

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

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Appeal 2006-2168  
Application 10/421,683  
Technology Center 1700

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Decided: August 31, 2006

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Before WARREN, WALTZ, and GAUDETTE, Administrative Patent Judges.

GAUDETTE, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the final rejection mailed August 20, 2004. Claims 25-32, 34-56, and 93-101 are pending and on appeal. Claims 1-24, 33, 57-92, and 102-107 have been cancelled.

Claim 25 is illustrative of the subject matter now on appeal and is reproduced below:

25. A fiber forming bushing for making fibers from a molten material, said bushing comprising at least one sidewall, a tip plate or orifice plate through which the molten material flows to form the fibers, and a screen having a plurality of holes therethrough and mounted on an interior of the bushing

and spaced above a top of the tip plate or orifice plate, said screen being attached to said at least one sidewall, the improvement comprising that said screen has a generally central portion and a peripheral portion surrounding said central portion and the holes in said screen are either located, sized or located and sized to produce a low flow rate of molten material in the generally central portion of the screen and a medium flow rate in a peripheral portion of the screen surrounding said generally central portion.

#### Ground of Rejection

The sole ground of rejection of claims 25-32, 34-56, and 93-101 is under 35 U.S.C. § 112, second paragraph.

#### Background

The present application, filed April 23, 2003, is a continuation of U.S. Application 08/929,836, filed September 15, 1997. An appeal was filed in the '836 Application from the final rejection of the claims under 35 U.S.C. § 112, second paragraph, and §§ 102(b) and 103. Appeal No. 2000-0035. On February 20, 2003, a decision was mailed in Appeal No. 2000-0035 in which we reversed the Examiner's rejections and entered a new ground of rejection under 35 U.S.C. § 112, second paragraph, pursuant to 37 C.F.R. § 1.196(b). A request for continued examination was filed on November 13, 2003. A second appeal was filed in the '836 application in July, 2004. Appeal No. 2006-0192. On June 29, 2006, a decision was mailed in Appeal No. 2006-0192, in which the rejection under 35 U.S.C. § 112, second paragraph, was reversed as to claims 2-4, 8-15, 21, 22, and 24 and affirmed as to claim 23.<sup>1</sup> As noted by Appellant, the issues presented in the present appeal are similar to the issues in Appeal No. 2006-0192.

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<sup>1</sup> Claim 23 was rejected because of an error in punctuation. In our decision, we stated that Appellant should be given leave to amend claim 23 pursuant to 37 C.F.R. § 41.50(c).

## Discussion

The invention is directed to an improved bushing for making fibers from a molten material. According to Appellant, when excessively hot material such as glass contacts a mid or center portion of a conventional bushing screen, it flows too rapidly through the center portion and down to the tip plate and nozzles. The glass will break if it is too hot as it exits the ends of the nozzles, causing a costly interruption in the fiberizing process. The present invention is said to reduce the occurrence of this problem through the use of a bushing screen having a significantly reduced hole area per unit of screen area in a generally mid or central portion of the bushing screen and a higher hole area per unit of screen area in the surrounding peripheral portion of the screen.

In Appeal No. 2006-0192, the Examiner rejected all of the claims under 35 U.S.C. § 112, second paragraph, as indefinite due to the terms "end portion" and "mid or central portion." In the present application, the Examiner uses essentially the same reasoning in rejecting claims 25-32, 34-56, and 93-101 under 35 U.S.C. § 112, second paragraph, as indefinite because of the term "portion", as used with "generally central" and "peripheral." According to the Examiner, there is nothing in the specification, drawings, prior art or prosecution history which gives any indication as to what constitutes the "generally central portion" and "peripheral portion." The Examiner maintains that one of ordinary skill in the art cannot determine the bounds of the claims and, therefore, cannot determine whether a somewhat similar screen has a "generally central portion" and "peripheral portion" which would infringe on the present claims.

Appellant, in turn, traverses the rejection for reasons similar to those set forth in Appeal No. 2006-0192. In particular, Appellant argues that the

Specification as a whole (particularly pages 15 and 16 and Figures 7 and 8) provides ample description of these terms such that one of ordinary skill in the bushing art would understand the scope of the claimed invention. According to Appellant, the term "portion" as used in the specification refers to parts of the area of the screens, and it is clearly taught that these areas will vary with the size of the bushing and screen, as well as the particular condition being addressed, i.e., size of the bushings, area, number of tips, etc., will vary based on the product being manufactured. Appellant maintains that the Specification shows the "peripheral portion" as a portion that surrounds the "generally central portion," the term "generally" indicating that the central portion may be non-symmetrical on the center of the screen.

In Appeal No. 2006-0192, we determined that one of ordinary skill in the art in reading Appellant's application would have understood the term "end portions" as defining areas of the screen proximate each end of the bushing and the term "mid or central portion" as an area of the screen located between the "end portions." Likewise, in the present application, we find that the corresponding claim terms "generally central portion" and "peripheral portion" would appraise one of ordinary skill in the art of the scope of the appealed claims. We note, for example, that the meaning of these terms is readily apparent from the description in connection with Figure 8 of "a low flow central portion 70 that is not symmetrically located in the center of the screen 68, but is offset" and "a medium flow portion 72 of the screen [which] surrounds the low flow center portion 70," Specification 16. Moreover, we are confident that one of ordinary skill in the art would understand that the portions are not limited to the embodiments shown in the drawings, but may be adjusted using the guidelines set forth in the

specification. See, e.g., Specification 16 (“Since the size of the furnace, the width of the channel and legs, the design of the entrance to the legs, the exit temperature of the molten material, the pull rate on the furnace and many other factors affect where the optimum location of the low flow portion of the screen should be located for optimum performance, some experimentation using the above disclosure as a guide is necessary for optimization.”)

Accordingly, we find that the Examiner has failed to establish that the claims are indefinite under 35 U.S.C. § 112, second paragraph. The rejection is reversed.

REVERSED

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