



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/933,092	09/17/2010	Johannes Bising	2007P03249WOUS	6337

46726 7590 09/23/2016
BSH Home Appliances Corporation
100 Bosch Boulevard
NEW BERN, NC 28562

EXAMINER

BELL, SPENCER E

ART UNIT	PAPER NUMBER
----------	--------------

1711

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

09/23/2016

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

MBX-NBN-IntelProp@bshg.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOHANNES BÜSING, STEPHAN LUTZ, BRUNO REITER,
MICHAEL ROSENBAUER, and PEDRO SANCHO

Appeal 2015-004053
Application 12/933,092
Technology Center 1700

Before PETER F. KRATZ, N. WHITNEY WILSON, and JULIA HEANEY,
Administrative Patent Judges.

KRATZ, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 24–46. We have jurisdiction pursuant to 35 U.S.C. § 6.

Appellants' claimed invention is directed to a water-bearing domestic appliance, such as a dishwasher or a washing machine (Spec. ¶¶ 1, 2). The appliance includes a water diverter that controls the distribution of washing liquor (Spec. ¶ 2). The diverter is carried by a carrier element to which element an actuator, such as an electric motor, is fastened (Spec. ¶¶ 3, 4, 6). Appellants' carrier element comprises a cast part, wherein lines, such as electrical lines, are embedded within the cast part (Spec. ¶¶ 7, 8). The lines

are provided for actuating the actuator (*id.*). The cast part embedded lines are surrounded by molding material (integrated within the carrier element casting) such that the lines are exposed only at contact points (Spec. ¶¶ 9, 10, 27; Fig. 3).

Claim 24, the sole independent claim on appeal, is illustrative and reproduced below:

24. A water-bearing domestic appliance, comprising:
a water diverter having a carrier element, the water diverter to distribute washing liquor; and
an actuator fastened to the carrier element; wherein the carrier element includes lines embedded in a cast part for actuating the actuator, wherein a molded material surrounds the lines, the lines exposed from the molded material only at contact points of the lines.

The Examiner relies on the following prior art references as evidence in rejecting the appealed claims:

Zinn et al.	US 5,064,973	Nov. 12, 1991
Baccanini et al.	DE 102 46 407 A1	Apr. 30, 2003
Belaunzaran et al.	EP 1 728 461 A1	Dec. 6, 2006

The Examiner maintains the following grounds of rejection:

Claims 24–28, 35, 36, and 45 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Belaunzaran. Claims 24–46 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Baccanini (“Baccanini”). Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Belaunzaran or Baccanini, each in view of Zinn.

We reverse the stated rejections. Our reasoning follows.

For each of the stated rejections, the Examiner bears the initial burden of presenting a *prima facie* case establishing the non-patentability of the rejected claims. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

Anticipation Rejection

In order for the Examiner to carry the burden of establishing a *prima facie* case of anticipation, the Examiner must establish where each and every element of the claimed invention, arranged as required by claim 24, is found in a single prior art reference, either expressly or under the principles of inherency. *See generally, In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997).

Here, the Examiner has not established that either Belaunzaran or Baccanini describes an apparatus corresponding to the claimed apparatus, by specifying how the cited portions of Belaunzaran or Baccanini describe an apparatus that includes elements/features corresponding to all of the recited elements/features of and arranged as required by claim 24. In this regard, giving claim 24 its broadest reasonable construction at it would have been understood by one of ordinary skill in the art when read in light of the Specification, we determine that the water diverter carrier element is required to include lines that are embedded in a cast part such that the cast part embedded lines are surrounded by molding material (integrated within the carrier element casting) such that the lines are exposed from the molded material [of the cast part] only at contact points of the lines as essentially urged by Appellants (App. Br. 4–7; Reply Br. 2; Spec. ¶¶ 7, 9, 27; Figs. 3–4).

Consequently, we determine that the Examiner has not established that the combination of components 18 and 12 together with elements 33–35 of Figure 5 of Belaunzaran describes a carrier element that includes lines embedded in a cast part such that the lines are surrounded by the cast part molded material and exposed from the molded material (cast part) only at contact points of the cast part as required by Appellants' claim 24 (Final Act. 6; Ans. 4–6). Moreover, we determine that the Examiner has not established that the combination of body 3 and carrier element 25 of Baccanini describes a carrier element that includes lines embedded in a cast part such that the lines are surrounded by the cast part molded material and exposed from the molded material (cast part) only at contact points of the cast part as required by Appellants' claim 24 (Final Act. 4; Ans. 7).

In this regard, and in responding to Appellants' arguments in the Answer, the Examiner makes it apparent that both of the Examiner's anticipation rejections hinge on an overly broad construction of Appellants' claim 24. For example and in applying the cited prior art in the anticipation rejections, the Examiner maintains that the term “surrounds” as used in claim 24 merely requires that “*any* molded material must be on every side of or extending around the lines” and the Examiner maintains that “[s]uch molded material is not limited to the material of a cast part” (Ans. 4).

Contrary to the Examiner's interpretation, however, claim 24 makes it plain that it is the carrier element cast part in which the lines are embedded, which cast part the recited “a molded material surrounds the lines” limitation relates to and to which cast part “the molded material” recited in the limitation “the lines exposed from the molded material only at contact

points” relates back to as evident by a reading of claim 24 as a whole in light of the Specification.

Therefore, the Examiner has not applied either Belaunzaran or Baccanini to claim 24 as properly construed by giving claim 24 its broadest reasonable construction as it would have been understood by one of ordinary skill in the art when read as a whole in light of the subject Specification. Consequently, the Examiner has not carried the burden to establish that either Belaunzaran or Baccanini provides an anticipating disclosure for the claimed subject matter.

In sum, the evidence of record supports Appellants’ arguments and indicates that the Examiner has not carried the burden to establish that either Belaunzaran or Baccanini describes an apparatus wherein each and every element of the claimed invention, arranged as required by claim 24, is found such that either of these applied references anticipates claim 24, the sole independent claim is subject to the anticipation rejections.

It follows that we reverse the Examiner’s anticipation rejections.

Obviousness Rejection

Dependent claim 28, which is subject to the obviousness rejection maintained by the Examiner, requires the features of independent claim 24. In the stated obviousness rejection, the Examiner addresses the additional feature required by dependent claim 28 without further specifying how the applied references would have suggested the features of independent claim 24, which are included in claim 28 by virtue of its dependency on claim 24 (App. Br. 7–8). For reasons discussed above, the Examiner’s separate rejection of dependent claim 28 falls short because the Examiner has not

articulated how the obviousness position advocated for the additional feature added by claim 28 overcomes the deficiencies in the base anticipation rejection upon which the obvious rejection of claim 28 is predicated (Final Act. 10–11).

Accordingly, we reverse the Examiner’s obviousness rejection on this appeal record.

CONCLUSION

The Examiner’s decision to reject the appealed claims is reversed.

REVERSED