

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 JAMES HAROLD DAVIS, NEZAM MALAKOUTI
and TERRILL ALAN YOUNG

Appeal No. 2006-0828
Application No. 10/252,175

ON BRIEF

Before KIMLIN, GARRIS and PAK, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

_____ This is an appeal from the final rejection of claims 1, 4-6, 8-12, 14-16, 18-21, 23, 24, 26-31 and 33-39. Claim 1 is illustrative:

1. A method for manufacturing a disposable fluid-handling article, the disposable fluid-handling article comprising at least two primary components made continuously from bulk starting materials, the method comprising the steps of:
 - a) feeding a first polymeric bulk starting material into at least one first polymeric extrusion apparatus disposed adjacent to a first collecting

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surface moving at a first velocity in relation to the first polymeric extrusion apparatus;

- b) extruding a first molten stream of a first polymeric material from the first polymeric extrusion apparatus;
- c) continuously forming a first primary component of the disposable fluid-handling article from the first molten stream;
- d) feeding a second polymeric bulk starting material into at least one second polymeric extrusion apparatus disposed adjacent to a second collecting surface moving at a second velocity in relation to the second polymeric extrusion apparatus;
- e) extruding a second molten stream of a second polymeric material from the second polymeric extrusion apparatus, wherein the second molten stream comprises a film;
- f) continuously forming a second primary component of the disposable fluid-handling article from the second molten stream;
- g) joining the first and second primary components into a composite web, wherein the first primary component overlaps at least partially with the second primary component; and
- h) severing the composite web in a direction generally perpendicular to a machine direction so as to form the disposable fluid-handling article.

The examiner relies upon the following references as

evidence of obviousness:

Kobylyvker et al. (Kobylyvker)	6,072,005	Jun. 6, 2000
Allen	6,502,615	Jan. 7, 2003

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Appellants' claimed invention is directed to a method for making a disposable fluid-handling article comprising the steps of continuously forming first and second components from first and second polymeric bulk starting materials and joining the first and second components into a continuous web.

The appealed claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Allen in view of Kobylivker.

Appellants have not submitted separate arguments for any particular claim on appeal. Accordingly, all the appealed claims stand or fall together with claim 1. In re McDaniel, 293 F.3d 1379, 1383, 63 USPQ2d 1462, 1465 (Fed. Cir. 2002).

We have thoroughly reviewed each of appellants' arguments for patentability. However, we are in complete agreement with the examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of Section 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejection.

The principal argument advanced by appellants is that Allen, although forming an article by coextruding at least two polymeric sheets, does not disclose that the back sheet is a film. Appellants point out that Allen discloses "[b]ack sheets such as

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film do not possess air permeability and therefore are not readily adapted for receiving meltblown fibers thereon" (column 6, lines 31-33). Appellants maintain, therefore, that there would have been no motivation for one of ordinary skill in the art to modify the process of Allen in accordance with the disclosure of Kobylivker.

The flaw in appellants' argument is that it is not germane to the claimed subject matter on appeal. Appealed claim 1, with which all the appealed claims stand or fall, only defines joining first and second primary components, with no recitation that either component is a sheet or a film. Accordingly, while we agree with the examiner that Kobylivker evidences the obviousness of manufacturing an article by joining first and second primary components formed from first and second extruded streams of polymeric material, we find that the claimed subject matter would have been obvious to one of ordinary skill in the art over the disclosure of Allen alone. We perceive no limitation in claim 1 that would have been nonobvious in light of the Allen disclosure, and appellants have pointed to none. Contrary to the implication of appellants' arguments, appealed claim 1, as drafted, does not exclude the method steps disclosed by Allen.

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Appellants acknowledge in their reply brief that the alternative embodiment depicted in figure 8 of Allen utilizes a back film sheet, but appellants emphasize that such film is not produced in situ, or in line, but rather is dispensed from a roll. However, as conceded by appellants, "Allen was therefore aware of the ability to produce such films *in situ* using a station similar to bottom cover station 202 (Fig. 1)" (page 2 of reply brief, last paragraph). While appellants conclude that "one can only surmise that Allen, in weighing the pros and cons of doing so, believed that no overall advantage would be obtained" from forming the bottom film in situ, we are persuaded that one of ordinary skill in the art would have readily understood that the back sheet film of Allen's alternative embodiment could be provided by either in situ formation or a separate dispensing roll. We find that the disclosure of Allen's first embodiment, along with the Kobylivker disclosure, provide ample evidence that one of ordinary skill in the art would have found it obvious to form appellants' first and second primary components in situ.

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As a final point, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

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

AFFIRMED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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BRADLEY R. GARRIS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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CHUNG K. PAK)	
Administrative Patent Judge)	

ECK:hh

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