

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 F. PITZEN

Appeal 2007-2153
Application 10/304,730
Technology Center 1700

Decided: June 11, 2007

Before EDWARD C. KIMLIN, BRADLEY R. GARRIS, and
THOMAS A. WALTZ, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-7 and 9.

Claim 1 is illustrative:

1. A laminate for use in decorating a receptor surface such as the surface of a window, said laminate comprising:

an elongate strip of decorative sheet material having opposite front and rear surfaces extending between a first longitudinally extending

generally straight edge surface and an opposite second edge surface of the decorative sheet material;

a layer of aggressive pressure sensitive adhesive on the rear surface of said decorative sheet material, said layer of aggressive pressure sensitive adhesive having a major surface opposite said decorative sheet material;

a first release liner over and in contact with all of said major a [sic] surface of said layer of aggressive pressure sensitive adhesive opposite said decorative sheet material; and

an elongate flexible, temporary support tape comprising a backing having opposite first and second surfaces extending between opposite first and second longitudinally extending edge surfaces of the backing, and a layer of repositionable pressure sensitive adhesive on said second surface, a part of said layer of repositionable pressure sensitive adhesive adjacent the second edge surface of said backing being adhered to a part of the front surface of said decorative strip along said first generally straight edge surface with said opposite second edge surface of the decorative sheet material and a part of the front surface of said decorative strip projecting past the second edge surface of the backing and being visible along the laminate, and with a portion of said support tape projecting away from the first edge surface of said decorative sheet material;

the layer of repositionable adhesive on the projecting portion of the support tape being adherable to and repositionable along a receptor surface with the first release liner on said decorative sheet material laying along that receptor surface to afford precise positioning of the decorative sheet material in a desired location along that receptor surface; and

said flexible backing being bendable along a longitudinally extending bend line along the first edge of said decorative sheet material to afford movement of the decorative sheet material away from the receptor surface and thereby removal of the first release liner, and subsequent

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repositioning of said decorative sheet material with the layer of aggressive pressure sensitive adhesive against the receptor surface to adhere the decorative sheet material against the receptor surface in said desired location, after which the temporary support tape can be peeled away from both the receptor surface and the decorative sheet material.

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

Vomela	US 3,294,611	Dec. 27, 1966
Mrozek	US 3,761,344	Sep. 25, 1973
Martinez	US 4,900,604	Feb. 13, 1990

Appellant's claimed invention is directed to a laminate for decorating a receptor surface, and a method for decorating the surface with the laminate. The laminate comprises, *inter alia*, a strip of decorative sheet material having a layer of aggressive pressure-sensitive adhesive on its rear surface for bonding to the receptor surface, and a release liner over the aggressive adhesive to allow alignment on the surface before attachment. The laminate also comprises a flexible, temporary support tape having a layer of repositionable pressure-sensitive adhesive which contacts the top surface of the decorative sheet as well as the receptor surface. The temporary support tape is bent along an edge of the decorative sheet to allow the release liner to be removed before bonding the aggressive adhesive to the receptor surface.

Appealed claims 1, 3-6, and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Martinez in view of Mrozek. Claims 2 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the stated combination of references further in view of Vomela.

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We have thoroughly reviewed the respective positions advanced by Appellant and the Examiner. In so doing, we find that the Examiner has not established a *prima facie* case of obviousness for the claimed subject matter. Accordingly, we will not sustain the Examiner's rejections.

The fatal flaw in the Examiner's rejections is that Martinez, as urged by Appellant, fails to teach or suggest the use of an aggressive pressure-sensitive adhesive on the rear surface of the decorative sheet material. Martinez specifically teaches that pressure-sensitive adhesive layer 14, which is coated on the rear surface of both the substrate 12 and the appliqu  10, is a reusable non-permanent adhesive. Hence, Martinez uses the same adhesive for both the background substrate and the temporary overlay. Appellant, on the other hand, claims two distinct adhesive layers for the decorative sheet material and the temporary support tape. While Appellant's claims and Specification do not place quantitative values on the adhesive strengths of the "aggressive pressure sensitive adhesive" and the "repositionable pressure sensitive adhesive," we are satisfied that the claimed subject matter, when considered as a whole in light of the Specification, requires that the two recited adhesives be distinct in nature and exhibit different adhesive strengths. Consequently, since Martinez teaches only one and the same adhesive for both the background substrate and the overlays, the Examiner's rejection must fall.

We also find merit in Appellant's argument that it would appear that no release liner would be used when the background substrate and overlays

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of Martinez are in contact. This follows from Martinez apparently adhering the background substrate before positioning the appliqués.

The “secondary” references are not cited by the Examiner to remedy the deficiencies of Martinez discussed above and, in fact, do not do so.

In conclusion, based on the foregoing, we are constrained to reverse the Examiner’s rejections.

REVERSED

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