UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PIERRE-HENRY BASSOULS,
JEAN-PHILIPPE DELMOTTE, and ERIC BIHR

Appeal 2017-000694
Application 13/972,257
Technology Center 3600

Before LINDA E. HORNER, LYNNE H. BROWNE, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

DOUGAL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the rejection under 35 U.S.C. § 103(a) of claims 1–4 and 12–14 as being unpatentable over Frey (US 8,015,736 B2, iss. Sept. 13, 2011). Claims 5–11 have been objected to. We have jurisdiction under 35 U.S.C. § 6(b). A hearing was held on September 26, 2018.

We reverse.

CLAIMED SUBJECT MATTER

The claims are directed to a communicating board, such as an advertising display or poster. Spec. ¶ 1. Claims 1 and 13 are independent. Claim 1, reproduced below, is illustrative of the claimed subject matter:

> 1. A communicating board comprising:
>
> • a display medium being totally formed by a sheet of fabric, said sheet of fabric comprising, on at least one surface, loops adapted to cooperate with a gripping strip provided with hooks, said loops being integral parts of the sheet of fabric;
>
> • at least one first gripping strip provided with hooks enabling to hold in position said display medium;
>
> • at least one substantially rectilinear profile, comprising a first planar connecting surface having said at least one first gripping strip provided with hooks positioned thereon;
>
> characterized in that said first planar connecting surface is inclined towards a rear surface of the display medium when the latter cooperates with said at least one first gripping strip provided with hooks, said first planar connecting surface forming with a visible planar surface of the display medium an angle α greater than 30°.

OPINION

The Examiner relies on the combination of two different embodiments of display systems (Figs. 8 and 9) in Frey to suggest all of the features of independent claim 1. Non-Final Act. 3. The Examiner applies a similar analysis to independent claim 13. *Id.* at 4–5. In particular, the Examiner finds that Frey Figure 8 uses hook and loop fasteners (Element 68) (i.e., VELCRO ®) to attach display material to a frame, while Figure 9 uses "a mounting means (Element 66) inserted into the groove of the rectilinear frame support structure" to attach display material to the frame. *Id.* at 6; *see also id.* at 3. The Examiner determines that the two different types of

attachment systems are well known alternatives. *Id.* at 3, 6. The Examiner further determines that as such, "[i]t would be obvious to apply the disclosed hook and loop fastener to the groove as disclosed in Figure 9." *Id.* at 6; *see also id.* at 3 ("It would be obvious to apply the hook and loop fasteners (Element 68) in the securing structure of Figure 9.").

Appellants argue that such a modification "would render the prior art . . . unsatisfactory for its intended purpose." Appeal Br. 13. Appellants explain:

> Positioning the mounting means (66) inserted into a groove of the rectilinear frame support structure (Figure 9) requires a translation movement into the groove. It is well known to the skilled person that a hook and loop fastening means opposes translation movements. If the skilled person places a hook and loop fastening means on one side of the groove of the rectilinear frame support structure (Figure 9), it would be very difficult, if not impossible, to insert a display into the groove.

Id. at 15.

The Examiner responds that "[t]he dimension of the channel is easily modified to provide a void that is large enough to facilitate the translation movements of attaching and detaching hook and loop fasteners." Ans. 3; *see also* Non-Final Act. 7.

The Examiner does not provide any reason why one of skill in the art would modify Frey's frame to increase the size of the void 80, when the frame already provides for hook and loop fasteners. Such a modification would decrease the area Frey teaches to use for the hook and loop fasteners. Further, the purpose of the void 80 is to provide for press-fit attachment of the display material using element 66. It is unclear why one of skill would change the frame in the manner suggested by the Examiner. Thus, the Examiner's reasoning appears to be driven by hindsight.

Appellants also argue that the Examiner's position that the size of the void can be increased

> ignores the realities of what one skilled in the art is trying to achieve - i.e., a taught [sic, taut] display surface without wrinkles and the like. While it is true that one could make the grooves of Frey wider and make the display surface larger so that the hooks and loops would not contact each other while the edges of the display were being inserted translationally into the widened grooves, once the hooks and loops were brought into engagement, the display would be loose and prone to wrinkling. Again, this combination/modification would change the principle of operation of the prior art invention being modified and lead to a device that is unsatisfactory for its intended purpose.

Appeal Br. 16–17.

The Examiner does not respond to this argument. *See generally* Ans.; *see also* Reply Br. 2–4.

We acknowledge that Frey teaches that hook and loop fasteners and "a mounting means (Element 66) inserted into the groove of the rectilinear frame support structure" are interchangeable methods to attach display material to a frame. However, the Examiner has not provided sufficient reason why one of skill in the art would modify the groove 80 to use hook and loop fasteners within the groove. Nor has the Examiner addressed the drawbacks with such a solution, which appear counter to the teachings of Frey.

For these reasons, we do not sustain the rejection of independent claims 1 and 13, or the rejection of the dependent claims.

DECISION

The Examiner's rejection of claims 1–4 and 12–14 is reversed.

REVERSED