

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 DAVE ALLEN SOERENS,
CATHLEEN MAE UTTECHT and
HOA LA WILHELM

Appeal 2007-0502
Application 10/318,567
Technology Center 1700

Decided: June 21, 2007

Before BRADLEY R. GARRIS, JEFFREY T. SMITH, and
LINDA M. GAUDETTE, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal involves claims 1-7, 9, 11, 12, 19-22, 25, and 43-53. We have jurisdiction over the appeal pursuant to 35 U.S.C. §§ 6 and 134.
We REVERSE.

INTRODUCTION

Appellants claim an absorbent composite and a process for making an absorbent composite (claims 1 and 48). The absorbent composite comprises an absorbent crosslinkable binder composition comprising an alkoxysilane functionality which, upon exposure to water, forms a silanol functional group which condenses to form a crosslinked polymer applied to a substrate that is folded to form a coated substrate having a plurality of panels (claim 1). The process recites applying the absorbent crosslinkable binder to a substrate wherein the substrate is folded to provide a plurality of panels (claim 48).

Claims 1 and 48 are illustrative:

1. An absorbent composite comprising:

a substrate; and

an absorbent crosslinkable binder composition, comprising an alkoxysilane functionality which, upon exposure to water, forms a silanol functional group which condenses to form a crosslinked polymer,

wherein at least a portion of the substrate is coated with the absorbent crosslinkable binder composition, and the substrate is folded to provide a plurality of panels.

48. A process for making an absorbent composite comprising:

providing a substrate;

applying an absorbent crosslinkable binder composition comprising an alkoxysilane functionality which, upon exposure to water, forms a silanol functional group which condenses to form a crosslinked polymer to at least a portion of the substrate; and

folding the substrate upon itself to provide a plurality of panels.

The Examiner relies on the following prior art references as evidence of unpatentability:

Lee	US 3,729,005	Apr. 24, 1973
Gander	US 3,951,893	Apr. 20, 1976

The rejections as presented by the Examiner are as follows:

1. Claims 1-3, 7, 9, 11, 12, 20-22, 25, and 48-53 are rejected under 35 U.S.C. § 102(b) as being unpatentable over Gander.
2. Claims 4-6, and 43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gander.
3. Claims 19, and 44-47 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gander in view of Lee.

Rather than reiterate the respective positions advocated by the Appellants and by the Examiner concerning these rejections, we refer to the Brief and the Reply Brief, and to the Answer, respectively, for a complete exposition thereof.

OPINION

35 U.S.C. § 102(b) REJECTION OVER GANDER

Appellants argue that “Gander fails to disclose or suggest an absorbent composite including an absorbent crosslinkable binder composition, comprising an alkoxy silane functionality which, upon exposure to water, forms a silanol function group which condenses to form a crosslinked polymer” (Br. 4). Appellants contend that Gander uses an

already crosslinked polymer rather than one that is “not yet crosslinked” (i.e., “crosslinkable” as required by the claims) (Br. 6-7).

We cannot sustain the Examiner’s § 102(b) rejection over Gander for the reasons below.

Gander discloses that his invention is directed to “silane-crosslinked interpolymers of alkyl acrylates” (Gander, col. 1, ll. 19-21). The “silane-crosslinked interpolymers” are formed by reacting the various monomers, a coupling agent, and an organic solvent to form a polymer solution (Gander, col. 5, ll. 37-65). Gander further discloses that “[t]he crosslinking reaction does not, however, occur until the polymer solution is dried by driving off the [organic] solvent” (Gander, col. 5, l. 68 to col. 6, l. 2). After the polymer solution is dried by driving off the organic solvent so that crosslinking occurs by condensation of the polymers, Gander discloses that crosslinked films are formed that are “clear, flexible and have surfaces which may be slightly cohesive” (Gander, col. 6, ll. 30-31). The crosslinked films are then laminated to “fiber webs” to form a composite product or are used to make bedpan liners or bags for containing urine, for example (Gander, col. 7, ll. 35-40, col. 10, ll. 11-15, 29-31).

From the above disclosures, Gander only uses a crosslinked polymer to form his products (i.e., bags, bedpan liners or composite products). The Examiner’s rejection indicates that she interprets Gander as disclosing only a crosslinked polymer (i.e., “The Gander reference teaches water soluble silane *crosslinked* polymeric compositions employed as binder materials for nonwoven webs, or as films (Abstract)” (emphasis added)) (Answer 3).

In contrast, Appellants’ claims recite the absorbent composite comprises “an absorbent crosslinkable binder composition” (i.e., the binder

composition before crosslinking). Further proof that Appellants intend their claims to be limited to an absorbent composite and method of making the absorbent composite comprising a crosslinkable (i.e., pre-crosslinked) binder is evinced by Appellants' argument that their claims require that the "absorbent crosslinkable binder composition" be present in the absorbent article in uncrosslinked form such that when the absorbent composite is subsequently exposed to moisture a crosslinking reaction occurs that absorbs a relatively large amount of water (Br. 4, Reply Br. 3).

Because the claim feature "an absorbent crosslinkable binder composition" in combination with the substrate is not disclosed by Gander, we reverse the Examiner's § 102(b) rejection of independent claims 1 and 48 and dependent claims 2-3, 7, 9, 11, 12, 20-22, 25, and 49-53.

35 U.S.C. § 103(a) REJECTIONS OVER GANDER AND GANDER IN VIEW OF LEE

Because both of the § 103(a) rejections depend upon Gander for their viability, we cannot sustain these rejections for the same reasons we discussed above regarding the § 102(b) rejection over Gander. Namely, Gander's failure to disclose "an absorbent crosslinkable binder composition" in combination with a substrate as claimed. Accordingly, the Examiner's § 103(a) rejection of dependent claims 4-6 and independent claim 43 over Gander, and the § 103(a) rejection of dependent claims 19 and 44-47 over Gander in view of Lee are reversed.

Appeal 2007-0502
Application 10/318,567

DECISION

We have reversed the § 102(b) rejection of claims 1-3, 7, 9, 11, 12, 20-22, 25, and 48-53 over Gander.

We have reversed the § 103(a) rejection of claims 4-6 and 43 over Gander.

We have reversed the § 103(a) rejection of claims 19 and 44-47 over Gander in view of Lee.

The Examiner's decision is reversed.

REVERSED

cam

Pauley Petersen & Erickson
2800 West Higgins Road
Hoffman Estates, IL 60195