

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RHONDA TRACY

Appeal 2007-3432
Application 10/931,331
Technology Center 3700

Decided: June 19, 2008

Before MURRIEL E. CRAWFORD, JOSEPH A. FISCHETTI, and BIBHU
R. MOHANTY, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 7, 9, and 11 to 17 and 19. Claims 8, 10, and 18 are canceled. We have jurisdiction under 35 U.S.C. § 6(b) (2002). This case was heard on May 20, 2008.

Appellant invented a disposable diaper which includes an indentation in an inner liner and a removable core shaped to fit within the indentation (Specification 5).

Claim 1 under appeal reads as follows:

1. A disposable diaper, comprising
 - a. a diaper body, said diaper body having an inner lining comprising a liquid-absorbent material and said diaper body being shaped so that the diaper may extend about a waist and crotch of a wearer with the inner lining toward the wearer,
 - b. a removable core shaped to engage a portion of said inner lining, said removable core having a liner comprising a liquid-absorbent material, and a liquid barrier layer substantially coextensive with said removable core, forming a liquid-impervious boundary between said core and said liquid absorbent material, and
 - c. an indentation in said inner lining and said removable core being shaped to fit within said indentation, and
 - d. means joining said removable core and said diaper body.

The Examiner rejected claims 1 to 5, 12 to 15, 17, and 19 under 35 U.S.C. § 102(b) as being anticipated by Glassman.

The Examiner rejected claims 6, 7, 9, 11, 16, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Glassman in view of Sherrod.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Glassman	US 4,019,517	Apr. 26, 1977
Sherrod	US 2002/0143316	Oct. 3, 2002

We have carefully reviewed the rejections on appeal in light of the arguments of the Appellant and the Examiner. As a result of this review, we have reached the conclusion that the applied prior art does not establish the anticipation of claims 1 to 5, 12 to 15, and 17 to 19 and the prima facie obviousness of the claims 6, 7, 9, 11, 16 and 17. Therefore the rejections on appeal are reversed. Our reasons follow.

The following comprise our finding of facts with respect to the scope and content of the prior art and the differences between the prior art and the claimed subject matter. Glassman discloses a disposable diaper with a diaper body having an inner lining 12 and a removable core 12a which engages the inner lining 12 (Figure 1). The removable core 12a is placed on the inner lining 12 (Figure 1). A notch 19 is provided in the inner lining so that the removable core 12a can be grasped and removed (col. 2, ll. 35 to 39; Figure 4).

Sherrod discloses a disposable diaper having an inner lining 14 and a removable core 16 disposed on the inner lining 14 [paragraphs 0017 to 0018]. The inner lining 14 does not disclose an indentation and a removable core shaped to fit within the indentation.

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The disagreement between the Appellant and the Examiner is whether Glassman discloses an indentation in the inner lining and a removable core is shaped to fit within the indentation. The Examiner contends that the notch 19 is an indentation and that the removable core 12a is shaped to fit within the indentation. We agree with the Appellant that the removable core 12a is not shaped to fit within notch 19 and in fact the removable core 12a is not disposed within the indentation but rather is placed on the inner lining 12 and not within the notch 19. Therefore, we will not sustain the Examiner's rejection under 35 U.S.C. § 102(b). We will also not sustain the Examiner's rejection under 35 U.S.C. § 103 because Glassman does not suggest an indentation in the inner core within which the removable core is placed and Sherrod does not cure this deficiency.

The decision of the Examiner is reversed.

REVERSED

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