

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL R. HANSEN

Appeal No. 2006-0142
Application No. 10/247,782

HEARD: JANUARY 26, 2006

Before OWENS, WALTZ, and FRANKLIN, Administrative Patent Judges.

FRANKLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the examiner's final rejection of claims 1-42.

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

Floyd et al. (Floyd)	5,290,580	Mar. 1, 1994
Hansen et al. (Hansen '326)	5,789,326	Aug. 4, 1998
Hansen et al. (Hansen '364)	5,807,364	Sep. 15, 1998

Claims 1-42 stand rejected under 35 U.S.C. § 103 as being unpatentable over Floyd in view of Hansen '326.

Claims 14, 16, 27, 29, 38 and 40 stand rejected under 35 U.S.C. § 103 as being unpatentable over Floyd in view of Hansen '326 and further in view of Hansen '364.

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To the extent that any one claim is specifically argued regarding patentability, we consider such claim in this appeal. See 37 CFR § 41.37(c)(1)(vii)(effective September 13, 2004; 69 Fed. Reg. 49960 (August 12, 2004); 1286 Off. Gaz. Pat. Office 21 (September 7, 2004)).

OPINION

I. 35 U.S.C. § 103 rejection of claims 1-42 as being obvious over Floyd in view of Hansen '326

The examiner's position for this rejection is set forth on pages 3-6 of the answer. The examiner states that Floyd discloses the claimed invention, but does not mention "the addition of at least one agent, having hydrogen bonding functionality, to the fiber treatment composition." The examiner relies upon Hansen for teaching that it is known in the art to add at least one agent having hydrogen bonding functionality to a wet-laid fiber sheet to help keep super-absorbent material from dislodging from the cellulosic material. Answer, page 3.

Beginning on page 10 of the brief, appellant argues that the rejection does not establish a prima facie case of obviousness. Appellant argues that there is no teaching in Floyd or Hansen that would have motivated one skilled in the art to add an agent having hydrogen bonding functionality to the polysaccharide films of Floyd.

On page 11 of the brief, appellant argues that Floyd does not suggest that there is a need to add an additional material to his polysaccharide films in order to help keep super-absorbent particles from dislodging from the cellulosic material. Appellant refers to column 4, beginning at line 24 of

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Floyd, and states that "[a]fter considering this teaching of Floyd, one skilled in the art would not conclude that there is a need to add an additional material to Floyd's polysaccharide film in order to keep superabsorbent material from dislodging from cellulose materials, because Floyd teaches that his polysaccharide film is effective to adhere the superabsorbent particles and wood pulp." Brief, page 12.

Also, beginning on page 1 of the reply brief, appellant states that "there is no motivation for incorporating such hydrogen bonding functionality containing binders of Hansen into the polysaccharide films of Floyd." Appellant also states "Floyd does not suggest the need for additional materials to adhere the superabsorbent particles."

We are not convinced by such argument for the following reasons.

As stated by the examiner on page 7 of the answer, Hansen provides motivation to add the hydrogen bonding functionality containing binder to the composition of Floyd. The examiner states that Hansen discloses that one of the problems with the use of particles to impart properties to a fibrous web is that the particulate material can be physically dislodged from the fibers of an absorbent product, and refers to column 2, lines 15-17 of Hansen. More importantly, the examiner notes that Hansen's specifically discloses that it is known in the art to combine more than one binder to supplement the characteristics of the first binder, and refers to column 37, lines 1-13 of Hansen. We note that it is well settled that it is generally a matter of obviousness for one of ordinary skill in the art to

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combine two or materials when each is taught by the prior art to be useful for the same purpose. In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). As such, combining more than one material in order to keep superabsorbent material from dislodging is prima facie obvious.

Beginning on page 13 of the brief, appellant also argues that claim 1 requires that the fiber treatment composition is "distributed within" the wet-laid web of cellulose fibers. On page 2 of the reply brief, appellant states that his specification does not teach that application of a "film," as taught by Floyd, to a surface of a wet laid web of fibers would result in distribution of a polysaccharide within the film. We are also not convinced by this argument, for the following reasons.

As pointed out by the examiner on page 9 of the answer, Hansen teaches conventional methods of applying binder to cellulose fibers which include spraying, roll coating, dipping, or by forming a slurry of loose fibers and binder, and refers to column 41, lines 47-63 and column 43, lines 48-55 of Hansen. The examiner points out that Hansen teaches that rollers may be utilized to assist in distributing the binders through the web, and refers to column 42, lines 54-60 of Hansen.

In view of the examiner's findings, we agree with the examiner's position that the applied art suggests that the fiber treatment composition is distributed "within" the wet-laid web of cellulose fibers.

Appellant separately argues other claims on pages 18-29 of the brief. We have carefully reviewed these arguments in connection with the respective claim. In response, we agree

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with the examiner's position made on pages 9-12 of the answer, and incorporate the examiner's statements made therein as our own.

With specific regard to the grouping of claims 17-30, we note that appellant relies upon the same arguments presented with respect to claim 1, and therefore for the very same reasons that we affirmed the rejection of claim 1, we also affirm the rejection of claims 17-30.

With regard to method claims 31-40, we agree with the examiner's position that these claims are obvious over Floyd in view of Hansen '326. We note that on page 24 of the brief, appellant relies on the same arguments with respect to claims 1-16, and therefore, for the same reasons, we affirm the 35 U.S.C. § 103 rejection of these claims as being obvious over Floyd in view of Hansen '326.

In view of the above, we therefore affirm the 35 U.S.C. § 103 rejection of claims 1-42 as being obvious over Floyd in view of Hansen '326.

II. 35 U.S.C. § 103 rejection 14, 16, 27, 29, 38, and 40 as being obvious over Floyd in view of Hansen '326 and further in view of Hansen '364

We observe that on pages 27-29 of the brief, appellant relies on the same arguments relied upon with respect to the rejections of claims 1-42. That is, appellant argues that Floyd in view of Hansen does not suggest adding an agent having hydrogen bonding functionality to the polysaccharide film of Floyd, and Floyd in view of Hansen does not result in a fiber treatment composition being distributed "within" the wet laid

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web of cellulose fibers. Hence, for the same reasons we were not convinced by this argument, as discussed supra, we affirm this rejection also.

In view of the above, we affirm the 35 U.S.C. § 103 rejection of claims 14, 17, 27, 29, 38 and 40 under 35 U.S.C. § 103 as being obvious over Floyd in view Hansen '326 and further in view of Hansen '364.

III. Conclusion

Each of the rejections is affirmed.

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

AFFIRMED

TERRY J. OWENS)
Administrative Patent Judge)
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) BOARD OF PATENT
THOMAS A. WALTZ)
Administrative Patent Judge) APPEALS AND
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) INTERFERENCES
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BEVERLY A. FRANKLIN)
Administrative Patent Judge)

BAF:hh

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVE.
STE. 2800
SEATTLE, WA 98101-2347