

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KARL W. KRECKEL,
PATRICK J. HAGER
AND JAMES H. RICKERT

Appeal 2008-0441
Application 10/348,394
Technology Center 1700

Decided: January 15, 2008

Before EDWARD C. KIMLIN, CHUNG K. PAK, and CATHERINE Q. TIMM, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 19 and 21-31.

Claim 19 is illustrative:

19. An adhesive article capable of being firmly bonded to a substrate and being further capable of being removed therefrom by stretching, said adhesive article having opposed adhesive major surfaces and further having a lengthwise elongation at break of from about 50% to about 1,200%,

wherein an end of said adhesive article includes a non-adhesive tab rendering only a portion of at least one of said opposed adhesive major surfaces non-adhesive to facilitate removal of the article from the substrate to which the adhesive article has been adhered.

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

Korpman	4,024,312	May 17, 1977
Koehnke	4,807,613	Feb. 28, 1989
Rollband	5,213,565	May 25, 1993

Appellants' claimed invention is directed to an adhesive article that can be bonded to a substrate and subsequently removed by stretching. The adhesive article has opposed adhesive major surfaces and the recited lengthwise elongation at break. In addition, the article includes a non-adhesive tab which renders only a portion of at least one of the opposed adhesive major surfaces non-adhesive. The non-adhesive tab facilitates removal of the adhesive article from the substrate.

Appealed claims 19 and 21-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Korpman in view of either Koehnke or Rollband.

Appellants do not set forth separate arguments for claims 21-26 and 31. Accordingly, these claims stand or fall together with claim 19.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in full agreement with the Examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejection for essentially those reasons expressed in the Answer.

There is no dispute that Korpman, like Appellants, discloses an adhesive article capable of being firmly bonded to a substrate and being further capable of being removed therefrom by stretching. Also, as pointed out by the Examiner, Korpman discloses that the adhesive article is coated on at least one of the major surfaces (*see Abstract*) and, therefore, we agree with the Examiner that the reference fairly teaches that the adhesive article comprises adhesive material on its opposed major surfaces. Also, Korpman teaches that "the tape of this invention may be removed easily from the surface by stretching the tape longitudinally by a force applied to its end" (col. 4, ll. 26-29).

As recognized by the Examiner, Korpman does not teach that the adhesive article comprises the presently claimed non-adhesive tab which facilitates the removal of the adhesive article from the substrate. However, we fully concur with the Examiner that Koehnke and Rollband evidence the obviousness of including such a non-adhesive tab on the adhesive article of Korpman for the purpose of easing the removal of the adhesive article from the surface by stretching it in a longitudinal direction. As explained by the Examiner, Koehnke teaches a medical adhesive tape having non-adhesive tabs 32 and 34 extending from the ends of the tape for facilitating grasping and removing the tape. Rollband, likewise, discloses a tape for attaching bandages having non-adhesive tabs (3) which allow for easy removal. Accordingly, inasmuch as Korpman is directed to the easy removal of the adhesive article from the surface, we are convinced that it would have been obvious for one of ordinary skill in the art to provide a non-adhesive tab of the type presently claimed and disclosed by Koehnke and Rollband at the end of Korpman's adhesive article. Like the Examiner, we find that it would

have been a matter of obviousness for one of ordinary skill in the art to wrap the non-adhesive tab about one of the edges of Korpman's adhesive article such that it covers a portion of the opposed major surfaces (claims 27 and 28), and that it would have been obvious to apply the non-adhesive tab in such a way that the thickness of the adhesive layer remains uniform (claim 29). While these features are not expressly articulated in the prior art, we are satisfied that such features would have been logical inferences and creative steps that one of ordinary skill in the art would have drawn and taken. *KSR Int'l Co. v. Teleflex Inc*, 127 S. Ct. 1727, 1740 (2007). Upon the application of the non-adhesive tab to the opposed major surfaces of Korpman, it would necessarily result that the opposed major surfaces include an exposed adhesive portion and an exposed non-tacking portion (claim 30).

Appellants contend that the sentence in Korpman's Abstract stating that the adhesive is "coated on at least one of the film surfaces" is ambiguous regarding "which surface(s) is coated with adhesive, and decidedly cannot be viewed as a definitive 'teaching' as otherwise surmised by the Examiner" (Principal Br. 8, last para.). We find no merit in this argument. Although the Abstract of Korpman does not explicitly state that the adhesive material may be applied to the opposed major surfaces of the article, we have no doubt that one of ordinary skill in the art would have interpreted Korpman as disclosing that adhesive material can be applied to the opposed major surfaces. While Appellants emphasize that Figures 1-4 of the reference depict adhesive on only one surface of the article, it is by now axiomatic that a reference must be considered for all that it fairly teaches beyond an exemplified embodiment. Indeed, as noted by the Examiner, Korpman expressly discloses that "[w]hile the simplest form of adhesive

tape construction is shown in the drawings, it will be apparent to one skilled in the art that this invention embraces various other conventional pressure-sensitive adhesive tape constructions," such as double-faced tapes (col. 4, ll. 43-50). Consequently, when Korpman is read in the context of its entire disclosure, as urged by Appellants, we are convinced that one of ordinary skill in the art would have gleaned that Korpman teaches an adhesive article comprising adhesive material on its opposed major surfaces. We totally reject Appellants' argument that "it is impossible to know which of the surfaces Korpman is referring to, as the language in the Abstract is not enabling" (Principal Br. 9, third para.).

Appellants also make the argument that the tabs of Koehnke and Rollband include perforations that are "ill-suited for combination with Korpman" (Principal Br. 13, second para.). However, it is well settled that it is not necessary for a finding of obviousness that all the features of one reference be physically incorporated into the article of another reference. Koehnke and Rollband are cited as evidence for the obviousness of utilizing a non-adhesive tab on the article of Korpman, with or without perforations. Moreover, Koehnke expressly states that the perforations are optional (*see Abstract*), and Rollband discusses the disadvantages of utilizing perforations (*see col. 1, ll. 45 et seq.*). Hence, we find that it would have been obvious for one of ordinary skill in the art that the use of perforations is an optional feature.

As a final point, we note that Appellants base no argument upon objective evidence of nonobviousness, such as unexpected results.

In conclusion, based on the foregoing, the Examiner's decision rejecting the appealed claims is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(effective Sept. 13, 2004).

AFFIRMED

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