

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.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 JOSEPH P. BOTELHO, JEFFREY SCOTT DENTON,  
JAMES G. DONOVAN, JOHN M. HAWES,  
JOSEPH GERALD O'CONNOR and DAVID S. ROUGVIE

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Appeal No. 2006-2277  
Application No. 10/390,459

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ON BRIEF

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Before KIMLIN, PAK, and KRATZ, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-18.

Claim 1 is illustrative:

1. A method for embossing an industrial process fabric in an endless loop which functions in the manner of a conveyor in making paper and paper related products or nonwoven textiles, said method comprising the steps of:

providing a device having two opposed elements between which said fabric may be compressed at a preselected level of compression for a preselected time interval;

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providing at least one of said two elements with an embossing medium having a preselected embossing pattern;

providing a non-laminated industrial process fabric; and

compressing said fabric between said two opposed elements of said device at said preselected level of compression for a preselected time interval to emboss said industrial process fabric with said preselected embossing pattern, wherein said fabric so embossed is usable to make said paper, paper related products, or non-woven textiles.

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

Albert	4,541,895	Sep. 17, 1985
Klowak	4,849,054	Jul. 18, 1989

Appellants' claimed invention is directed to a method for embossing an industrial process fabric in an endless loop comprising passing the fabric between two opposed elements wherein at least one of the two elements has an embossing pattern thereon. The fabric is non-laminated and its embossed pattern is used to make paper, paper related products, etc.

Appealed claims 1-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Klowak in view of Albert.

Appellants have not presented separate arguments for any particular claim on appeal. Accordingly, all the appealed claims stand or fall together with claim 1, and we will limit our consideration to the examiner's rejection of claim 1.

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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 § 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.

There is apparently no dispute that Klowak teaches the use of a patterned industrial process fabric for imparting a pattern to paper, paper related products, webs, etc. Klowak is silent with respect to the process for making the patterned industrial fabric. However, Klowak refers to the process fabric as an embossing fabric (column 2, lines 19-31), and expressly teaches that "[t]he embossing fabric may be of many known types which are fluid-pervious and have an undulating, patterned surface" (column 7, lines 34-36). Albert, on the other hand, evidences that it was known in the art to employ the presently claimed two opposed elements to impart an embossing pattern on non-laminated and laminated fabrics. Accordingly, we are convinced that the examiner has drawn the proper legal conclusion that it would have been obvious for one of ordinary skill in the art to employ an embossing process of the type disclosed by Albert, and

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presently claimed, to form the embossed, industrial fabric that is used by Klowak in forming embossed paper products.

We do not subscribe to appellants' argument that Albert teaches away from using non-laminated fabric for making the embossed industrial fabric. While Albert describes disadvantages associated with using non-laminated fabrics, such as variations in thickness and compressibility at column 2, lines 28 et seq., and Albert uses laminated fabric in making the industrial fabric, Albert provides clear evidence that the use of non-laminated fabric was known in the art. We note that appellants have not established on this record that the claimed non-laminated fabric does not experience the disadvantages discussed by Albert.

As a final point, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the prima facie case of obviousness established by the examiner.

In conclusion, based on the foregoing and the reasons well-stated by the examiner, the examiner's decision rejecting the appealed claims is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (effective Sep. 13, 2004; 69 Fed. Reg. 49960 (Aug. 12, 2004); 1286 Off. Gaz. Pat. Office 21 (Sep. 7, 2004)).

AFFIRMED

EDWARD C. KIMLIN	)	
Administrative Patent Judge	)	
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CHUNG K. PAK	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
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	)	
PETER F. KRATZ	)	
Administrative Patent Judge	)	

ECK:clm

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