



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/614,672	12/21/2006	Raghunath Padiyath	61392US002	9752
32692	7590	01/24/2013	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			SHAH, SAMIR	
			ART UNIT	PAPER NUMBER
			1787	
			NOTIFICATION DATE	DELIVERY MODE
			01/24/2013	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* RAGHUNATH PADIYATH and JOSH D. TIBBITS

---

Appeal 2011-010992  
Application 11/614,672  
Technology Center 1700

---

Before RICHARD E. SCHAFER, TERRY J. OWENS, and  
GRACE KARAFFA OBERMANN, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

The Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-5. Claims 6-18, which are all of the other pending claims, stand withdrawn from consideration by the Examiner. We have jurisdiction under 35 U.S.C. § 6(b).

### *The Invention*

The Appellants claim a corrosion resistant seaming tape. Claim 1 is illustrative:

1. A corrosion resistant seaming tape including a metal layer capable of blocking selected frequencies of electromagnetic radiation, comprising:

(a) a polymeric substrate having opposed first and second major surfaces, and opposed first and second side edges;

(b) a metal layer arranged on the substrate first major surface, the metal layer having first and second side edges arranged in spaced relation with the substrate first and second side edges, whereby the substrate first major surface includes a central surface portion covered by the metal layer and further includes a pair of side surface portions adjacent each side of the central surface portion that are not covered by the metal layer;  
and

(c) adhesive arranged on the substrate first major surface over the metal layer and arranged over the substrate side surface portions, whereby the metal layer, the metal layer first and second side edges, and at least a portion of the substrate side surface portions are coated with adhesive, wherein the tape is optically clear.

*The References*

Mitsubishi	US 4,115,617	Sep. 19, 1978
McCloskey	US 5,494,755	Feb. 27, 1996
Poisson	US 2003/0113534 A1	Jun. 19, 2003
Cohen	US 2004/0126597 A1	Jul. 1, 2004

*The Rejections*

The claims stand rejected under 35 U.S.C. § 103 as follows: claims 1 and 5 over McCloskey in view of Poisson, claims 2 and 3 over McCloskey in view of Poisson and Cohen, and claim 4 over McCloskey in view of Poisson and Mitsubishi.

OPINION

We reverse the rejections. We need to address only the sole independent claim, i.e., claim 1.<sup>1</sup> That claim requires an optically clear seaming tape.

McCloskey discloses “an adhesive tape which blocks radio frequency (RF) energy” (col. 1, ll. 7-8) and “is used for seaming together and for repairing holes or damaged portions of RF shielding thermal blankets of the kind used for covering metal components, such as the transmit antenna boom assemblies, of communications spacecraft” (col. 1, ll. 9-13). The “tape **20** comprises a three layer composite lay-up including a plastic film **22** as the top or outboard layer, a solid metal foil **24** as a RF energy blocking middle layer, and a transfer adhesive **26** as the bottom or inboard layer” (col. 3, ll. 40-44). McCloskey does not disclose that the

---

<sup>1</sup> The Examiner does not rely upon Cohen or Mitsubishi for any disclosure that remedies the deficiency in the references applied to the independent claim (Ans. 5-7).

tape (20) can be optically clear, and an illustrated tape (20) is not optically clear (Fig. 7).

Poisson discloses “an adhesive composition that is resistant to UV and/or heat degradation, which may be used in adhesive tape products” (¶ 0007). The adhesive tape preferably is transparent (¶¶ 0042, 0044).

The Examiner argues that “given that McCloskey in combination with Poisson disclose tape with same structure and same material for the metal layer as claimed, the tape would also necessarily have to be transparent or optically clear as presently claimed” (Ans. 7).

That argument is not well taken because the Examiner has not established that McCloskey would have provided one of ordinary skill in the art with an apparent reason to make the metal layer sufficiently thin that the tape is optically clear. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

The Examiner argues that “[i]t would have been obvious to one of ordinary skill into [sic] the art to use an optically clear tape so that the seams and the damaged sections could be monitored for any signs of damage or to see if the repairs were holding up” (Ans. 8-9).

The Examiner has not explained how the argued reason for modifying McCloskey would have been apparent to one of ordinary skill in the art in view of the disclosure in that reference. The reason, therefore, appears to be based upon impermissible hindsight in view of the Appellants’ disclosure. *See In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967) (“A rejection based on section 103 clearly must rest on a factual basis, and these facts must be

Appeal 2011-010992  
Application 11/614,672

interpreted without hindsight reconstruction of the invention from the prior art”).

Accordingly we reverse the Examiner’s rejections.

DECISION/ORDER

The rejections under 35 U.S.C. § 103 of claims 1 and 5 over McCloskey in view of Poisson, claims 2 and 3 over McCloskey in view of Poisson and Cohen, and claim 4 over McCloskey in view of Poisson and Mitsubishi are reversed.

It is ordered that the Examiner’s decision is reversed.

REVERSED

kmm