

The opinion in support of the decision being entered today is
not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES RICHARD FITZELL, JR.

Appeal 2006-2211
Application 10/266,215
Technology Center 1700

Decided: July 30, 2007

Before EDWARD C. KIMLIN, CHUNG K. PAK, and LINDA M.
GAUDETTE, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-29. Claim 1 is
illustrative:

1. An apparatus for producing a sheet of thermoplastic with variable
thickness from a molten thermoplastic, comprising:

a plurality of rollers, wherein the molten thermoplastic material will
pass between a pair of said rollers to be formed into the sheet; and

a strip material attached to at least one of said rollers, said strip material engaging the molten thermoplastic at a predetermined location to create a variation in the thickness of the sheet.

The Examiner relies upon the following references as evidence of obviousness:

Friesner	US 3,478,138	Nov. 11, 1969
McAmish	US 6,818,083 B2	Nov. 16, 2004

Appellant's claimed invention is directed to an apparatus and method for producing a sheet of thermoplastic with variable thickness from molten thermoplastic material. The invention entails a plurality of rollers through which the molten thermoplastic material passes, with a strip material attached to at least one of the rollers. The strip of material on the roller forms an area of reduced thickness in the thermoplastic material. According to Appellant, the use of such strip material on the roller obviates the cost of casting new rollers with varying radii for forming different thermoplastic sheets having a different pattern of reduced thickness.

Appealed claims 1-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Friesner in view of McAmish.

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

We have thoroughly reviewed each of Appellant's 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 § 103 in view of the applied prior art.

Accordingly, we will sustain the Examiner's rejection for the reasons set forth in the Answer and we add the following primarily for emphasis.

Appellant does not dispute the Examiner's factual determination that Friesner, like Appellant, discloses an apparatus and method for producing a sheet of thermoplastic material having variable thickness by extruding molten thermoplastic between two rollers, one of which has a surface contour that produces areas of different thickness on the thermoplastic sheet. The rollers of Friesner have been cut or engraved for effecting the variation in thickness of the thermoplastic sheet.

As acknowledged by the Examiner, the rollers of Friesner do not include a strip material thereon for creating a variation in thickness, as presently claimed. However, we fully concur with the Examiner that McAmish evidences the obviousness of employing the presently claimed strip material on the rollers as an alternative to the engraved rollers of Friesner for forming a thermoplastic sheet having areas of reduced thickness. Indeed, McAmish expressly discloses that, in impressing selected areas of a thermoplastic sheet for bonding to a fabric, the rollers may include raised areas provided by wrapping tape, such as Teflon, around the circumference of the roller, or by engraving raised areas on the roller (*see col. 5, ll. 31, et seq.*). We note that Figure 4 of McAmish depicts lanes or narrow portions of the thermoplastic that are of reduced thickness in high-bond regions. Hence, based on the combined teachings of Friesner and McAmish, we have no doubt that one of ordinary skill in the art would have found it obvious to utilize Appellant's strip material on the rollers of Friesner as a variable alternative to engraving the rollers.

Also, we fail to perceive any *structural* distinction between an apparatus within the scope of the appealed claims and the apparatus fairly described by McAmish within the meaning of § 102. It is well settled that anticipation is the epitome of obviousness.

We find no merit in Appellant's argument that Friesner teaches away from utilizing a strip material on the rollers by disclosing a preference for chrome plating to prevent sticking of the thermoplastic material (Br. 8, first para.). We are satisfied that one of ordinary skill in the art would have found it obvious to weigh the advantages and disadvantages of using chrome plating in accordance with Friesner or a Teflon strip material disclosed by McAmish.

We are also not persuaded by Appellant's argument that "McAmish teaches the addition of a strip material to rollers, but only in connection with lamination (e.g., the compressive joining of two different layers) – and then only with the lamination of a fabric and a film" (Br. 8, second para.). We find that one of ordinary skill in the art would have readily understood that McAmish's alternative means for impressing a pattern on a thermoplastic sheet during bonding to another layer would also reasonably translate to impressing a pattern on only a thermoplastic sheet. Appellant has apprised us of no convincing rationale to the contrary.

We also do not subscribe to Appellant's position that "McAmish suggests nothing about an extrusion process - let alone a process for displacing material to reduce the thickness of a thermoplastic sheet" (*id.*). As acknowledged by Appellant "[t]he film layer [of McAmish] is made from extruded thermoplastic" that is "formed in extruder 22 into a sheet ..." (Br.

7, first para.). As discussed above, the high bond areas of McAmish form areas of reduced thickness in the thermoplastic sheet.

Finally, Appellant contends that "the lamination process and apparatus disclosed by McAmish is from nonanalogous art, such that a person of skill in the claimed art would not look to that art to solve a problem treated by the claimed invention" (Br. 9, last para.). We disagree. In our view, McAmish is directed to the same field of endeavor of imparting a pattern of reduced thickness on a thermoplastic sheet and is reasonably pertinent to the same problem of providing alternative means of utilizing rollers to provide portions of a thermoplastic sheet with a reduced thickness. *In re Wood*, 599 F.2d 1032, 1036, 202 USPQ 171, 174 (CCPA 1979).

In conclusion, based on the foregoing and the reasons well stated by the Examiner, 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 C.F.R. § 1.136(a)(iv)(effective Sept. 13, 2004).

AFFIRMED

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