NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

IN RE: GARTH JANKE,
Appellant

2022-1274

Appeal from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. 16/781,695.

JUDGMENT

(Filed Oct. 6, 2022)

GARTH JANKE, Salem, OR, argued pro se.

KAKOLI CAPRIHAN, Office of the Solicitor, United States Patent and Trademark Office, Alexandria, VA, argued for appellee Katherine K. Vidal. Also represented by THOMAS W. KRAUSE, AMY J. NELSON, MAUREEN DONOVAN QUELER, FARHEENA YASMEEN RASHEED.

THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

PER CURIAM (REYNA, HUGHES, and CUNNINGHAM, *Circuit Judges*).

AFFIRMED. See Fed. Cir. R. 36.

ENTERED BY ORDER OF THE COURT

October 6, 2022	/s/ Peter R. Marksteiner
Date	Peter R. Marksteiner
	Clerk of Court

App. 3

UNITED STATES PATENT AND
TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND
APPEAL BOARD

Ex parte GARTH JANKE

Appeal 2021-005284
Application 16/781,695
Technology Center 2100

Before MARC S. HOFF, BETH Z. SHAW, and JOYCE CRAIG, *Administrative Patent Judges.*

CRAIG, *Administrative Patent Judge.*

DECISION ON APPEAL

(Filed Nov. 18, 2021)

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject claims 21–35. *See* Final Act. 1. Claims 6–20 have been canceled. *See id.* at 2. Claims 1–5 were withdrawn from consideration previously, as a result of a restriction requirement, but after a successful Petition under 37 C.F.R. § 1.144,

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[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies the named inventor, Garth Janice, as the real party in interest. Appeal Br. 2.

were rejoined and allowed. Ans. 14. We have jurisdiction under 35 U.S.C. § 6(b). We AFFIRM.

CLAIMED SUBJECT MATTER

The claims are directed to a product and process for enabling a clog-resistant feature in a hand-held "lawn and garden" type leaf rake. *See* Spec. Title, Field of the Invention. Claim 21, reproduced below, illustrates the claimed subject matter:

> 21. A process for enabling a clog-resistant feature in a handheld leaf rake, comprising installing a first mathematical model on a computer, the first mathematical model describing first mathematical equations that define a leaf rake head product comprising a plurality of independent raking tines extending from a common body portion, wherein each raking tine has an entire length over which the raking tine is an elongate member first extending substantially linearly, thence turning through a distinct bent portion, and thence again extending substantially linearly to define an elongate raking portion of the raking tine terminating in a raking tip, the bent portion extending over less than 20% of said length, the product further comprising, in each of the plurality of raking tines, at least one hole extending through and enclosed by the respective raking portion.

Appeal Br. 28 (Claims App.).

REJECTION

Claims 21-35 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception, without significantly more. Final Act. 3–13.

ANALYSIS

Appellant asks the Board to affirm the §101 rejections of claims 21–35. Appeal Br. 6. Appellant agrees with the Examiner's § 101 rejections and presents no arguments that the claims are patent eligible. *Id.* at 5–6; Reply Br. 2. Arguments not made are forfeited. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellant uses the remainder of the Appeal Brief to explain why Appellant disagrees with the Supreme Court's § 101 jurisprudence, specifically the Court's decisions in *Gottschalk vs. Benson*, 409 U.S. 63 (1972) and *Parker vs. Flook*, 437 U.S. 584 (1978). Appeal Br. 6–26.

DECISION

We affirm *pro forma* the decision of the Examiner rejecting claims 21–35 as directed to patent-ineligible subject matter.

DECISION SUMMARY

Claims Rejected	**35 U.S.C. §**	**Reference(s)/ Basis**	**Affirmed**	**Reversed**
21–35	101	Eligibility	21–35	

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

(19) **United States**
(12) **Patent Application Publication**
Janke

(10) **Pub. No.: US 2021/0337724 A1**
(43) **Pub. Date: Nov. 4, 2021**

* * *

1. A leaf rake head product for enabling a clog-resistant feature in a hand-held leaf rake, the leaf rake head product comprising a plurality of independent raking tines extending froth a common body portion, wherein each raking tine has an entire length over which the raking tine is an elongate member first extending substantially linearly, thence turning through a distinct bent portion, and thence again extending substantially linearly to define an elongate raking portion of the raking tine terminating in a raking tip, the bent portion extending over less than 20% of said length, the product further comprising, in each of the plurality of raking tines, at least one hole extending through and enclosed by the respective raking portion.

* * *

21. A process for enabling a clog-resistant feature in a hand-held leaf rake, comprising installing a first mathematical describing first mathematical equations that define a leaf rake head product comprising a plurality of independent raking tines extending from a common body portion, wherein each raking tine has an entire length over which the raking tine is an elongate member first extending substantially linearly, thence turning through a distinct bent portion, and thence again extending substantially linearly to define an

elongate raking portion of the raking tine terminating in a raking tip, the bent portion extending over less than 20% of said length, the product further comprising, in each of the plurality of raking tines, at least one hole extending through and enclosed by the respective raking portion.

* * *

26. The process of claim **21**, further comprising applying the first mathematical model on a commercially available 3D printer to result in transforming the first mathematical model into a real leaf rake head product as defined by the first mathematical equations.

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