

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSE M. PIRIZ and SIDNEY A. DAVID

Appeal No. 2000-0325
Application No. 08/914,365

HEARD: December 13, 2001

Before FLEMING, LALL, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-12.

We vacate the examiner's rejections in view of a new ground of rejection under 37 CFR § 1.196(b).

BACKGROUND

The invention is directed to a crimpable, compression type electrical connector.

Representative Claim 1 is reproduced below.

1. An electrical connector for crimpable connection about an electrical conductor upon application of a crimping force imparted by opposing arcuate dies of a crimping tool, said connector comprising:
an elongate connector body formed of a compressible material, said connector body including an elongate first planar face and an elongate second planar face, said first planar face being opposed to said second planar face, one end of said connector body being defined by a continuous arcuate wall extending between said first planar face and said second planar face for engaging one arcuate die of the crimping tool, the other end of said connector body defining a first open ended conductor receiving nest, said connector body further defining a second open ended conductor receiving nest and a third open ended conductor receiving nest, said second and third conductor receiving nests being adjacent said arcuate wall and opening in substantially opposite directions, said connector body providing no more than three points of contact with said opposing dies of the crimping tool prior to crimping.

The examiner relies on the following references:

Levinsky	3,354,517	Nov. 28, 1967
Schrader	5,103,068	Apr. 7, 1992

Claims 1-11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Levinsky.

Claim 12 stands rejected under 35 U.S.C. § 103 as being unpatentable over Levinsky and Schrader.

We refer to the Final Rejection (mailed Mar. 8, 1999) and the Examiner's Answer (mailed Oct. 25, 1999) for a statement of the examiner's position and to the Brief (filed

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Sep. 13, 1999) and the Reply Brief (filed Dec. 27, 1999) for appellants' position with respect to the claims which stand rejected.

OPINION

The standing rejections

The statutory basis for the rejection set forth on pages 3 through 5 of the Answer is 35 U.S.C. § 103. With respect to broadest claim 1, the purported difference between the claim and the disclosure of Levinsky appears to be that "Levinsky doesn't disclose a crimp tool having dies providing no more than three points of contact...." (Answer at 4.) However, claim 1 sets forth an "electrical connector" -- not a crimp tool. The recognition that appellants do not claim a "crimp tool" appears to be consistent with the position the examiner later takes, in the paragraph bridging pages 6 and 7 of the Answer.¹ The rejection is unclear in setting out the perceived differences between the claimed subject matter and the apparatus disclosed by Levinsky.

Fundamental ambiguities thus exist in the rejection applied against claim 1, and all other claims on appeal, each of which incorporates the limitations of claim 1. Since the rejection fails to provide proper notice to appellants with respect to the factual findings

¹ Additionally, appellants state, unequivocally, that "[t]he dies and crimping tool are not elements of the claim." (Reply Brief at 3.)

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upon which the rejection is based, we vacate the standing rejections applied against the claims. We enter a new ground of rejection, infra.

New ground of rejection

We enter the following new ground of rejection in accordance with 37 CFR § 1.196(b): Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Levinsky. We take claim 1 as representative of the invention, and find the claim to be anticipated by the disclosure of Levinsky as set forth below. We do not mean to imply that the dependent claims necessarily represent allowable subject matter, but leave consideration of the subject matter of those claims for the examiner and appellants in view of our reading of claim 1 on the reference.

Claim 1

An electrical connector for crimpable connection about an electrical conductor upon application of a crimping force imparted by opposing arcuate dies of a crimping tool, col. 1, ll. 11-21 and col. 1, l. 68 - said connector comprising:

an elongate connector body formed of a compressible material,

Levinsky

Describes an electrical connector (Fig. 1) for crimpable connection about an electrical conductor upon application of a crimping force by a crimping tool; col. 1, l. 68 - col. 2, l. 3

formed of a compressible material (e.g. Title of patent) and elongate at least in

	direction of arrows 2 (Fig. 1)
said connector body including an elongate first planar face and an elongate second planar face, said first planar face being opposed to said second planar face,	has an elongate first planar face toward viewer of Fig. 1, and a corresponding, opposed second planar face on opposite end of connector (hidden from view in Fig. 1)
one end of said connector body being defined by a continuous arcuate wall extending between said first planar face and said second planar face for engaging one arcuate die of the crimping tool,	continuous arcuate side wall 12 at least partly defines one end of the connector body, and extends between the first and second planar face; at least upper portion of wall 12 engages one arcuate die of the crimping tool
the other end of said connector body defining a first open ended conductor receiving nest,	recess 31
said connector body further defining a second open ended conductor receiving nest and a third open ended conductor receiving nest,	(second nest) recess 14; (third nest) recess 22
said second and third conductor receiving nests being adjacent said arcuate wall and opening in substantially opposite directions,	recesses 14 and 22 are adjacent wall 12 and opening in substantially opposite directions -- even if the center lines of recesses 14 and 22, apparently oriented at 90E, are not considered "substantially" opposite, the language does not limit the "opening" as being measured relative to the center line

said connector body providing no more than three points of contact with said opposing dies of the crimping tool prior to crimping.

col. 2, ll. 4-20 describes optional closure means 15 and closure means 15'; when closure means 15' is folded over recess 17 prior to crimping, and closure means 15 is absent, or not folded over, there are no more than three points of contact with the opposing dies of the crimping tool prior to crimping -- the top of wall 11, the top of wall 12, and closure means 15'

We note that appellants appear to rely, in the Brief and Reply Brief, on selectively narrow definitions of common, ordinary terms appearing in the instant claims. However, claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541, 550 (CCPA 1969).

We do not find any special definitions set forth in the disclosure to narrow the terms used in the claims. Cf. In re Paulsen, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (repeating the principle that where an inventor chooses to be his own lexicographer and gives terms uncommon meanings, he must set out the uncommon definition in the patent disclosure). See also Beachcombers Int'l, Inc. v. WildeWood

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Creative Prods., Inc., 31 F.3d 1154, 1158, 31 USPQ2d 1653, 1656 (Fed. Cir. 1994) ("As we have repeatedly said, a patentee can be his own lexicographer provided the patentee's definition, to the extent it differs from the conventional definition, is clearly set forth in the specification."); Johnson Worldwide Assocs., Inc. v. Zebco Corp., 175 F.3d 985, 989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999) (there is a "heavy presumption" that claim language has its ordinary meaning).

Therefore, absent any special definitions set forth in the specification, we do not find error in using general dictionary definitions for ascertaining the meaning of common, ordinary words having no specialized meaning in the art. For example, "arcuate" is defined as "[h]aving the form of a bow; curved." American Heritage Dictionary, Second College Edition (1982). "Continuous" is defined as "[e]xtending or prolonged without interruption or cessation; unceasing." Id. Thus, a broad, reasonable definition of "continuous arcuate wall," and which is consistent with appellants' disclosed arcuate endwall 26 (Fig. 1), refers to a curved wall that extends without interruption or cessation. Side wall 12 of the Levinsky connector, having curved, smooth, and continuous surfaces, meets the terms of the recitation, a "continuous arcuate wall."

Applicants for patent may amend their claims if the language is not limited to the scope intended. "An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim

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scope be removed, as much as possible, during the administrative process." Zletz, 893 F.2d at 321, 13 USPQ2d at 1322.

CONCLUSION

The rejections of claims 1-12 under 35 U.S.C. § 103 are vacated.

Claim 1 is newly rejected by us under 35 U.S.C. § 102 as being anticipated by Levinsky.

This decision contains a new ground of rejection pursuant to 37 CFR § 1.196(b) (amended effective Dec. 1, 1997, by final rule notice, 62 Fed. Reg. 53,131, 53,197 (Oct. 10, 1997), 1203 Off. Gaz. Pat. & Trademark Office 63, 122 (Oct. 21, 1997)). 37 CFR § 1.196(b) provides that, "A new ground of rejection shall not be considered final for purposes of judicial review."

37 CFR § 1.196(b) also provides that the appellant, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of proceedings (§ 1.197(c)) as to the rejected claim:

(1) Submit an appropriate amendment of the claim so rejected or a showing of facts relating to the claim so rejected, or both, and have the matter reconsidered by the examiner, in which event the application will be remanded to the examiner. . . .

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(2) Request that the application be reheard under § 1.197(b) by the Board of Patent Appeals and Interferences upon the same record. . . .

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

VACATED -- 37 CFR § 1.196(b)

MICHAEL R. FLEMING)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
PARSHOTAM S. LALL)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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HOWARD B. BLANKENSHIP)	
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