

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHIRLEE A. WEBER

Appeal 2007-3764
Application 10/331,951
Technology Center 3700

Decided: February 25, 2008

Before TONI R. SCHEINER, DONALD E. ADAMS, and
LORA M. GREEN, *Administrative Patent Judges*.

GREEN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-18. We have jurisdiction under 35 U.S.C. § 6(b). Claims 1 and 10 are the independent claims on appeal, and read as follows:

1. An absorbent article, comprising:

a chassis having a front waist region with a front waistband, a back waist region with a back waistband, and a crotch region extending longitudinally between said front and back waist regions;

a generally liquid impermeable and stretchable outer cover member, and a bodyside liner extending from said front waist band to said back waist band;

an absorbent pad structure sandwiched between said outer cover member and said bodyside liner, said absorbent pad structure comprising an absorbent core conform material having a fusible thermoplastic material;

a suspension member disposed at each longitudinal end of said absorbent pad structure, said suspension members having one end fusably bonded with said fusible thermoplastic material within said absorbent core material, and an opposite end attached to a respective said waistband of said chassis; and

wherein upon said article being worn by a user, said absorbent pad structure is slideably disposed against said outer cover member such that said absorbent article is form-fitting without said absorbent pad structure impeding stretchability of said outer cover member.

10. An absorbent article, comprising:

a chassis having a front waist region with a front waistband, a back waist region with a back waistband, and a crotch region extending longitudinally between said front and back waist regions;

a generally liquid impermeable outer cover member and a generally coextensive bodyside liner;

In order to understand the limitation at issue, we turn to the instant disclosure. Instant Figure 2 is reproduced below:

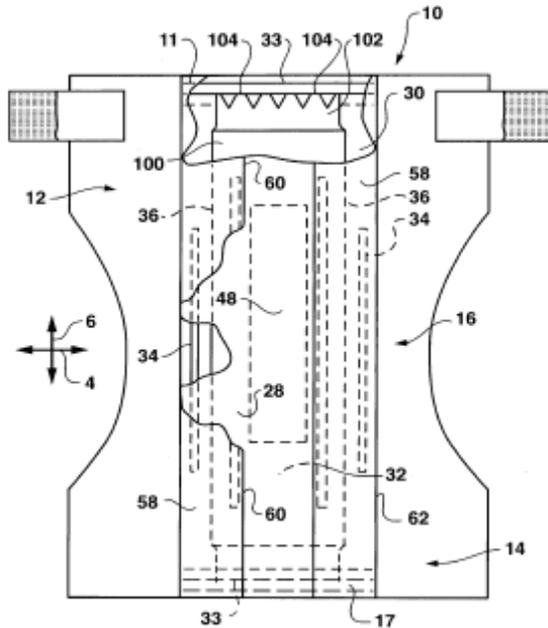


Figure 2 is a bodyside plan view of an absorbent article, in this case a diaper, shown in partial cut-away view (Spec. p. 4, ll. 1-3). According to the Specification:

The absorbent pad structures 32 are suspended relative to the chassis 20 by way of at least one suspension member 102 disposed at a longitudinal end of the pad structure 32. The pad structure may be suspended at each of its longitudinal ends with a respective suspension member 102, as illustrated in the figures. The suspension member 102 has an end fusably bonded with the fusible thermoplastic material within the absorbent core material 100. For example, the suspension member may be a nonwoven material, such as a spunbond material, of a fusible thermoplastic polymer material that also melts or softens and fuses with the molten thermoplastic material of the core material 100 in the bonding process. . . . The end of the suspension member 102 may be inserted into the core material 100 or may be laid upon a surface of the core material 100. The components are then bonded together by any one of a number of techniques known to those skilled in the art

such that the thermoplastic materials become molten and fuse upon subsequent solidification. Thus, the suspension members 102 are attached directly to the absorbent core material 100 without the necessity of a separate attaching layer, such as a facing or backing sheet.

(Spec., p. 9, ll. 11-27.)

Thus, consistent with the Specification and the Figures, we interpret the limitation of a suspension material having one end fusably bonded with said fusable thermoplastic material within said absorbent core material as requiring the suspension material to be bonded directly to the absorbent core material without the use of a separate attaching layer, wherein the bonding is produced by melting or softening of the suspension member with the core material.

According to the Examiner, Stevens teaches:

A slidable retaining means 46 and combination with positioning means 12 and slot-forming means together form a suspension member disposed at each longitudinal end of absorbent insert means 32, said suspension member 46 having one end bonded with the absorbent means 32 and an opposite end attached to the positioning means 12 located on the waistband (column 6, lines 9-12, figure 2).

(Ans. 4). Moreover, the Examiner asserts, absorbent 32 comprises absorbent core means 38 (Ans. 5, relying on Stevens, Fig 2A, Fig. 15, and col. 5, ll. 48-65).

Figures 2 and 2A of Stevens are reproduced below:

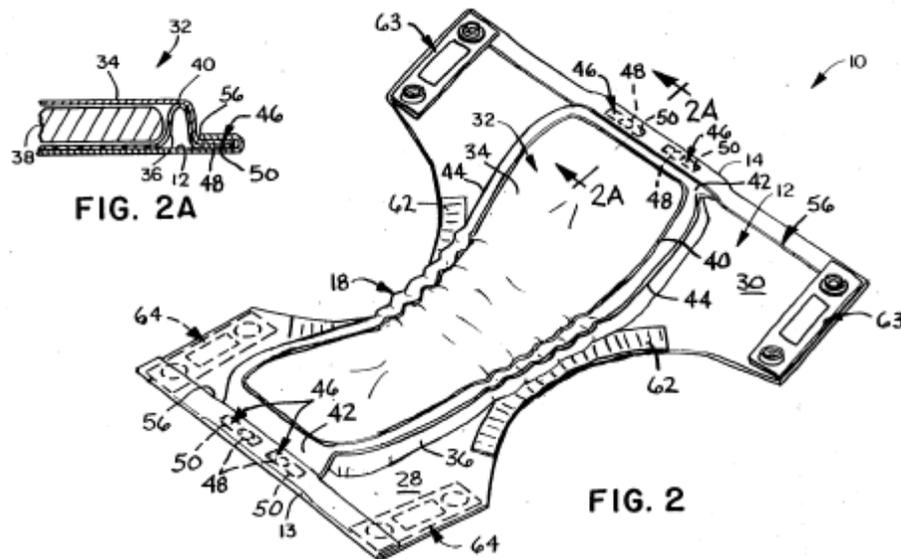


Figure 2 is a perspective view of the anatomically form-fitting and generally self-adjusting diaper garment of the invention (Stevens, col. 4, ll. 18-19).

Figure 2A is a sectional view of cross-section 2A-2A of Figure 2.

Appellant argues that the absorbent core means 38 of Stevens “never even touches positioning means 12, much less having one of its ends fusably bonded with the thermoplastic material within said absorbent core material 38.” (Br.¹ 9.) Appellant argues that fusably bonded requires that “the thermoplastic materials become molten and fuse upon subsequent solidification.” (Br. 10, quoting Spec. 9.) Thus, according to Appellant, “no reasonable interpretation of ‘fusably bonded’ can be stretched to read on

¹ All references to the Brief (Br.) are to the corrected Appeal Brief dated September 18, 2006.

[Stevens] elements that are not connected to each other by one being melted or coalesced with material *within* the other.” (Br. 10.)

We agree. First, the Examiner has not pointed to any teaching in Stevens showing the presence of thermoplastic material within absorbent core material 38, nor can we find such a teaching. Second, the Examiner asserts that 46 is the suspension means. Stevens teaches that “there is provided slidable retaining means, generally indicated at 46, for operatively connecting said insert means 32 to said positioning means 12.” (Stevens, col. 6, ll. 9-13.) Stevens, however, does not teach that the absorbent core material 38 is directly attached to the suspension means 46, much less that it is fusably bonded to the suspension means 46 wherein the bonding is produced by melting or softening of the suspension member with the core material.

Thus, the Examiner has not demonstrated that Stevens teaches every element and limitation of the claimed invention, arranged as in the claim, and the rejection is reversed.

REVERSED

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