

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 2006-1704
Application No. 10/640,544

HEARD: JUNE 7, 2006

Before HAIRSTON, JERRY SMITH, and SAADAT, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-25, which constitute all the claims in the application.

The disclosed invention pertains to a system and methodology to facilitate material class processing. Specifically, one or more class structures are defined that generically describe a grouping of components, such as materials, that can be applied to

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anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosure of Saucier does not fully meet the invention as set forth in claims 1-25. Accordingly, we reverse.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The examiner has indicated how the claimed invention is deemed to be fully met by the disclosure of Saucier [answer, pages 3-8]. Appellant argues that Saucier relates to

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manufacturing products according to specific recipes, and Saucier fails to disclose the claimed "at least one material class that describes one or more components of a recipe" and that "the at least one material class is resolved to determine the actual materials employed to manufacture the recipe." Appellant observes that the recipes disclosed in Saucier identify the actual ingredients necessary to produce a unique and specific product. Appellant also asserts that the materials A, B, C, D and E for Product C in Saucier are merely labels for known specific ingredients and are not classes or members of a class to be resolved to manufacture the recipe [brief, pages 4-7].

The examiner responds that the claimed at least one material class is met by the General Recipe Editor and Ingredients A, B, C, D and E of Saucier. The examiner asserts that the claimed at least one material class can be read as any material or ingredients such as materials A-E in Saucier that are part of a recipe. The examiner notes that material C can be selected in Saucier and the corresponding actual ingredients for material C are displayed which meets the resolving limitation of claim 1 [answer, pages 9-10].

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Appellant responds that Saucier discloses a material but not a material class or a material class that describes one or more components of a recipe. Appellant argues that the examiner is reading the claimed material class as just a material as if the term class is not present in the claims. Thus, appellant argues that the examiner's interpretation of the claims has failed to consider every limitation recited [reply brief, pages 2-4].

We will not sustain the examiner's rejection of the claims on appeal for essentially the reasons argued by appellant in the briefs. We agree with appellant's position that the claimed "material class" is not met by the individual specific materials used within a recipe of Saucier. Appellant's specification describes the invention as follows:

[O]ne or more class structures are defined that generically describe a grouping of components that can be applied to one or more recipes. Such components typically include materials that are listed or stored as members of a class [page 3, lines 13-16].

Thus, we agree with appellant that a material class must be interpreted to read on a generic class of materials and the claimed resolving of the material class to determine the actual materials employed to manufacture the recipe requires that a specific material within a class of materials be selected for use

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in the recipe. Since the examiner has failed to properly interpret the claimed invention, the examiner has failed to establish a prima facie case of anticipation.

In summary, we have not sustained the examiner's rejection of the claims on appeal. Therefore, the decision of the examiner rejecting claims 1-25 is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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JERRY SMITH)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS
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MAHSHID D. SAADAT)	
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