

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEWART L. HAY, JAMES L. BREWSTER,
JOHN M. THOMAS AND JEFFREY B. HERMAN

Appeal 2008-1962
Application 10/306,673
Technology Center 1700

Decided: March 26, 2008

Before EDWARD C. KIMLIN, LINDA M. GAUDETTE, and
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-20, 23-46, 49,
and 50. Claim 1 is illustrative:

1. A multilayer woven fabric for use in a papermaking machine, said fabric including first and second layers, each layer including a plurality of machine direction yarns; one of said layers including a plurality of single machine direction yarns spaced-apart in a cross-machine-direction to provide a desired projected open area in said one layer; the other of said

layers including a plurality of pairs of contiguous machine direction yarns, said pairs being spaced apart in the cross-machine-direction to provide a desired projected open area in said other of said layers, each pair being in substantially vertically stacked alignment with the single machine direction yarn in the one of said layers, and a plurality of single cross-machine-direction yarns, each of said single cross-machine-direction yarns being spaced apart in the machine-direction from adjacent, single cross-machine-direction yarns and being interwoven with the machine direction yarns in said first and second layers to bind together the single machine direction yarns in said one of said layers and the paired machine direction yarns in the other of said layers to establish and maintain each single machine direction yarn in a substantially vertically stacked relationship with a corresponding pair of machine direction yarns to maintain a desired projected open area through each of said first and second layers of said fabric.

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

Gaisser	5,114,777	May 19, 1992
Gampe	5,994,062	Aug. 31, 1999

Appellants' claimed invention is directed to a multilayer woven fabric that is used in a papermaking machine. The fabric comprises first and second layers having a plurality of machine direction yarns with one of the layers including a plurality of pairs of contiguous machine direction yarns. The fabric also comprises a plurality of single cross-machine-direction yarns that are interwoven with the machine direction yarns in the first and second layers.

Appealed claims 1-20, 23-46, 49, and 50 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gaisser in view of Gampe.

Based on the arguments set forth in Appellants' Brief, claims 1, 3, 4, 6-16, 23-24, 26-32, 34-46, 49, and 50 stand or fall together.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in complete 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 the reasons set forth in the Answer, which we incorporate herein, and we add the following for emphasis only.

There is no dispute that Gaisser, like Appellants, discloses a multilayer woven fabric for use in a paper making machine including first and second layers comprising a plurality of machine direction yarns spaced-apart in a cross-machine-direction to provide a desired projected open area in one of the layers, as well as a plurality of cross-machine-direction yarns that are interwoven with the machine direction yarns in the first and second layers. As appreciated by the Examiner, Gaisser does not teach that one of the first and second layers includes a plurality of pairs of contiguous machine-direction yarns. However, we fully concur with the Examiner that Gampe evidences the obviousness of modifying Gaisser such that one of the first and second layers includes a plurality of pairs of contiguous machine direction yarns for the purpose of achieving the benefits articulated by Gampe.

Appellants cite a passage at column 2, lines 1-10 of Gampe as lacking in clarity. However, as pointed out by the Examiner, Gampe provides an express disclosure that the warp threads can be similarly grouped in pairs like the weft threads (*see* col. 4, ll. 11 et seq.). Also, Gampe specifically states that "at least some of the threads of one or both of the wept [sic, weft] or warp are grouped so as to lie adjacent one another and be bonded in the

weave identically" (col. 1, ll. 8-10). Consequently, we are convinced that one of ordinary skill in the art would have found it obvious to group into pairs the machine-direction yarns in one of the layers of Gassier in order to obtain the advantages set forth by Gampe (column 3, lines 50 et seq.).

The principal argument advanced by Appellants is that Gampe requires that the cross-machine-direction weft yarns be paired yarns whereas the appealed claims require no pairing of the weft yarns. However, as noted above, Gampe expressly states that "the threads of one or both of the weft or warp are grouped so as to lie adjacent one another" (col. 1, ll. 8-10). Hence, the reference provides a clear teaching that the yarns of the weft need not be paired. Moreover, 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 another reference. *In re Griver*, 354 F.2d 377, 381 (CCPA 1966); *In re Billingsley*, 279 F.2d 689, 691 (CCPA 1960). In the present case, we are satisfied that one of ordinary skill in the art would have understood that one may pair only the warp yarns of Gaisser to attain the benefits taught by Gampe. Furthermore, we agree with the Examiner's interpretation that the appealed claims are "open" to the inclusion of paired yarns in the weft layer.

As for Appellants' separate arguments for claim 17-20, 2, 5, 25, and 33, we agree with the reasoning set forth in the Examiner's Answer regarding the prima facie obviousness of the recited features.

As a final point, we note that Appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the prima facie case of obviousness established by the applied prior art.

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In conclusion, based on the foregoing and the reasons well stated by the Examiner, the Examiner's decision rejecting the appealed claims is affirmed.

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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