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27280	7590	03/04/2013	EXAMINER	
THE GOODYEAR TIRE & RUBBER COMPANY INTELLECTUAL PROPERTY DEPARTMENT 823 1144 EAST MARKET STREET AKRON, OH 44316-0001			FISCHER, JUSTIN R	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL STEFAN SKURICH,
LISA MARIE MISSIK-GAFFNEY, DAVID RAY HUBBELL,
TERESA DIANE MARTTER, GEORGE FRANK BALOGH, and
ARTHUR ALLEN GOLDSTEIN

Appeal 2011-012826
Application 11/958,402
Technology Center 1700

Before CHUNG K. PAK, JEFFREY T. SMITH, and
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134 from a final rejection of claims 1-13. We have jurisdiction under 35 U.S.C. § 6.

Claim 1 is illustrative of the subject matter on appeal:

1. A pneumatic radial tire of the type having a circumferentially extending equatorial plane of the tire, the tire comprising a carcass, a tread radially outward of the carcass, the carcass comprising at least one carcass reinforcing ply, opposing bead portions, and opposing sidewalls, the carcass reinforcing ply having a main portion extending between the opposing bead portions and a pair of turnup portions, each turnup portion extending from one end of the main portion, each bead portion having a bead core, and a reinforcement cavity outward of each bead core configured, the cavity located between the main portion and one turnup portion of the at least one reinforcing ply, the tire characterized by:

the reinforcement cavities being apex-less and having a dimension and configuration for close receipt of a chipper layer therein, each reinforcement cavity situated between a ply turnup tire portion and ply main portion and having a substantially constant width along a chipper layer receiving midsection;

a chipper layer located in each of the reinforcement cavities in each bead portion of the tire and adjacent to the at least one carcass reinforcing ply wherein the chipper layer is a chopped carbon fiber and aramid composite reinforced elastomeric layer.

The Examiner maintained the rejection of claim 13 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Appellants did not provide an argument in rebuttal to this rejection. Consequently, we summarily affirm the rejection of claim 13.

Appellants (App. Br. 6) request review of the following obviousness rejections from the Examiner's Final Office action:¹

Claims 1-8 under 35 U.S.C. § 103(a) as unpatentable over Minami, (EP 1310385 A2 published May 14, 2003) and further in view of Ikeda (U.S. Patent 7,060,146 B2 issued June 13, 2006); and claims 9-12 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Minami, Ikeda, Howald (U.S. Patent 5,898,047 issued Apr. 27, 1999) and Makino (U.S. Patent 4,735,247 issued Apr. 5, 1988).

OPINION

Appellants' invention relates to a pneumatic radial tire comprising a reinforcement cavity that is apex-less and has a dimension and configuration for close receipt of a chipper layer. According to the Specification an apex is the "elastomeric filler located radially above the bead core and between the plies and the turnup ply." (Spec. [011]).

The dispositive issue on appeal is: Did the Examiner err in determining that Minami describes a pneumatic tire that does not comprise an apex above the bead core portion as required by the subject matter of independent claim 1?²

We answer this question in the affirmative and, therefore, we reverse.

The Examiner's rejection is premised on the claimed subject matter as including at least a partial apex. Specifically the Examiner states:

Lastly, regarding claim 1, it is emphasized that the [Minami's] reinforcement cavity is completely occupied by

¹ Claim 13 has not been subject to an obviousness rejection.

² We limit our discussion to independent claim 1.

chipper layer 10 and does not include the adjacent bead apex. In such an instance, applicant has not defined the entire region between the main carcass portion and the turnup carcass portion as being the reinforcement cavity and thus, the cavity occupied by chipper 10, which is “apex less” (devoid of apex rubber) and arranged between the main carcass portion and the turnup carcass portion, satisfies the claimed assembly.

(Ans. 6).

We agree with Appellants that Minami is not constructed as the tire claimed. (App. Br. 7). Appellants correctly argue that Minami teaches a tire including a configured apex component fitting above each tire bead. (*Id.*). Appellants also correctly argue that “[t]he Minami reference teaches positioning a short fiber reinforcing *rubber layer* (not reinforcement fabric) 10 arranged so as to be sandwiched between a *bead apex rubber* 8 and the carcass 6. (Paragraph 34, emphasis added.)” (*Id.*). Minami discloses this arrangement inhibits the rubber from flowing during vulcanization. (Paragraph 34). The Examiner did not cite Ikeda for describing forming a tire excluding an apex.³

Consequently, we agree with Appellants that the subject matter of independent claim 1 would not have been obvious over the combination of Minami and Ikeda.

For the reasons set forth above, and those presented by Appellants, the Examiner’s obviousness rejections are reversed.

³ The Examiner cited Ikeda for describing known inorganic fiber materials for use in tire construction. (Ans. 5).

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ORDER

The rejection of claim 13 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement is affirmed.

The rejections of claims 1-12 under 35 U.S.C. § 103(a) is reversed.

TIME PERIOD

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136.

AFFIRMED-IN-PART

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