

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS MEINS, MICHAEL NURNBERG, and
ILMAR JONAT

Appeal 2008-2424
Application 10/968,982
Technology Center 3600

Decided: November 26, 2008

Before LINDA E. HORNER, ANTON W. FETTING, and MICHAEL W.
O'NEILL, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Thomas Meins, et al. (Appellants) seek our review under 35 U.S.C. § 134 of the final rejection of claims 1, 2, and 4-15. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE.

THE INVENTION

The claimed invention is to a staggering drum for conveying rod-shaped articles of the tobacco processing industry, e.g., cigarette filters. (Spec. ¶ 0002.) The staggering drum is adjustable to different lengths of cigarette filters. (Spec. ¶ 0006.) At least one conveyor disk surrounds the drum's body. (Spec. ¶ 0033.) Additionally, a ring surrounds the drum's body and is located adjacent a conveyor disk. (Spec. ¶ 0036.) Pin elements are arranged on the ring and the sliding of the ring longitudinally displaces the pin elements. (Spec. ¶ 0036 and Figures 1 and 2.) The disk contains at least one seat and each seat has several suction bores. (Spec. ¶ 0034.) A vacuum is applied to the suction bores. (Spec. ¶ 0036.) As a pin element slides, the vacuum is either connected or disconnected to each of the suction bores, except for the bore furthest from the ring. (see Figure 2.)

THE PRIOR ART

The Examiner relies upon the following as evidence of unpatentability:

Irikura

US 5,329,945

Jul. 19, 1994

THE REJECTIONS

The following Examiner's rejections are before us for review:

Claims 1, 2, and 4-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Irikura.

ISSUES

The Appellants contend the Examiner erred in rejecting the claims because Irikura fails to describe a disconnection device structured and arranged in a displaceable manner on a staggering drum. (Reply Br. 4.)

The Examiner found that Irikura's control sleeve 42 meets the disconnection device structured and arranged in a displaceable manner on a staggering drum. (Ans. 5-6.)

The issue before us is as follows:

Have the Appellants shown that the Examiner erred in finding that Irikura's control sleeve is structured and arranged in a displaceable manner on a staggering drum?

FINDINGS OF FACT

We find that the following enumerated findings of fact are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. Irikura describes a discharge drum 30 comprises a drive shaft 40 in its center, a stationary sleeve 41, a control sleeve 42, and a drum shell 43. Irikura describes the station sleeve 41, the control sleeve 42, and the drum shell 43 successively surround the drive shaft 40. (Irikura, col. 5, ll. 53-59.)

2. Irikura describes the control sleeve 42 is supported at the end adjacent the main frame side 1 by a support ring 50. A fixing pin connects the support ring 50 and the control sleeve 42 and the ring 50 is fixed to the stationary sleeve 41. A connecting disk 52 and a plurality of connecting screws 53 connect the opposite end of control sleeve 42 to the stationary sleeve 41. (Irikura, col. 6, ll. 20-31 and Figure 3.)
3. Irikura does not describe the control sleeve 42 is structured and arranged in a displaceable manner on the staggering drum. (Facts 1 and 2.)

PRINCIPLES OF LAW

“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., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

ANALYSIS

Claims 1 and 15 require that a disconnection device is structured and arranged on the staggering drum to be displaceable. The Appellants have argued this point. (See Reply Br. 4.) Irikura does not describe that the control sleeve 42 is structured and arranged to be displaceable. (Fact 3.) As such, Irikura fails to describe, either expressly or inherently, a disconnection device that is structured and arranged on the staggering drum in a displaceable manner, as claimed.

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CONCLUSIONS

The Appellants have shown that the Examiner erred in finding that Irikura's control sleeve is structured and arranged in a displaceable manner on a staggering drum.

DECISION

The Examiner's decision to reject claims 1, 2, and 4-15 is reversed.

REVERSED

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