being unpatentable over Ehr in view of Yan.

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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).

AFFIRMED

Ssc:

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400
6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344