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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes details for application 11/745,777, inventor Ana Maria Elena R. Marcelo, and attorney PHILIP S. JOHNSON.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ANA MARIA ELENA R. MARCELO and  
MARIA SOCORRO F. MEDINA

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Appeal 2010-006194  
Application 11/745,777  
Technology Center 3700

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Before STEVEN D. A. MCCARTHY, MITCHELL G. WEATHERLY, and  
ADAM V. FLOYD, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the decision of the  
Examiner rejecting claims 1-21. We have jurisdiction under 35 U.S.C.  
§ 6(b).

We affirm.

The claims are directed to a sanitary napkin. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A sanitary napkin comprising:

a cover layer;

a barrier layer;

an absorbent core arranged between the cover layer and the barrier layer, the absorbent core having first and second longitudinally extending edges;

a longitudinally extending centerline;

a transversely extending centerline;

a first and second longitudinal edge;

a first and second transverse edge;

a first end region and a second end region,

a central region arranged between the first and second end regions;

a first embossing pattern having a first portion and a second portion, the first portion located in the first end region and the second portion located in the second end region, the first and second portions being spaced from one another in a longitudinal direction of the napkin, each of the first and second portions comprising a plurality of channels, each one of the channels extending from one side of the longitudinally extending centerline to an opposite side of the longitudinally extending centerline, each one of the channels intersecting at least another channel at an oblique angle relative thereto and each one of the channels, extending across the longitudinally extending centerline at an oblique angle relative thereto;

a second embossing pattern arranged in the central region, the second embossing pattern having a first portion located on a first side of the longitudinally extending centerline and a second portion located on a second side of the longitudinally extending centerline,

the first and second portions being arranged in spaced relationship from one another in a transverse direction of the napkin, each of the first and second portions of the second embossing pattern being defined by a plurality of interconnected channels, the channels defining a plurality of body facing protrusions;

an embossing-free zone located between first and second portions of the second embossing pattern.

### REFERENCES

The Examiner relies upon the following evidence:

Lariviere	US 6,515,195 B1	Feb. 4, 2003
DeOlivera	US 6,673,418 B1	Jan. 6, 2004
Mavinkurve	US 2004/0254554 A1	Dec. 16, 2004
Komatsu	US 2005/0085783 A1	Apr. 21, 2005

### REJECTIONS

Appellants seek our review of the following rejections:

1. Claims 1-16, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Komatsu, Lariviere, and Mavinkurve.  
Ans. 3-7.
2. Claims 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Komatsu, Lariviere, Mavinkurve, and DeOlivera.  
Ans. 7-8.

### OPINION

#### *Obviousness of claims 1-16, 20 and 21 over Komatsu, Lariviere, and Mavinkurve*

1. Claims 1-16
  - a. Teaching away

Appellants argue that “the cited references ... teach away from the Examiner’s proposed combination.” Br. 14. Appellants contend that the

claimed second embossing pattern with its recited “plurality of interconnected channels ... defining a plurality of body facing protrusions” is “effective at preventing side leakage of a fluid, i.e. leakage caused by movement of fluid in the transverse direction beyond the longitudinal edges of the absorbent system of the napkin.” Br. 14 (citing Spec. at 12, ll. 9-11). Appellants contend that the claimed second embossing pattern “*restrict[s] the flow* of fluid from extending beyond the longitudinal edges of the napkin.” Br. 14. Appellants also contend that, by contrast, Mavinkurve teaches an embossing pattern that “*promotes fluid flow.*” *Id.* However, Appellants cite no portion of Mavinkurve that supports their contention.

The Examiner finds that Mavinkurve describes an embossing pattern with interconnected channels 21 that define a plurality of body facing protrusions 23. Ans. 5. The Examiner determines that Mavinkurve’s embossing pattern with channels and protrusions help spread fluid over a greater surface area for quicker fluid uptake. Ans. 5-6. By distributing fluid over a wider surface area, the Examiner concludes that it would be less likely for fluid to overflow each of Mavinkurve’s channels. Ans. 9. We agree.

Our own comparison of Mavinkurve and the claimed second embossing pattern reveals that the channels of both structures appear to work the same way. For example, the Specification and Mavinkurve both describe the channels as interconnected “fluid guiding channels” that define a “plurality of protrusions.” *Compare* Spec., Fig. 1, p. 9, ll. 3-13 *with* Mavinkurve, Fig. 1a, paras. [0025, 0027, 0028, 0047]. Appellants’ channels 40 guide fluid within the first and second portions 34 and 36 (of the second embossing pattern). Spec., p. 12, ll. 7-8. Similarly, Mavinkurve’s channels

21 are “capable of guiding fluid across the sanitary napkin.” Mavinkurve, para. [0037]. Thus, Appellants’ claimed channels appear to be the same type of structure performing the same function of distributing fluid across a broader area to prevent fluid from leaking beyond the longitudinal edges of the napkin.

For the reasons stated above, we reject Appellants’ argument that the cited references “teach away” from the combination proposed by the Examiner.

b. Komatsu’s alleged failure to describe the first embossing pattern

Appellants argue that Komatsu fails to describe the claimed first embossing pattern with first and second portions that are longitudinally spaced apart in combination with the second embossing pattern with first and second portions that are transversely spaced apart. Br. 15. Appellants contend that Komatsu does not describe “two *distinct* embossing patterns where *each* of the two distinct embossing patterns have two portions, each of which are arranged in spaced relationship to one another.” Br. 15.

The Examiner finds that Komatsu describes the claimed spaced apart arrangements of first and second portions of first and second embossing patterns in Komatsu’s Figure 10. Ans. 9. The Examiner finds that items labeled 13, 14, and 15 constitute the first embossing pattern and the two portions 12D constitute the second embossing pattern. Ans. 9. The Examiner also correctly determines that claim 1 does not require that the first and second embossing patterns be distinct from each other as argued by Appellants. Ans. 9. Instead, the claimed first embossing pattern must have a “first portion located in the first end region” and a “second portion located

in the second end region” with the first and second portions “being spaced apart from one another in the longitudinal direction.” The second embossing region must simply be “arranged in the central region.” These recitations do not require that the first embossing pattern be “distinct” from the second embossing pattern. Therefore, we agree that the portions of Komatsu’s patterns cited by the Examiner meet the claimed spatial relationship among the respective first and second portions of the first and second embossing patterns. For the reasons stated above, we affirm the Examiner’s rejection of claims 1-16.

2. Claims 20 and 21

Appellants argue for reversing the Examiner’s rejection of claims 20 and 21 on the same grounds proffered for reversing the rejection of claim 1. We affirm the rejection of claim 1 for the reasons expressed above. However, Appellants further contend that claims 20-21 are patentable because Komatsu fails to describe that “the first portion and the second portion of the first embossing pattern are *discontinuous* with respect to one another” as recited in claim 20. Br. 16. Appellants also contend that the portions of Komatsu’s embossing pattern that the Examiner identified as meeting this claim limitation are not two portions of a single embossing pattern because they are “*parts of different embossing patterns altogether.*” Br. 16.

The Examiner finds that Komatsu describes the claimed “discontinuous” first and second portions of the first embossing pattern in Komatsu Figure 14. Ans. 9-10. Specifically, the Examiner identifies portion 18G as the second portion and portions 13F and 14F as the first portion. Ans. 9-10. The Examiner notes that “where a pattern starts and

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ends is arbitrary.” We agree. Komatsu’s portions 18G are not continuous with the portions 13F and 14F, which meets the claim limitation argued as the distinguishing feature of claims 20-21. Therefore, we affirm the rejection of claims 20and 21.

*Obviousness of claims 17-19  
over Komatsu, Lariviere, Mavinkurve, and DeOlivera*

Appellants argue for reversing the Examiner’s rejection of claims 17-19 on the same grounds proffered for reversing the rejection of claim 1. We have affirmed the rejection of claim 1 for the reasons expressed above. Therefore, Appellants have not apprised us of error in the Examiner’s rejection of claims 17-19, and we affirm these rejections.

**DECISION**

For the reasons stated above, we affirm the Examiner’s rejections of claims 1-21. 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).

**AFFIRMED**

Klh