

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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte LARRY J. WINGET, DARIUS J. PREISLER  
and JASON T. MURAR

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Appeal No. 2006-0501  
Application No. 10/131,019<sup>1</sup>

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ON BRIEF

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Before GARRIS, PAK, and WARREN, Administrative Patent Judges.  
PAK, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the examiner's final rejection of claims 1 through 18, which are all of the claims pending in the above-mentioned application. We have jurisdiction pursuant to 35 U.S.C. § 134.

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<sup>1</sup>Application for patent filed April 24, 2002, entitled, Method of manufacturing an in-mold laminate component.

APPEALED SUBJECT MATTER

The subject matter on appeal is directed to a method of making a molded plastic component. See the specification, page 1. Details of the appealed subject matter are recited in representative claims 11, 17 and 18 which are reproduced below<sup>2</sup>:

11. A method of manufacturing a molded plastic component, comprising:

providing a film sheet having top and bottom surfaces, the film sheet being selected from the group consisting of polyester, polyurethane and polycarbonate;

vacuum molding the film sheet in a mold cavity to obtain a pre-form;

placing the pre-form in a mold cavity of an injection mold having a shape defining the desired plastic component; and

injecting a thermoplastic elastomer into the mold cavity of the injection mold to generate a structural carrier for the pre-form, the generation of the structural carrier creating sufficient pressure and heat to bond the structural carrier to the bottom surface of the pre-form to form the molded laminate plastic component.

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<sup>2</sup> The appellants have argued that the prior art relied upon by the examiner does not teach the limitations of claims 11 and 18. See the Brief, pages 4-6. However, the appellants have not presented any substantive arguments for the separate patentability of claims 12 through 17 consistent with 37 CFR § 41.37(c)(1)(vii) (2004) even though some of the claims on appeal are subject to a different ground of rejection than claims 11 and 18. *Id.* Therefore, for purposes of this appeal, we select claims 11, 17 and 18 from all of the claims on appeal and determine the propriety of the examiner's Sections 102 and 103 rejections set forth in the Answer based on these claims alone. *In re McDaniel*, 293 F.3d 1379, 1384, 63 USPQ2d 1462, 1465-66 (Fed. Cir. 2002).

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17. The method of claim 11, wherein the film sheet has a total thickness of 0.2 mils.

18. A method of manufacturing a molded laminate automotive component, comprising:

inserting a film sheet into a vacuum forming station to form the film sheet into a predetermined automotive component shape to create a formed film sheet having top and bottom surfaces, the film sheet being selected from the group consisting of polyester, polyurethane and polycarbonate;

placing the formed film sheet in a mold cavity of an injection mold having a shape defining the automotive component;

injecting a thermoplastic elastomer into the mold cavity of the injection mold, such that the thermoplastic elastomer is in mating contact with the bottom surface of the formed film sheet, to generate a structural carrier for the formed film sheet, the generation of the structural carrier creating sufficient pressure and heat to bond the structural carrier to the bottom surface of the formed film sheet to form the molded laminate automotive component.

PRIOR ART

The sole prior art reference relied upon by the examiner in support of the Sections 102 and 103 rejections before us is:

Spain et al. (Spain)	5,725,712	Mar. 10, 1998
		(Filed Mar. 13, 1995)

REJECTIONS

The appealed claims stand rejected as follows:

1. Claims 11, 12, 14 and 18 under 35 U.S.C. § 102(a) as anticipated by the disclosure of Spain;
2. Claims 13 and 15 through 17 under 35 U.S.C. § 103(a) as unpatentable over the disclosure of Spain.

DISCUSSION

We have carefully reviewed the claims, specification and prior art, including all of the arguments advanced by both the examiner and the appellants in support of their respective positions. This review has led us to conclude that the examiner's Sections 102(a) and 103(a) rejections are well founded. Accordingly, we affirm the examiner's Sections 102(a) and 103(a) rejections for essentially the factual findings and conclusions set forth in the Answer. We add the following primarily for emphasis and completeness.

We find that Spain, like the claimed invention, is directed to "a process of manufacturing a molded plastic article...with surface properties meeting criteria for exterior automotive use." See column 4, lines 46-50. As pointed out by the examiner (the Answer, pages 3-6), this process involves providing a carrier

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sheet corresponding to the claimed film sheet (see column 16, line 55 to column 17, line 39 and column 8, lines 55-64); laminating to form a thermoformable backing sheet (see column 16, lines 55-60 and column 17, line 40 to column 18, line 8); and thermoforming the backing sheet by placing it **in** a clamping frame of a vacuum-forming machine above the working surface of a vacuum-forming buck "at the position shown in phantom lines at 106 in Figure 8" to form a highly contoured three-dimensional shape article (see column 18, lines 20-65). Substantial evidence supports the examiner's finding that the thermoforming step taught in Spain corresponds to the claimed vacuum molding of the film sheet in a mold cavity.

As also pointed out by the examiner (the Answer, pages 3-6), the contoured three-dimensional shape article taught by Spain is further subjected to an "injecting-cladding operation in which the preformed laminate 116 is adhered to an underlying plastic substrate panel." See also, column 19, lines 39-42. The preformed laminate "is placed in an injection mold 117 and fused to the face of an injection molded substrate 118" which is introduced to "a passage 126 in the rear mold half 122 and into the mold cavity behind the preformed laminate 116." See column 19, line 39 to column 20, line 5. The injection molded substrate

118 can be formed of TPOs (thermoplastic polyolefins) which, according to the appellants in claim 12, are thermoplastic elastomers. See column 17, lines 22-28 and column 16, lines 64-68. Thus, substantial evidence supports the examiner's finding that the injecting-cladding operation taught by Spain corresponds to the claimed placement of the preform in a mold cavity and the claimed injection of the thermoplastic elastomer for the purpose of fusing the thermoplastic elastomer structure to the bottom surface of the preform.

Given that the term "comprising" recited in claims 11 and 18 does not preclude the laminating step taught by Spain<sup>3</sup>, we concur with the examiner that Spain teaches each and every aspect of the claimed subject matter within the meaning of 35 U.S.C. § 102(a).

The appellants only argue that Spain does not teach "(1) providing a film sheet having top and bottom surfaces; (2) vacuum molding the film sheet in a mold cavity to obtain a pre-form; and (3) injecting a thermoplastic elastomer into the mold cavity of the injection mold to generate a structural carrier for the pre-form." See the Brief, pages 4-5. We are not persuaded by this

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<sup>3</sup>See In re Baxter, 656 F.2d 679, 686-87, 210 USPQ 795, 802-03 (CCPA 1981)("As long as one of the monomers in the reaction is propylene, any other monomer may be present, because the term 'comprises' permits the inclusion of other steps, elements, or materials.").

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argument in view of the factual findings set forth at pages 4-6 of the Answer and above. Accordingly, we affirm the examiner's Section 102 rejection.

With respect to the examiner's Section 103 rejection of claim 17, the appellants do not dispute the examiner's determination at page 4 of the Answer that:

The claimed thickness is well known in the molding art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a carrier having the claimed thickness in Spain et al in order to produce a durable molded laminate.

We also note that Spain teaches that "[t]he preferred film thickness of the carrier sheet is about two mils." See column 8, lines 55-59. Accordingly, we affirm the examiner's Section 103 rejection as well.

#### ADDITIONAL ISSUE

As a final point, we note that the appellants have submitted our prior decision entered July 22, 2005 on Appeal NO. 2005-1549, Application NO. 10/193,407, as a supplement to the Appeal Brief filed February 28, 2005. The subject matter considered in our prior decision is identical to or substantially identical to the one before us in this appeal. However, in the prior decision,

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the examiner relied on U.S. Patent 5,490,893 issued to Enlow et al. (Enlow) on February 13, 1996, rather than the Spain reference discussed herein, to reject the related claims in Application No. 10/193,407. Thus, in the event of further prosecution of the claimed subject matter, we advise the examiner to review, in addition to Spain, the content of Enlow to determine whether Enlow also affects the patentability of the claimed subject matter, keeping in mind our prior decision on Appeal No. 2005-1549.

#### CONCLUSION

In view of the foregoing, we affirm the examiner's decision rejecting the claims on appeal under 35 U.S.C. § 102 and § 103.

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

AFFIRMED

BRADLEY R. GARRIS	)	
Administrative Patent Judge	)	
	)	
	)	
CHUNG K. PAK	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
	)	
CHARLES F. WARREN	)	
Administrative Patent Judge	)	

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