

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 VISHAL BANSAL, MICHAEL C. DAVIS and EDGAR N. RUDISILL

Appeal No. 2006-0904
Application No. 09/919,565

ON BRIEF

Before KIMLIN, WALTZ and JEFFREY T. SMITH, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-3, 5, 6, 8, 9, 11-14, 24-26 and 28-33. Claim 1 is illustrative:

1. A multiple component meltblown web comprised of at least 95% by weight of multiple component meltblown fibers having an average effective diameter of less than 10 microns, the multiple component meltblown fibers consisting of non-elastomeric polymers, wherein

a first polymer component is a blend consisting of from 1% to 99% by weight of a first polymer and from 99% to 1% by weight of a second polymer wherein the polymers are non-elastomeric polymers selected from the group consisting of polyethylene, polymethylpentene, copolymers of monomers of ethylene and methylpentene, polyesters, polyamides, polystyrene, fluoropolymers, olefinic ionomer resins, random

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copolymers of ethylene and methacrylic acid, and random copolymers of ethylene and vinyl acetate, and

a second polymer component is a single polymer selected from the group consisting of polyolefin and polyester.

The examiner relies upon the following references as

evidence of obviousness:

Shawyer et al. (Shawyer)	5,405,682	Apr. 11, 1995
Newkirk et al. (Newkirk)	6,417,121	Jul. 9, 2002

Appellants' claimed invention is directed to a multiple component meltblown web comprising multiple component meltblown fibers. The multiple component meltblown fibers consist of first and second non-elastomeric polymers. A first polymer component is a blend of the recited first and second non-elastomeric polymers whereas the second polymer component is either a polyolefin or a polyester.

All the appealed claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shawyer in view of Newkirk.

Appellants have not set forth an argument that is reasonably specific to any particular claim on appeal. Accordingly, all the appealed claims stand or fall together with claim 1.

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

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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 for essentially those reasons expressed in the answer.

There is no dispute that Sawyer, like appellants, discloses a multiple component web comprised of multiple component fibers wherein the multiple component fibers comprise a first component that is a blend of polymers and a second component that is a single polyolefin polymer. As recognized by the examiner, Sawyer does not teach a blend of non-elastomeric polymers as presently claimed. Rather, Sawyer employs a blend of a polyolefin and an elastomeric thermoplastic material which provides a fabric having improved abrasion resistance, as well as strength and softness properties that are comparable to blends not having the elastomeric polymer. However, inasmuch as the polymer blend of Sawyer is taught as an improvement over blends not having an elastomeric polymer component, and Newkirk evidences that it was known in the art to use a blend of non-elastomeric polymers as one component of a multiple component meltblown web, we are convinced that the examiner properly concluded that it would have been obvious for one of ordinary skill in the art to utilize a blend of non-elastomeric polymers

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in multiple component meltblown webs of the type claimed. Sawyer teaches "[w]ith the addition of the thermoplastic elastomeric polymer the bonds between the strands of the fabric tend not to debond as easily and the abrasion resistance of the fabric is enhanced" (column 3, lines 11-15). Accordingly, we find that it would have been obvious for one of ordinary skill in the art to omit the elastomeric polymer of Sawyer along with the disclosed advantage of obtaining improved abrasion resistance. It is well settled that the omission of a feature disclosed by the prior art along with its attendant function is a matter of obviousness for one of ordinary skill in the art. In re Thompson, 545 F.2d 1290, 1294, 192 USPQ 275, 277 (CCPA 1976); In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975); In re Edge, 359 F.2d 896, 899, 149 USPQ 556, 557 (CCPA 1966); In re Porter, 68 F.2d 971, 973, 20 USPQ 298, 301 (CCPA 1934).

Appellants have not demonstrated that polymeric blends not comprising elastomeric polymers exhibit a comparable abrasion resistance to the polymer blends of Sawyer.

We appreciate, as urged by appellants, that the polymer blend of Newkirk includes polypropylene, and the group of polymers recited in the appealed claims do not include polypropylene. However, for the reasons set forth above, it

should be apparent that Newkirk simply provides additional evidence that it was known in the art to use a blend of non-elastomeric polymers in making multiple component fibers. In our view, it would have been obvious for one of ordinary skill in the art to formulate the claimed blend of conventional non-elastomeric polymers based on Shawyer alone.

Appellants contend that Shawyer never indicates that "their inventive webs can be made by meltblowing" (page 3 of brief, third paragraph). However, we fully concur with the examiner that the cited portion of Shawyer (column 6, lines 30-38) clearly teaches that the nonwoven webs and nonwoven fabrics of the disclosed invention may be formed by a variety of processes, including "meltblowing processes." As for the fibers of Shawyer being meltblown, Newkirk, as acknowledged by appellants, teaches that multicomponent fibers of non-elastomeric polymers can be made by meltblowing (see page 5 of brief, last paragraph).

As a final point, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results attributed to the claimed blend of non-elastomeric polymers which does not include polypropylene. Indeed,

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appellants' specification discloses that polypropylene is a preferred polymer and that "[t]he polymer components of the multiple component meltblown fibers may consist essentially of 100% elastomeric polymers" (page 8 of specification, second paragraph). Consequently, appellants have not rebutted the prima facie case of obviousness established by the examiner.

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).

AFFIRMED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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THOMAS A. WALTZ)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
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JEFFREY T. SMITH)	
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ECK:hh

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