

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

JAN 17 1996

Ex parte CHARLES E. GARDENHOUR, JR.
and CHRISTOPHER E. GARDENHOUR

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 94-2394
Application 07/845,605¹

ON BRIEF

Before KRASS, CARLILLO, and BARRETT, Administrative Patent Judges.

BARRETT, Administrative Patent Judge.

ON REQUEST FOR RECONSIDERATION

Appellants request reconsideration of that part of our decision of June 23, 1995, wherein we sustained the rejection of claim 1 under 35 U.S.C. § 102(b) as anticipated by Foster.

¹ Application for patent filed March 4, 1992, entitled "Coiled Cord Holding Assembly."

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According to appellants, the decision erred in interpreting the terms "from" and "away" and therefore in finding claim 1 to be anticipated by Foster. Appellants' interpretation of the terms with respect to the "first" and "second" surfaces is shown in the drawings attached to the request for reconsideration.

In Foster, the "baseboard 10 that is adapted to be mounted to the wall of a telephone toll station" (column 2, lines 13-14) is considered to be the "face plate" of claim 1. Claim 1 does not recite what support engages the first surface. Thus, the first surface could engage a support for something other than a wall. Ferrule 46, which forms the "length of tubing" of claim 1, includes a shoulder 47 which bears against the side 18 of the wall 11 (column 2, lines 53-54). Thus, the wall 18 in Foster is a first surface which engages a support, shoulder 47, and the second surface is the opposite wall 17. Appellants' argument that surface 18 is not a first support engaging surface "as it fails to engage any surface" (Request for Reconsideration, page 3) is nonpersuasive because claim 1 calls for engaging a support, not a surface, and the shoulder 47 is broadly a support because it supports the ferrule from falling through the opening 13.

We disagree with appellants' arguments that claim 1 is not anticipated under the interpretation of wall 18 being the

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first surface and wall 17 being the second surface. The ferrule 46 is "extending from said first face plate surface" because it starts at wall 18 and extends away from it. The ferrule 46 is also "extending . . . away from said second surface" because it extends past the wall 17 and thus away from the second surface. Claim 1 does not preclude part of the tubing from extending toward the second surface; indeed, figure 2 shows the tubing extending between first and second surfaces. Claim 1, as presented, is broad enough to read on Foster. Therefore, we will not change our original decision.

Of course, the retention means 35 in Foster can also be considered a support that prevents the ferrule 46 from backing out of the opening 13. In that case, the wall 17 is the first surface and the opposite wall 18 is the second surface. Under this interpretation, claim 1 is also anticipated by Foster.

We have granted appellants' request to the extent that we have reconsidered our decision but we deny the request with regard to making any changes therein.

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