

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte SHUO PENG and JIAN TAO

Appeal 2008-3937
Application 11/287,372
Technology Center 1700

Decided: September 25, 2008

Before DEMETRA J. MILLS, FRANCISCO C. PRATS, and
JEFFREY N. FREDMAN, *Administrative Patent Judges*.

PRATS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 involving claims to methods of making articles, such as latex gloves. The Examiner has rejected the claims as indefinite, anticipated, and obvious. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm one of the anticipation rejections and one of the obviousness rejections, but reverse the other rejections.

STATEMENT OF THE CASE

Latex gloves are made by dipping a hand-shaped former into a latex-containing emulsion, thereby depositing a thin layer of latex on the former (Spec. 1). In some processes, to enhance deposition of the latex, the former is dipped into a coagulant solution before being dipped into the latex (*id.* at 2).

One shortcoming of processes that dip the hand-shaped former into the solutions fingers-first is that the finger portion of the former is present in the solutions for a longer “dwell time” than the cuff portion, resulting in gloves having a thicker latex layer at the fingertips and a thinner layer at the cuff portion (*id.* at 1). Gloves having that combination of latex thicknesses are undesirable “as the thinner cuffs are more prone to tearing when the gloves are donned and thicker fingertips are a hindrance when the wearer performs intricate tasks” (*id.*).

The Specification discloses a process in which “[e]xtra coagulant is added to the cuff portion of the former by a spray nozzle located between the coagulant and latex dipping tanks” (*id.* at 4). Thus, “[t]he higher concentration of coagulant at the cuff portion results in a thicker latex thickness at the cuff portion and counteracts the reduced dwell time of the cuff in the latex dipping tank as compared to the fingertip portion of the former” (*id.*).

Claims 1-16 are pending and on appeal (App. Br. 1). Claims 1, 6, and 12, the appealed independent claims, are representative and read as follows:

1. A method for making articles, comprising
dipping a former into coagulant, the former having
a lower end and an upper end, said lower end placed into said
coagulant before said upper end,
removing said former from said coagulant,
applying coagulant to said former upper end and
dipping said former into rubber material, said lower end placed
into said rubber material before said upper end.

6. A method of forming articles, comprising
applying a first coat of coagulant over a full length
of a former between a first lower end and an upper end,
applying a second coat of coagulant proximate said
upper end said second coat extending less than said full length
of said former, and
applying rubber material to said former.

12. A method of forming articles, comprising
applying a first coat of coagulant to a former
having a lower first end and an upper end,
applying a second coat of coagulant proximate said
upper end said second coat extending less than said full length
of said former, and
applying rubber material to said former.

The Examiner cites the following documents as evidence of
unpatentability:

Strickhouser	US 2,526,431	Oct. 17, 1950
Schindler	US 3,852,826	Dec. 10, 1974
Sidley	US 3,859,410	Jan. 7, 1975
Llort et al.	US 5,833,911	Nov. 10, 1998

The following rejections are before us for review:

Claims 1-4, 6-9, and 11-15 stand rejected under 35 U.S.C. § 112,
second paragraph, as being indefinite for failing to particularly point out and

distinctly claim the subject matter which applicant regards as the invention (Ans. 3).

Claims 1, 2, 4, 5, and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sidley (Ans. 4).

Claims 6, 9-14, and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Schindler (Ans. 4-5).

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sidley as applied to claims 1, 2, 4, 5, and 12, in view of Llorc (Ans. 5).

Claims 7, 8, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schindler as applied to claims 6, 9-14, and 16 in view of Strickhouser (Ans. 6).

INDEFINITENESS

ISSUE

The Examiner contends that the claims refer “to ‘lower’ and ‘upper’ ends. It is unclear how these limitations limit the scope of the claim. For example, it is unclear whether the lower/upper ends are relative to the ground, the monorail or whether the lower/upper end refers to the finger/cuff portion or cuff/finger portion of the former” (Ans. 3). The Examiner contends, however, that “claims 5, 10 and 16 clarify the scope and define the upper end as a cuff portion” (*id.*).

Appellants contend:

Whenever an item is referred to as having an upper end and a lower end, all that is required is that the upper end be higher than the lower end. These terms are defined relative to one another and need no other reference, such as those set forth by the Examiner.

(App. Br. 3.)

The issue with respect to this rejection, then, is whether the Examiner erred in concluding that the recitations “upper end” and “lower end” fail to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

FINDINGS OF FACT (“FF”)

1. Appellants’ Figure 1,¹ reproduced below, “shows the assembly line views in the method of the invention” (Spec. 5):

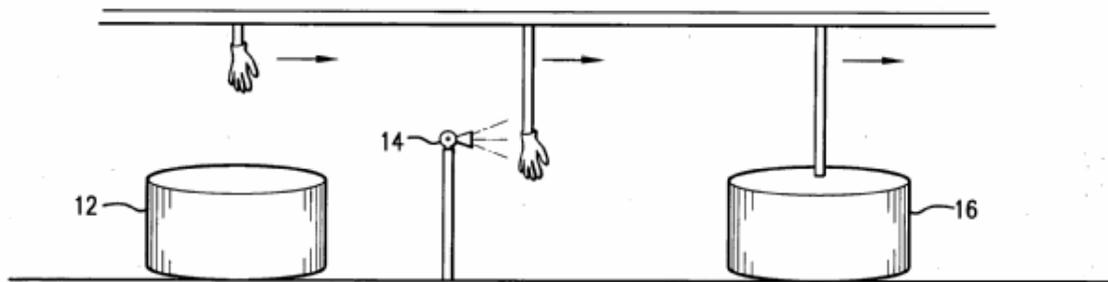


FIG. 1

The Specification describes the figure as follows:

[A] former is placed within a first tank 12 to place coagulant on the full length of the former. The former is removed from the first tank 12 and is moved along the assembly line towards the second tank 16 containing latex compound. Between the first tank 12 and second tank 16 is an applicator, such as spray nozzle 14. The spray nozzle 14 applies additional coagulant to the cuff portion of the former before the insertion of the former into the latex compound.

(Spec. 6.)

¹ Replacement Sheet filed August 30, 2007.

PRINCIPLES OF LAW

“A claim is indefinite if, when read in light of the specification, it does not reasonably apprise those skilled in the art of the scope of the invention.” *Amgen Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1342 (Fed. Cir. 2003).

“[T]he examiner bears the initial burden . . . of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

ANALYSIS

We agree with Appellants that the Examiner has not shown that the recitations “upper end” and “lower end” in the claims would have failed to apprise those skilled in the art of the scope of the invention.

Specifically, claim 1 first recites the step of “dipping a former into coagulant, the former having a lower end and an upper end, said lower end placed into said coagulant before said upper end.” We agree with Appellants that one of ordinary skill in the art would reasonably be apprised that the lower end of the former is the physically lower end of the former that is first dipped into the coagulant, and that the upper end is the physically higher end of the former. For example, viewing Appellants’ Figure 1 (FF 1), one of ordinary skill in the art would understand the fingers of the hand-shaped former to be the lower end of the former.

The third-recited step of claim 1 requires “applying coagulant to *said* former upper end” (emphasis added). By requiring the coagulant in the third-recited step to be applied to “said” upper end of the former, one of ordinary skill in the art would have been apprised that the coagulant in this step must be applied to the end of the former that is dipped into the

first-recited coagulant solution *after* the lower end. Thus, because the first-recited step of claim 1 establishes and fixes the orientation of the “lower” and “upper” ends of the former to be, respectively, the portions of the former that are dipped into the coagulant firstly and secondly, one of ordinary skill in the art would have been apprised of the scope of claim 1.

The fourth-recited step of claim 1 requires “dipping said former into rubber material, said lower end placed into said rubber material before said upper end.” Because the first-recited step of claim 1 established “said lower end” to be the end of the former dipped into the initial coagulant first, the same end of the former must also be dipped into the rubber material first.

In sum, we do not agree with the Examiner that one of ordinary skill would fail to be reasonably apprised of the scope of each of the recitations of “upper end” and “lower end” in claim 1. We therefore reverse the Examiner’s rejection of claim 1, and its dependent claims 2-4, as indefinite under 35 U.S.C. § 112, second paragraph.

Claim 6 initially recites the step of “applying a first coat of coagulant over a full length of a former between a first lower end and an upper end.” We again agree with Appellants that one of ordinary skill would have reasonably been apprised that the “upper” and “lower” ends of the former are the ends which are physically lower and higher, respectively, when the first coat of coagulant is applied. Thus, for example, in Appellants’ Figure 1 (FF 1), the lower end of the former would be the fingers end, and the upper end would be the cuff end.

Claim 6 then recites the step of “applying a second coat of coagulant proximate *said* upper end said second coat extending less than said full length of said former” (emphasis added). By requiring the second coat of

coagulant to be applied proximate “said” upper end of the former, one of ordinary skill in the art would be apprised that the second coat of coagulant must be applied proximate the end of the former that is the former’s physically higher end when the first coat of coagulant is applied.

We therefore do not agree with the Examiner that one of ordinary skill would fail to be reasonably apprised of the scope of each of the recitations of “upper end” and “lower end” as recited in claim 6. We therefore reverse the Examiner’s rejection of claim 6, and its dependent claims 7-9 and 11, as indefinite under 35 U.S.C. § 112, second paragraph.

Claim 12 recites the initial step of “applying a first coat of coagulant to a former having a lower first end and an upper end.” As with claim 6, we agree with Appellants that one of ordinary skill would have reasonably been apprised that the “upper” and “lower” ends of the former are the ends which are physically lower and higher, respectively, when the first coat of coagulant is applied.

The second-recited step of claim 12 is “applying a second coat of coagulant proximate *said* upper end *said* second coat extending less than *said* full length of *said* former” (emphasis added). As with claim 6, by requiring the second coat of coagulant to be applied proximate “said” upper end of the former, one of ordinary skill in the art would have been apprised that the second coat of coagulant must be applied proximate the end of the former that was the former’s physically higher end when the first coat of coagulant was applied.

We therefore do not agree with the Examiner that one of ordinary skill would fail to be reasonably apprised of the scope of each of the recitations of “upper end” and “lower end” as recited in claim 12. We therefore reverse

the Examiner's rejection of claim 12, and its dependent claims 13-15, as indefinite under 35 U.S.C. § 112, second paragraph.

ANTICIPATION -- SIDLEY

ISSUE

Claims 1, 2, 4, 5, and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sidley (Ans. 4). The Examiner describes Sidley's disclosure as follows:

Sidley teaches a method of making gloves comprising: dipping a former into coagulant, the former have a first end and a second end, said first end placed into said coagulant before said second end (Figure 1, Station B; col. 7, lines 48-52); removing said former from said coagulant; applying coagulant to said second end of said former (Figure 1; Station A); and dipping said former into rubber material with said first end placed into said rubber material before said second end (Figure 1; Station C) (col. 3, lines 1-5; col. 6, lines 10-45; col. 7, lines 59-63).

(Id.)

Appellants contend that “[c]laims 1, 6 and 12 specified that the coagulant is applied to the upper portion of the former. This is in contrast to Sidley which has coagulant applied to the lower cuff portion 5a with subsequent inversion of the former before dipping into latex” (App. Br. 3-4). Thus, Appellants contend, “[a]s the method disclosed by Sidley has coagulant applied to the lower end of the former and fails to place the entire length of the former into coagulant, the claims distinguish the invention from Sidley” (*id.* at 4).

The Examiner responds that the sequence of steps in the claimed processes “is not limited by the language used in the claim” and that Sidley discloses a process that has all of the claimed steps (Ans. 10-11).

Appellants do not argue any of the claims subject to this ground of rejection separately.² We select claim 1 as representative of the rejected claims. *See* 37 C.F.R. § 41.37(c)(1)(vii). The issue with respect to this rejection, therefore, is whether the Examiner erred in finding that Sidley meets all of the limitations recited in claim 1.

FINDINGS OF FACT

2. Sidley discloses a process for “the manufacture of thin-walled articles, particularly gloves, such as surgical gloves, from latex” (Sidley, col. 1, ll. 4-6). Sidley describes the process as follows:

[A] method of producing a glove comprises the steps of locating a hand-shaped former with the fingers disposed upwardly; applying concentrated coagulant to the cuff portion of the former while the former is so disposed; inverting the former; applying dilute coagulant to the hand portion of the former while the former is inverted with the fingers disposed downwardly; and applying latex to the entire glove forming portion of the former.

(*Id.* at col. 2, ll. 59-67.)

3. Sidley discloses that, in the first step of a preferred embodiment, “a plurality of formers are located in a row with their fingers disposed upwardly in a position between and adjacent the ends of a pair of laterally spaced coagulant conduits” (Sidley, col. 3, ll. 37-40; *see also* Figure 2). Sidley then discloses that “streams of concentrated coagulant are discharged through outlet nozzles in the conduits from opposite sides onto the cuff portions of successive formers from one end of the row to the other” (*id.* at col. 3, ll. 43-46).

² Appellants present argument regarding limitations in claim 6 (App. Br. 4). However, claim 6 is not rejected as anticipated by Sidley.

4. Sidley discloses that “[t]he concentrated coagulant may be allowed to dry partially or completely before the former is inverted, so that running down of concentrated coagulant onto the hand portion may be avoided or at least minimised” (Sidley, col. 3, ll. 54-57).

5. Next, Sidley discloses, “[t]he dilute coagulant may be applied to the hand portion of the or each former by immersing the former fingers downwards in a bath of dilute coagulant up to or just beyond the edge of the concentrated coagulant coating on the cuff portion” (Sidley, col. 3, ll. 58-62).

6. Sidley discloses that the “dilute coagulant may be allowed to dry partially or completely before the latex is applied. Latex may be applied by immersing the or each former fingers downwards in a bath of latex up to the required length of the glove” (Sidley, col. 3, ll. 63-67).

7. Figure 1 of Sidley, reproduced below, “is a diagrammatic representation with parts omitted for the sake of clarity, of apparatus suitable for carrying out the method according to the invention” (Sidley, col. 4, ll. 38-39):

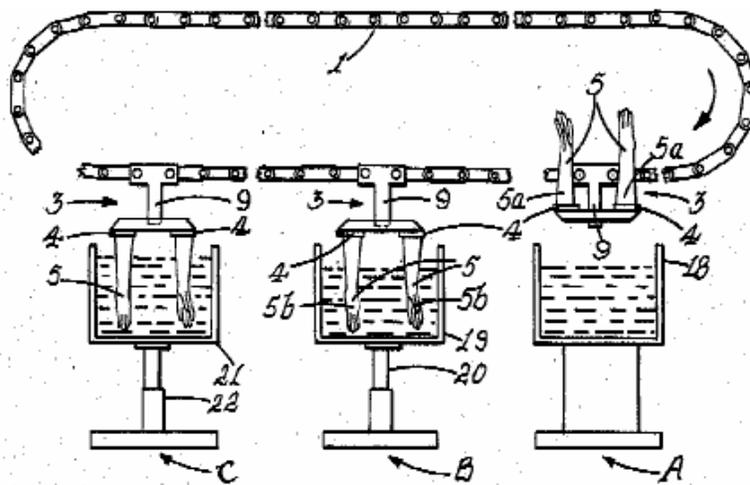


Fig 1.

The figure shows conveyor chain 1, indicated as moving formers 5 in a clockwise direction. At station A, concentrated coagulant is applied to cuff portions 5a of formers 5, with stationary tank 18 located below to catch concentrated coagulant dropping from the formers (*see* Sidley, col. 6, ll. 10-33).

8. Station B has a tank 19 containing a bath of dilute coagulant that “is mounted on hydraulic lifting device **20** which is arranged to raise the tank to a suitable height for a suitable period of time to immerse the hand portions **5b** of the formers **5** of a carrier unit **3** at station **8** in dilute coagulant” (Sidley, col. 6, ll. 35-39).

9. Station C has tank 21 containing a bath of latex that “is mounted on a hydraulic lifting device **22** which is arranged to raise the tank to a suitable height for a suitable period of time to immerse the entire glove forming portions of the formers **5** of a carrier unit **3** at station C in latex” (Sidley, col. 6, ll. 41-46).

PRINCIPLES OF LAW

“To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently.” *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). During examination, the PTO must interpret terms in a claim using “the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant’s specification.” *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

Thus, “[u]nless the steps of a method actually recite an order, the steps are not ordinarily construed to require one.” *Interactive Gift Express, Inc. v. CompuServe Inc.*, 231 F.3d 859, 875 (Fed. Cir. 2000). Moreover, “[t]he transition ‘comprising’ in a method claim indicates that the claim is open-ended and allows for additional steps.” *Invitrogen Corp. v. Biocrest Mfg., L.P.*, 327 F.3d 1364, 1368 (Fed. Cir. 2003).

ANALYSIS

We agree with the Examiner that Sidley discloses a process that has all of the steps recited in claim 1.

The first step of claim 1’s process is “dipping a former into coagulant, the former having a lower end and an upper end, said lower end placed into said coagulant before said upper end.” Sidley’s process has a step of “immersing the former fingers downwards in a bath of dilute coagulant up to or just beyond the edge of the concentrated coagulant coating on the cuff portion” (Sidley, col. 3, ll. 59-62 (FF 5; *see also* FF 8)). Sidley’s process therefore has the first step recited in claim 1. Moreover, because Sidley discloses that the former “may be allowed to dry . . . before the latex is applied” (Sidley, col. 3, ll. 63-64 (FF 6)), Sidley’s process also has claim 1’s second step of “removing said former from said coagulant.”

As to the disputed limitation, the third-recited step in the process of claim 1 is “applying coagulant to said former upper end.” We agree with the Examiner that Sidley’s process includes that step.

Sidley discloses that its process includes the step of applying concentrated coagulant to the cuff end of the formers (FF 3). As discussed above, by requiring the coagulant in the third-recited step to be applied to “said” upper end of the former, one of ordinary skill in the art would have

been apprised that the coagulant in claim 1's third-recited step must be applied to end of the former that was dipped into the first-recited coagulant solution *after* the lower end. Thus, for example, if the former is dipped into the first-recited coagulant fingers-first, then the finger end of the former would be the lower end, and the cuff end of the former would be the upper end.

In the instant case, Sidley discloses that its former is dipped into the dilute coagulant "fingers downwards" (Sidley, col. 3, ll. 59-60 (FF 5; *see also* FF 8)). Thus, using the terminology required by claim 1, the finger end of Sidley's former must be considered to be the lower end, and the cuff end of the former the upper end. Because Sidley applies concentrated coagulant to the cuff end of the formers (FF 3), Sidley meets claim 1's third-recited step of "applying coagulant to *said* former upper end" (emphasis added). Moreover, because Sidley dips its forms into the latex in a fingers-first orientation (FF 6) Sidley's process also has the last step in claim 1's process.

We note that Sidley's step of applying concentrated coagulant to the former upper end is performed before the former is dipped into the diluted coagulant bath (*see* FF 3, 5, 7-9). However, claim 1 is not recited in a manner that requires those two steps to be performed in a particular order. Claim 1 therefore encompasses Sidley's process. *See Interactive Gift Express, Inc. v. CompuServe Inc.*, 231 F.3d at 875.

We also note, as Appellants argue, that Sidley's process includes a step of inverting the formers between the two coagulant-applying steps of claim 1. Again, however, it is well settled that a process recited using the transitional term "comprising" does not exclude additional steps. *Invitrogen*

Corp. v. Biocrest Mfg., L.P., 327 F.3d at 1368. Thus, the inverting step of Sidley is not excluded by claim 1.

In sum, because we agree with the Examiner that Sidley discloses a process having all of the steps recited in claim 1, we affirm the Examiner's rejection of claim 1 as anticipated by Sidley. Because they were not argued separately from claim 1, claims 2, 4, 5, and 12 fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ANTICIPATION -- SCHINDLER

ISSUE

Claims 6, 9-14, and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Schindler (Ans. 4-5). The Examiner states:

Regarding claims 6, 10, 12 and 16, Schindler teaches a method of making a glove comprising: applying a first coat of coagulant over a full length of a former between a first lower and a second upper end (col. 2, lines 51-53; col. 3, lines 47-49); applying a second coat of coagulant proximate said second end, said second coat extending less than said full length of said former to produce a thickened cuff (col. 5, lines 30-35) and applying rubber to said former (Figure 4, element 34; col. 3, lines 13-27 and 38-67; col. 5, lines 13-44).

(Ans. 4-5.)

Appellants contend that "Schindler discloses gloves having a thicker cuff formed by a second dipping of the lower end of the former into a tank, as disclosed in column 5, lines 30-35. As seen in Figure 4, the formers 12 are ported by a rack 78" (App. Br. 4). Therefore, Appellants contend, Schindler has "no disclosure of coagulant being applied to the upper portion of the former in addition to a further coating step, as recited in the claims" (*id.*).

The issue with respect to this rejection, therefore, is whether the Examiner erred in finding that Schindler discloses a process that meets all of the limitations recited in claims 6, 9-14, and 16.

FINDINGS OF FACT

10. Schindler discloses a process of making “an integral rubber surgical glove provided with a colored circumferential band overlying the cuff portion to impart visual identification of the glove size and to further strengthen the cuff” (Schindler, col. 1, ll. 8-11).

11. Figure 4, of Schindler, reproduced below, “is a diagrammatic representation of apparatus employed in carrying out the method according to the present invention” (Schindler, col. 4, ll. 28-30):

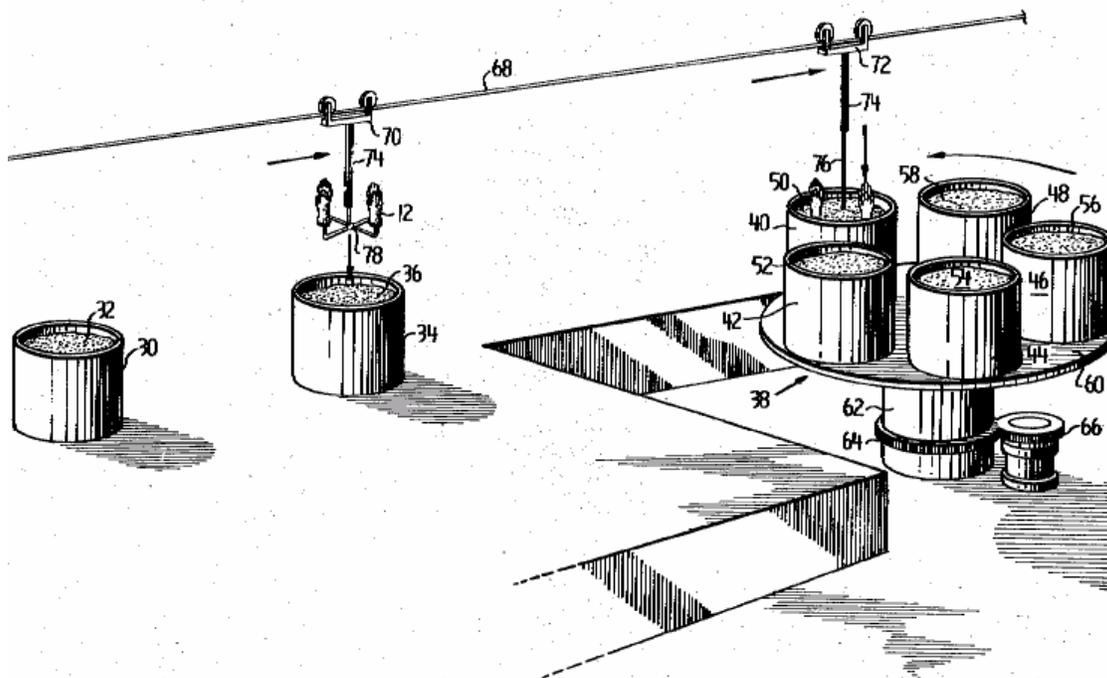


FIG. 4

Figure 4 of Schindler shows “in sequential arrangement, a first tank **30** containing coagulant **32**, a second tank **34** containing glove latex **36**, and a turntable mechanism **38** carrying five tanks **40-48**, each of which is filled with a different colored latex composition, **50-58**, respectively” (Schindler, col. 4, ll. 58-63).

12. Schindler discloses:

In operation, the glove forms **12** are brought into dipping relationship with coagulant tank **30**. The rack **78** and forms are immersed completely into coagulant **32** and after removal, the coagulant is allowed to dry on the form by spinning the rack or the like. The next step is to uniformly coat the coagulant covered form with latex. This step is accomplished preferably by immersing the form **12** with fingertips pointing up, as illustrated, into the latex bath **36**.

(Schindler, col. 5, ll. 14-21.)

13. Once the forms have been covered in an initial coat of latex, Schindler discloses that the forms “are manually or automatically carried to the next station where the colored latex is applied to the lower or cuff portion of the glove form. As shown, the forms are only partly immersed in the colored latex bath **50** to yield a 1-inch wide band on the predeposited latex”

(Schindler, col. 5, ll. 26-30).

14. Schindler discloses that, “[o]ptionally, there can be provided a second coagulant tank (not shown) placed between the first latex dip and the application of the colored band. The second coagulant tank could be used to prepare the cuff portion for deposition of the colored latex layer” (Schindler, col. 5, ll. 30-35).

ANALYSIS

We agree with Appellants that the Examiner has not shown that Schindler discloses a process that meets all of the limitations recited in claims 6, 9-14, and 16.

Claims 6 and 12, the two independent claims subject to this ground of rejection, both recite the steps of (a) applying a first coat of coagulant to a former having a first lower end and an upper end, and (b) “applying a second coat of coagulant proximate said upper end[,] said second coat extending less than said full length of said former.”

In Schindler’s process, the glove formers are totally immersed into coagulant, and then latex, in a fingers-up orientation (FF 11, 12). Then, only the cuff portions of the glove formers are immersed in a second latex bath, again in a fingers-up orientation, to color-code the gloves and provide strength to the cuffs (FF 13). Thus, because of the fingers-up orientation of the formers throughout Schindler’s process as shown in Figure 4 (FF 11), one of ordinary skill in the art would interpret the cuff portion of the former to be the lower end of the former.

We note that Schindler discloses using an optional additional coagulant tank between the first latex bath and the second (FF 14). However, Schindler explicitly discloses that the second coat of coagulant is applied to the cuff end of the former (FF 14), which is the lower end of the former in Schindler’s process.

In contrast, claims 6 and 12 both require the second coat of coagulant to be applied to the upper end of the former. We therefore agree with Appellants that, even when claims 6 and 12 are given their broadest

reasonable interpretation consistent with the Specification, those claims do not encompass the process disclosed by Schindler.

Because we do not agree with the Examiner that claims 6 and 12 encompass the process disclosed by Schindler, we reverse the Examiner's rejection of claims 6 and 12 as anticipated by Schindler, as well as the Examiner's rejection of dependent claims 9-11, 13, 14, and 16.

OBVIOUSNESS -- SIDLEY AND LLORT

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sidley as applied to claims 1, 2, 4, 5, and 12, in view of Llort (Ans. 5).

Claim 3 recites “[t]he method of claim 1, wherein said rubber material is nitrile rubber.” The Examiner concedes that Sidley does not disclose using claim 3's nitrile rubber in its gloves, and cites Llort to show that “it is known in the art to employ latex, nitrile, neoprene and other rubbers in the art of making gloves” (Ans. 5). Based on these teachings the Examiner concludes that one of ordinary skill in the art would have considered it obvious to nitrile rubber in Sidley's process (*id.*).

Appellants do not argue that the Examiner failed to establish a prima facie case of obviousness. Rather, Appellants argue, “[a]s the secondary references do not cure the deficiency of the anticipatory reference, overturning of the rejection of the independent claims causes them to be allowable and, automatically, all dependent claims are allowed” (Reply Br. 1).

Because we agree with the Examiner that Sidley meets all of the limitations in claim 1, and because we detect no deficiency in the Examiner's prima facie case of obviousness with respect to claim 3, we

affirm the Examiner's obviousness rejection of claim 3 over Sidley and Llorca.

OBVIOUSNESS -- SCHINDLER AND STRICKHOUSER

Claims 7, 8, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schindler as applied to claims 6, 9-14, and 16 in view of Strickhouser (Ans. 6).

Claim 7 recites "[t]he method of claim 6, wherein the second coat is applied to the upper end by spraying." Claim 15 recites "[t]he method of claim 12, wherein said first coat is applied by spraying." Claim 8 recites "[t]he method of claim 6, wherein said rubber material is nitrile rubber."

The Examiner cites Strickhouser as demonstrating that "both dipping a form into a coagulant and spraying coagulant onto a form are known in the art" (Ans. 6). Based on the cited references' teachings, the Examiner concludes that one of ordinary skill in the art would have considered it obvious "to spray the coagulant as implied by Schindler and as disclosed by Strickhouser since dipping and spraying were art recognized equivalents at the time the invention was made" (*id.*). Moreover, the Examiner notes, "nitrile rubber [is] conventional in the art" (*id.*).

We reverse this rejection.

Claims 7, 8, and 15 depend from either claim 6 or claim 12, and therefore include all of the steps of those claims. As discussed above, we do not agree with the Examiner that Schindler meets the requirement in claims 6 and 12 of a second coat of coagulant being applied to the upper end of a former.

The Examiner has not explained, and we do not see, how any disclosure in Strickhouser remedies this deficiency of Schindler with respect

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to independent claims 6 and 12. Thus, the combination of Schindler and Strickhouser fails to disclose or suggest all elements in claim 7, 8, and 15. We therefore reverse the Examiners' rejection of those claims over those references.

SUMMARY

We reverse the Examiner's rejection of claims 1-4, 6-9, and 11-15 under 35 U.S.C. § 112, second paragraph.

We affirm the Examiner's rejection of claims 1, 2, 4, 5, and 12 under 35 U.S.C. § 102(b) as being anticipated by Sidley.

We reverse the Examiner's rejection of claims 6, 9-14, and 16 under 35 U.S.C. § 102(b) as being anticipated by Schindler.

We affirm the Examiner's rejection of claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Sidley and Llord.

We reverse the Examiner's rejection of claims 7, 8, and 15 under 35 U.S.C. § 103(a) as being unpatentable over Schindler and Strickhouser.

AFFIRMED-IN-PART

cdc

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