

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

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** KUI-CHIU KWOK

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Appeal No. 2002-2130  
Application No. 09/483,647

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ON BRIEF

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Before OWENS, TIMM and PAWLIKOWSKI, **Administrative Patent Judges**.

PAWLIKOWSKI, **Administrative Patent Judge**.

**DECISION ON APPEAL**

This is an appeal from the final rejection claims 26-34. As indicated on page 2 of the answer, claims 1-25 have been withdrawn from consideration as not being directed to the elected invention.

Claim 26 is representative of the subject matter on appeal, and is set forth below:

26. A liquid atomization method comprising:  
forming an atomized liquid flow adjacent a moving article by drawing a liquid with continuous fluid flows directed along substantially opposite sides of the liquid;

vacillating the atomized liquid flow  
predominately non-parallel to a direction of the  
moving article;  
depositing the vacillating atomized liquid flow  
on the moving article.

The examiner relies upon the following references as  
evidence of unpatentability:

Haynes et al. (Haynes)	5,652,048	Jul. 29, 1997
Kwok et al. (Kwok)	5,904,298	May 18, 1999

Claims 26-34 stand rejected 35 U.S.C. § 103 as being  
unpatentable over Kwok in view of Haynes.

On page 2 of Paper No. 6, the examiner has objected to  
claim 34 as being of improper dependent form for failing to  
further limit the subject matter of a previous claim. However,  
on page 3 of the answer, the examiner indicates that this  
objection is not an appealable issue. Upon return of this  
application to the jurisdiction of the examiner, both the  
appellant and the examiner should resolve this issue.

For the reason set forth below, we reverse the rejection of  
record.

#### OPINION

Appellant's claim 26 is directed to a liquid **atomization**  
method comprising forming an **atomized liquid flow** adjacent a  
moving article by drawing a liquid with **continuous fluid flows**  
directed along substantially opposite sides of the liquid,  
**vacillating the atomized liquid flow** predominately non-parallel  
to a direction of the moving article, and depositing the  
**vacillating atomized liquid flow** on the moving article.[emphasis  
added].

Beginning on page 6 of the brief, appellant argues that  
Kwok is directed to dispensing fiberized filaments from nozzles.  
Appellant argues that Haynes discloses the use of alternating

air pulses emanating from converging slots in a meltblown nozzle.

Appellant concludes that Kwok in view of Haynes fail to disclose or suggest forming an atomized liquid flow by drawing the liquid with continuous fluid flows directed along substantially opposite sides of the liquid as required by claim 26. (brief, page 7)

On page 9 of the answer, the examiner basically responds and states that while neither of the references teaches all the claimed features, it is the combination that provides the suggestion of all the claimed features.

However, upon our review of Kwok in view of Haynes, we find that while Kwok utilizes continuous fluid flows, Kwok utilizes the continuous fluid flows in conjunction with dispensing meltblown adhesive filaments rather than dispensing an atomized liquid flow.

On the other hand, Haynes does teach the ability of forming an atomized liquid flow, but this is in the context of utilizing pulsating fluid flows, not continuous fluid flows.

The examiner does not explain how the teaching of Haynes, when incorporated into the method of Kwok, would provide for a method of forming an atomized liquid flow by drawing a liquid using a continuous fluid flow. Possibly, the examiner believes that one skilled in the art would decide to form an atomized liquid flow (according to Haynes), yet use the continuous fluid flow of Kwok. However, the examiner has not explained why one of ordinary skilled in the art would have been motivated to conduct the meltblown method of Kwok to form an atomized liquid flow. We note that obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggesting, or

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motivation to do so found either in the reference or in the knowledge generally available to one of ordinary skill in the art. In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Here, the examiner has not shown such a teaching, suggestion, motivation or explanation.

Therefore, we determine that the examiner has not set forth a prima facie case of obviousness, and we reverse the rejection.

**REVERSED**

TERRY J. OWENS	)
Administrative Patent Judge	)
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	) BOARD OF PATENT
	) APPEALS AND
CATHERINE TIMM	) INTERFERENCES
Administrative Patent Judge	)
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BEVERLY A. PAWLIKOWSKI	)
Administrative Patent Judge	)

BAP/sld

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