

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* LARRY K. FINDLEY

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Appeal 2006-2472  
Application 10/451,098  
Technology Center 1700

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Decided: August 24, 2006

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Before KIMLIN, GARRIS, and WARREN, *Administrative Patent Judges*.  
KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-10. Claim 1 is illustrative:

1. A process for preparing color coated plastic pellets, comprising the steps of:

dispersing pigment in a polymeric carrier within a high-intensity mixer at a high shear rate in the absence of added heat energy, to form plastic pigment particles;



Appeal 2006-2472  
Application 10/451,098

within the meaning of Section 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejection for the reason set forth in the Answer, which we incorporate herein, and we add the following for emphasis only.

Appellant does not dispute the Examiner's factual determination that Hurley, like Appellant, discloses a process of coating plastic pellets with a pigmented, or colored, thermoplastic resin by mixing the components in an intensive mixer. The sole argument advanced by Appellant is that, unlike the claimed process, "Hurley clearly teaches and claims that heat energy is added to the process, to cause the to-be-coated resin pellets to attain a 'first temperature' which is above the melt temperature of the subsequently applied coating" (Br. 8-9). Appellant advances this argument notwithstanding that it is acknowledged that Hurley expressly teaches that the melting of the pigmented plastic may be accomplished by "the heat generated from the friction and shearing of the materials during processing" (col. 10, ll. 59-61). The entirety of the relevant Hurley disclosure reads as follows:

The materials are then processed at a temperature at which the coating or the polymeric component is a melt but at which the pellets remain solid. This may be accomplished by adding the coating or polymeric component as a melt, by applying heat to the processing container after the ingredients are loaded, by the heat generated from the friction and shearing of the materials during processing, or by any combination of these. [Col. 10, ll. 54-61.]

Hence, it is abundantly clear from the Hurley disclosure that the reference process may either add heat to melt the pigmented plastic *or* not add heat but utilize the heat generated by the friction of the pigmented plastic and the pellets. As such, we find no merit in Appellant's argument that "it is clear that Hurley's coating composition is a melt when it is applied to the surfaces of the even hotter resin pellets" (Br. 9, first paragraph, last sentence).

Appeal 2006-2472  
Application 10/451,098

As a final point, we note that Appellant bases 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.

Appeal 2006-2472  
Application 10/451,098

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

Appeal 2006-2472  
Application 10/451,098

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