

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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte OSCAR ROMERO

Appeal No. 2004-0765
Application 09/732,641

ON BRIEF

Before GARRIS, WARREN, and POTEATE, ***Administrative Patent Judges.***
GARRIS, ***Administrative Patent Judge.***

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 1-14. On page 2 of the Answer, the examiner states that "the rejection of claim 5 has been withdrawn." Accordingly, we hereby dismiss the appeal as to claim 5, thereby leaving for our consideration only claims 1-4 and 6-14.

Appeal No. 2004-0765
Application 09/732,641

The subject matter on appeal relates to a two piece faucet hub and handle assembly. With reference to the appellant's drawing, the assembly 10 comprises a hub 14 having a bearing surface 68 and a threaded portion 56 (see figures 5 and 6) and a handle 12 having a plurality of fingers 38 for engaging the bearing surface 68 for rotational movement of the handle relative to the hub. This appealed subject matter is adequately represented by independent claim 1, which reads as follows:

1. A two piece faucet hub and handle assembly comprising:

a hub having a bearing surface and a threaded portion;
and

a handle coupled to the hub and having a plurality of fingers for engaging the bearing surface for rotational movement of the handle relative to the hub.

The reference set forth below is relied upon by the examiner in the § 102 rejection before us:

Mark

5,947,149

Sep. 7, 1999

Appeal No. 2004-0765
Application 09/732,641

Claims 1-4 and 6-14 stand rejected under 35 U.S.C.
§ 102(b) as being anticipated by Mark.¹

We refer to the Brief and to the Answer for a complete exposition of the contrary viewpoints expressed by the appellant and by the examiner concerning the above-noted rejection.

OPINION

For the reasons which follow, we will sustain the § 102 rejection advanced on this appeal.

We share the examiner's finding that Mark discloses a faucet hub and handle assembly which anticipates each of the independent claims on appeal. In support of his opposing view, the appellant argues that patentee's assembly does not satisfy the here claimed requirements that the assembly be "two piece" and that the handle include a means for engaging the hub

¹ As indicated on page 5 of the Brief, independent claims 1, 7, 12, 13 and 14 have been separately grouped and argued by the appellant. We shall separately consider, therefore, each of these independent claims. However, because they have not been separately grouped and argued, the dependent claims on appeal will stand or fall with their respective parent independent claims. See 37 CFR § 1.192(c)(7)(2002).

Appeal No. 2004-0765
Application 09/732,641

including an integral means for axially retaining the handle on the hub such as a plurality of fingers. The appellant's arguments are unpersuasive.

While we understand that Mark's assembly includes a number of individual components in excess of two, nevertheless it is appropriate to consider patentee's construction as a "two piece" hub and handle assembly in accordance with the appealed claims. This is because it is proper to regard one piece as patentee's hub 40 and the other piece as patentee's handle subassembly 36, 38, 52, 84 and 42 (which subassembly interconnects with the aforementioned hub 40). Concerning this handle subassembly, we here emphasize that nothing in the appellant's appealed independent claims excludes an embodiment wherein the here claimed handle comprises a subassembly of multiple components. Further in this regard, the appellant is reminded that, during examination proceedings, claims are to be given their broadest reasonable interpretation consistent with the specification (*In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000)) and that limitations from the specification are not to be read into the claims (*Comack Communications*,

Appeal No. 2004-0765
Application 09/732,641

Inc. v. Harris Corp., 156 F.3d 1182, 1187, 48 USPQ2d 1001, 1005
(Fed. Cir. 1998)).

As for the appellant's position that Mark's handle does not include the aforementioned means for engaging the hub such as a plurality of fingers, we reiterate with approval the examiner's point that the snap ring 42 of patentee's previously mentioned handle subassembly includes a plurality of fingers or tangs 82 for engaging the hub in order to retain the handle thereon pursuant to each of the independent claims before us. Contrary to the appellant's belief and analogous to our reasoning above, nothing in these claims excludes an embodiment wherein the recited engaging/retaining means or plurality of fingers comprises a discrete component such as patentee's snap ring 42. With specific respect to the independent claim 7 requirement for "a handle having integral means for axially retaining the handle on the hub," we consider, as did the examiner, the term "integral" to be sufficiently broad as to embrace a construction of constituent parts which have been unified as in Mark's handle subassembly. ***See In re Hotte***, 475 F.2d 644, 647, 177 USPQ 326, 328 (CCPA 1973); ***In re Kohno***, 391 F.2d 959, 960 n.4, 157 USPQ

Appeal No. 2004-0765
Application 09/732,641

275, 276 n.4 (CCPA 1968); *In re Larson*, 340 F.2d 965, 967-68,
144 USPQ 347, 349 (CCPA 1965); *Henderson v. Grable*, 339 F.2d 465,
470, 144 USPQ 91, 96 (CCPA 1964); and *In re Clark*, 214 F.2d 148,
150, 102 USPQ 241, 243 (CCPA 1954).

In light of the foregoing, we hereby sustain the
examiner's § 102 rejection of claims 1-4 and 6-14 as being
anticipated by Mark.

The decision of the examiner is affirmed.

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

AFFIRMED

BRADLEY R. GARRIS)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
CHARLES F. WARREN)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
LINDA R. POTEATE)	
Administrative Patent Judge)	

BRG:psb

Appeal No. 2004-0765
Application 09/732,641

Richard J. Veltman, Esq.
The Black & Decker Corporation
701 East Joppa Road TW 199
Towson, MD 21286