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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RUSSELL E. BLETTE and JOHN E. STARK

Appeal 2009-012070
Application 10/939,540
Technology Center 3600

Before GAY ANN SPAHN, EDWARD A. BROWN, and
JAMES P. CALVE, *Administrative Patent Judges*.

SPAHN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Russell E. Blette and John E. Stark (Appellants) seek our review under 35 U.S.C. § 134 of the Examiner's rejection of claim 21 under 35 U.S.C. § 103(a) as unpatentable over Foster (US 5,647,103, iss. Jul. 15, 1997). The Examiner withdrew claims 1-20 from consideration. We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

The Claimed Subject Matter

Claim 21, reproduced below, is the sole claim on appeal.

21. A splice system for linear connection of fishing lines, the system comprising:

a female connector having first and second opposite ends and a longitudinal axis, the connector being symmetric about the axis, the first end connected to a first fishing line section and the second end having a first opening therein, the first end having a tapered exterior surface, the connector having an interior feature with a radial extent; and

a male connector having first and second opposite ends and a longitudinal axis, the connector being symmetric about the axis, the second end connected to a second fishing line section and the first end having a projection thereon configured for coaxial insertion into the first opening of the female connector, the projection having a radial extent greater than the radial extent of the interior feature of the female connector;

wherein at least one of the connectors is resilient so that the projection compresses or the interior feature expands to allow passage of the projection axially past the interior feature, and

wherein upon such passage, the projection of the male connector and the interior feature of the female connector are configured to define a permanent locking connection therebetween.

Br. 17-18.

OPINION

The Examiner finds that Foster discloses a splice system including, *inter alia*, a female connector 16 with an interior feature 18 and male connector 21 with a projection 27 having a greater radial extent than the

interior feature 18 of the female connector 16. Final Rej. 2.¹ The Examiner also finds that the projection 27 of the male connector 21 and the interior feature 18 of the female connector 16 “form a ‘permanent locking connection’ in the sense that such a connection will not disengage on its own,” but will only disengage “when the user intends to ‘break’ the connection.” Final Rej. 3.

Appellants contend that the Examiner’s finding that Foster teaches a permanent locking connection between the male and female connectors is clearly erroneous. Br. 9. More particularly, Appellants assert that the ordinary and customary meaning of the claim term “permanent” is “continuing or enduring without fundamental or marked change,”² and argue that the Examiner’s interpretation of “permanent” is contrary to this ordinary and customary meaning as it does not differentiate between a “locking connection” and a “permanent locking connection” so as to render the claim term “permanent” meaningless. Br. 12, 13. Appellants also assert that the Examiner’s interpretation contradicts Appellants’ usage of “permanent” in the Specification. Br. 12-13.

We agree with Appellants. In attempting to give the claim language of “a permanent locking connection” its broadest reasonable interpretation, the Examiner failed to consider how it would be interpreted in light of the Specification by a person of ordinary skill in the art. *See In re Am. Acad. of*

¹ The Examiner’s Answer does not list the specifics of the rejection of claim 21 under 35 U.S.C. § 103(a) as unpatentable over Foster in the “Grounds of Rejection” section and therefore, we cite to the Final Rejection in the Office Action mailed Mar. 3, 2006. *See* Ans. 3.

² For the definition of the claim term “permanent,” Appellants cite to <http://www.m-w.com/dictionary/permanent>.

Sci. Tech. Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004) (We determine the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art.). Appellants' Specification describes that when the barb 16 is fully inserted into the receiver 18, a radially extending shoulder 22 of the barb 16 is snap connected with an interior feature 64 of the receiver 18 to form "a permanent, locking connection." Spec. 7, ll. 10-13 and Spec. 10, ll. 6-9. A new leader 14 can only be connected to a fly line 12 by cutting the connected barb 16 and receiver 18 from the fly line 12, tying a new barb 16 to the fly line 12, and connecting a new receiver 18 (and leader 14) to the new barb 16 (Spec. 13, ll. 4-12). Br. 10. Thus, in light of Appellants' Specification, a person of ordinary skill in the art would not interpret the claim language of "a permanent locking connection" to be one in which the locking connection between the members could be disengaged or disconnected.

Foster discloses a beveled clasp for jewelry including female and male members 16 and 21. Col. 2, ll. 56-64, col. 5, ll. 37-38 and 45-46, and Figs. 8 and 9. The female member 16 includes an internal bead 18 having a circumferential extremity 27 at the front thereof and an open front end 20 for accepting the beveled front end 24 of the male connector 21. Col. 5, ll. 38-46. Adjacent the beveled front end 24 of the male connector 21 is a groove 26 which in turn is adjacent to a base 22. Col. 5, ll. 48-51. A slot 25 extends through the beveled front end 24 and the groove 26 and the slot 25 allows for a slight compression of the beveled front end 24 to provide clearance for the circumferential extremity 27 to clear the bead 18 of the

female member 21 when the male member 16 is inserted into and removed from the female member 21. Col. 5, ll. 51-57. In the normal usage of Foster's beveled clasp for jewelry, the male and female members 21 and 16 are disengaged or disconnected from their locking connection with each other on a regular basis for removal of the jewelry from the wearer's person. The removal of the jewelry from the wearer's person in Foster is accomplished by fundamentally or markedly changing the locking connection by exerting a tensioning force on the two members and pulling them apart, after overcoming their resistance to separation. *See* Foster, col. 2, ll.61-63, col. 3, ll. 3-5, 16-17, 24, and 27-29, col. 4, ll. 1-4, and col. 5, ll. 35-37 and 59-62. Thus, a person of ordinary skill in the art when reading the claim term "a permanent connection" in light of Appellants' Specification would determine the Examiner's interpretation that Foster's male and female members 21 and 16 form a permanent locking connection as called for in claim 21 to be unreasonable, because Foster's beveled clasp provides a locking connection wherein the male and female members are readily disengagable or disconnectable from each other in contrast to the locking connection that cannot be disengaged or disconnected as described in Appellants' Specification for the claimed subject matter.

Moreover, the Examiner's interpretation of Foster's disengagable or disconnectable locking connection as being a permanent locking connection would effectively read the term "permanent" out of the claim. *See Bicon Inc. v. Straumann Co.*, 441 F.3d 945, 950 (Fed. Cir. 2006) (Claims are construed with an eye toward giving effect to all terms in the claim.). Indeed, an overly broad interpretation, as the Examiner suggests, would eviscerate the meaning of the claim term "permanent" to render it

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superfluous, because according to the Examiner's interpretation, any connection between male and female members that was maintained for a long period of time would be considered permanent, even though there was no structure to maintain the permanency of the connection by preventing disengagement or disconnection of the members. *See Stumbo v. Eastman Outdoors, Inc.*, 508 F.3d 1358, 1362 (Fed. Cir. 2007) (denouncing claim constructions which render phrases in claims superfluous).

In view of the foregoing, we do not sustain the Examiner's rejection of claim 21 under 35 U.S.C. § 103(a) as unpatentable over Foster.

DECISION

We reverse the Examiner's decision to reject claim 21.

REVERSED

Klh