

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROWLAND W. KANNER and STEPHEN P. LISAK

Appeal No. 2000-0104
Application 08/850,647

ON BRIEF

Before CALVERT, ABRAMS, and CRAWFORD, Administrative Patent Judges.

CALVERT, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 2 to

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8 and 11, all the claims remaining in the application.

The claims on appeal are drawn to a contact lens case, and are reproduced in the appendix of appellants' brief (pages 6 and 7).

The reference applied in the final rejection is:

Cerola et al. (Cerola) 5,196,174 Mar. 23,
1993

Claims 2 to 8 and 11 stand finally rejected under 35 U.S.C. § 102(b) as anticipated by Cerola.

Both of the two independent claims on appeal, 2 and 6, require, inter alia, a coupler which includes "a locking structure providing a mechanical lock for locking retention of the catalyst member thereto and for preventing removal of the catalyst member from said coupler." The only issue argued by appellants in this case is whether Cerola discloses structure meeting this limitation; if not, the claims are not anticipated. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431

(Fed. Cir. 1997)("To anticipate a claim, a prior art reference

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must disclose every limitation of the claimed invention, either explicitly or inherently").

Cerola discloses two different arrangements for mounting a catalyst member to the lens support structure of a contact lens case: (1) the embodiment of Figs. 1 to 5, in which the rim of catalyst member 62 is engaged by tabs 88 for a "snapping engagement" (col. 5, line 50), and (2) the embodiment of Figs. 12 to 14, in which the catalyst member 90 has a "friction-type fit" (col. 6, line 23) over coupler 94 on the bottom of lens support structure 40. The catalyst member of arrangement (1) is "easily removable and replaceable when desired" (col. 4, lines 43 to 45), and the catalyst member of arrangement (2) is "readily removable for replacement by a user" (col. 6, lines 34 and 35). The examiner asserts that the tabs of arrangement (1) and the friction fit of arrangement (2) constitute mechanical locks, as claimed (answer, part (11)). While he does not mention the limitation "for preventing removal of the catalyst member from said coupler" in the answer, he states on page 2 of the final rejection (Paper No. 17) that "[s]ince [Cerola] teaches all of

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the structural elements of the claims, [the Cerola container] is considered to be inherently capable of the claimed functions."

In interpreting words in a claim,

the PTO applies to the verbiage of the proposed claims 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, 44 USPQ2d 1023, 1027, (Fed. Cir. 1997). Here, with regard to the term "mechanical lock," the snap-in or friction fit arrangements of Cerola are certainly mechanical, but we do not consider that either of them constitutes a "lock," as that term is used in the appealed claims, since the claimed "lock" is recited as (a) "for locking retention of the catalyst member thereto," and (b) "for preventing removal of the catalyst member from said coupler." Giving the words in phrase (a) "their ordinary and accustomed meaning" (In re Paulsen, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1992)), the verb "lock" is

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defined by Webster's Third New International Dictionary (1971) as "to make fast by or as if by the interlacing or interlocking of parts." Looking at arrangements (1) and (2) of Cerola, it is doubtful to us that it can be said that there is any interlacing or interlocking of the coupler and catalyst member. In any event, even if it might be said that Cerola satisfies phrase (a), Cerola clearly does not meet phrase (b), because neither arrangement of Cerola prevents removal of the catalyst member from the coupler. The verb "prevent" means "to keep from happening or existing"

(Webster, supra), and since the arrangements (1) and (2) of Cerola do not keep the catalyst member from being removed from the carrier, phrase (b) is not readable on either of them.

If we look to appellants' specification for "enlightenment" (In re Morris, supra) as to the meaning of the limitations in question, particularly phrase (b), we find that on page 9, lines 36 to 38, appellants disclose that once the catalyst is assembled on the coupler, it "cannot be removed." This

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reinforces our conclusion that the claimed expression "for preventing removal of the catalyst member from said coupler" means that the catalyst member cannot be removed from the coupler. The claims are therefore not anticipated by Cerola, since Cerola specifically discloses, as discussed above, that catalyst member 62 or 90 is easily or readily removable.

Accordingly, the rejection of claims 2 to 8 and 11 will not be sustained.

Conclusion

The examiner's decision to reject claims 2 to 8 and 11 is reversed.

REVERSED

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