

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* WILLIAM O. BOYD, JR., JOHN L. TUCKER, DAVID M.  
BROWN, IAIN R. TAYLOR and DEREK SHARPE

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Appeal 2008-3549  
Application 10/298,475  
Technology Center 1700

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Decided: September 18, 2008

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Before EDWARD C. KIMLIN, TERRY J. OWENS, and  
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

The Appellants appeal from a rejection of claims 1-3, which are all of the pending claims.

## THE INVENTION

The Appellants claim a composite fabric comprising two layers having connections between them. Claim 1 is illustrative:

1. A composite fabric comprising:

a first fabric layer being a knitted fabric including a first yarn comprising first filaments; and

a second fabric layer being a knitted fabric including a second yarn comprising second filaments;

wherein the first layer and the second layer are independent layers; and, further including:

first layer connections between the first layer and the second layer comprising at least one of the first filaments extending from the first yarn of the first layer into the main body of the second yarn in the second fabric layer; and

second layer connections between the second layer and the first layer comprising at least one of the second filaments extending from the second yarn of the second layer into the main body of the first yarn in the first fabric layer.

## THE REFERENCES

Heaton	US 667,699	Feb. 12, 1901
Song	US 5,211,788	May 18, 1993

## THE REJECTION

Claims 1-3 stand rejected under 35 U.S.C. § 103 over Heaton in view of Song.

## OPINION

We affirm the Examiner's rejection.

Heaton discloses a fabric for making felt boots (ll. 14-15). The fabric has "two separate pieces of knit goods the fibers of which are united or

intermixed by means of barbed needles” (ll. 17-19). The fabric can be woven or knitted (ll. 27-28).

Song discloses a tennis ball having a fabric cover “manufactured by subjecting a circular knitted high-pile fabric with blended slivers of wool and nylon fibers laid in so as to be exposed on one surface of the fabric to a needle-punching process to anchor the respective pile fiber at least at two parts thereof on the other surface of the fabric, and subjecting the thus needle-punched fabric to a milling process” (col. 1, ll. 45-52). The fabric can be spun yarns or multifilament yarns (col. 3, ll. 36-41).

The Appellants argue that one of ordinary skill in the art would not have been motivated to use Song’s tennis ball single layer fabric in Heaton’s process for needling together two fabric layers for making boots (Br. 4-6).

Song is relied upon by the Examiner not for a motivation to use Song’s fabric in Heaton’s process but, rather, for a disclosure that needling was known to be applicable to both spun yarns and filament yarns (Ans. 5). Heaton’s disclosure that the fabric can be woven or knitted (ll. 27-28) would have led one of ordinary skill in the art to use in the fabric either of the two types of yarns suitable for weaving or knitting, i.e., spun yarns or filament yarns, particularly in view of Song’s indication that needling is suitable for both of those types of yarn (col. 3, ll. 36-41).<sup>1</sup>

The Appellants argue that “nothing with the cited references teaches that any filaments within the yarns would be broken and become free to form the type of connections specified in the pending claims (Br. 6-7).

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<sup>1</sup> Heaton’s use of the term “fibers” (ll. 17-19) appears to be similar to the Appellants’ use of that term as including both fibers and filaments (Spec. 14:11 – 15:6).

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The Appellants' claims do not require broken filaments. Moreover, the Appellants' Specification does not indicate that the filaments necessarily must be broken but, rather, discloses that the filaments either can be broken or can be stretched or pulled such that they follow the needle until they become free of the needle (Spec. 14:20 – 15:2). Thus, the record indicates that the Appellants' claim term "connections" encompasses Heaton's connections formed by needling, regardless of whether Heaton's needling breaks any filaments.

For the above reasons we are not convinced of reversible error in the Examiner's rejection.

#### DECISION

The rejection of claims 1-3 under 35 U.S.C. § 103 over Heaton in view of Song 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).

AFFIRMED

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