

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHE-HSIUNG HSU

Appeal No. 94-2616
Application 07/760,180¹

ON BRIEF

Before JOHN D. SMITH, GARRIS and OWENS, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the refusal of the examiner to allow claim 4 as amended subsequent to the final rejection. The only other claims remaining in the application, which are claims 1 and 2, stand withdrawn from further consideration by the examiner as being directed to a non-elected

¹ Application for patent filed September 13, 1991. According to applicant, the application is a continuation-in-part of Application 07/227,785, filed August 3, 1988, now abandoned.

Appeal No. 94-2616
Application 07/760,180

invention.

The subject matter on appeal relates to a method for preparing a high modulus electrically conductive fiber consisting essentially of poly(p-phenylene terephthalamide) and a sulfonic acid ring-substituted polyaniline comprising the steps of forming a solution of sulfonated polyaniline and poly(p-phenylene terephthalamide) wherein the solution contains at least 15 wt. % of total polymer content and extruding the solution through an air gap into a coagulating bath to form a fiber. Further details of this appealed subject matter are readily apparent from a study of claim 4 which reads as follows:

4. A method for preparing a high modulus electrically conductive fiber having an as-spun tenacity of at least 10 grams per denier and consisting essentially of poly(p-phenylene terephthalamide) and a sulfonic acid ring-substituted polyaniline comprising

a) forming a solution of sulfonated polyaniline having a sulfur content of at least 9% by weight and poly(p-phenylene terephthalamide) in concentrated sulfuric acid, the ratio of sulfonated polyaniline to poly(p-phenylene terephthalamide) being from 10/90 to 30/70 on a weight % basis, and the solution containing at least 15 wt. % of total polymer content, and

b) extruding the solution through an air gap into a coagulating bath to form the fiber.

The prior art relied upon by the examiner as evidence of obviousness is set forth below:

Appeal No. 94-2616
Application 07/760,180

Jen et al. (Jen)	5,069,820	Dec. 3, 1991 (filed Aug. 7, 1987)
Elsenbaumer	5,160,457	Nov. 3, 1992 (filed Mar. 1, 1989)
MacDiarmid et al. (MacDiarmid)	5,177,187	Jan. 5, 1993 (parent filed Feb. 3, 1989)

Appellant's disclosure of prior art on page 1, lines 15-18, of the specification.

Claim 4 is rejected under 35 USC § 103 as being unpatentable over MacDiarmid in view of Elsenbaumer, Jen and the appellant's disclosure of prior art in lines 15 through 18 on page 1 of the subject specification and alternatively as being unpatentable over the appellant's aforementioned disclosure in view of Elsenbaumer and Jen.

We refer to the Brief and Reply Brief and to the Answer for a complete exposition of the opposing viewpoints expressed by the appellant and the examiner concerning the above noted rejections.

We cannot sustain either of these rejections.

As correctly argued by the appellant throughout prosecution of the application including this appeal, the prior art applied by the examiner contains no teaching or suggestion concerning the here claimed feature of extruding the solution "through an air

Appeal No. 94-2616
Application 07/760,180

gap". The only response by the examiner to this argument is that "comparative example 3 [of the subject specification] spins through an air gap, thus there appears to be no criticality to this limitation" (Answer, page 8). However, this statement (aside from being unsupported by comparative example 3 and inconsistent with the specification disclosure (e.g., see the last two sentences in the first full paragraph on page 3)) is simply irrelevant to the obviousness issue under consideration. On the record before us, the examiner has advanced no evidence at all to show that the appellant's claimed step of extruding "through an air gap" was even known in the prior art much less that the prior art would have suggested practicing such a step in a method of the type defined by appealed claim 4.

In light of this persistently-argued and undeniable deficiency of the applied prior art, it is clear that we cannot sustain either of the examiner's § 103 rejections of appealed claim 4 as being unpatentable over MacDiarmid in view of Elsenbaumer, Jen and the appellant's disclosure of prior art in the specification or alternatively over the appellant's aforementioned disclosure in view of Elsenbaumer and Jen.

Appeal No. 94-2616
Application 07/760,180

The decision of the examiner is reversed.

REVERSED

)	
JOHN D. SMITH)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
BRADLEY R. GARRIS)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
TERRY J. OWENS)	
Administrative Patent Judge)	

Appeal No. 94-2616
Application 07/760,180

Sol Schwartz
Patent Records Center Legal
E.I. duPont deNemours and Company
Wilmington, DE 19898