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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RALF SCZEPAN and ROGER BRAUN

Appeal 2015-005671
Application 12/209,448¹
Technology Center 1700

Before ADRIENE LEPIANE HANLON, CATHERINE Q. TIMM, and
JAMES C. HOUSEL, *Administrative Patent Judges*.

PER CURIAM.

DECISION ON APPEAL

A. STATEMENT OF THE CASE

Appellants filed an appeal under 35 U.S.C. § 134(a) from the Examiner's decision finally rejecting claims 14–19, 21, and 22 under 35 U.S.C. § 103(a) as unpatentable over Amin-Javaheeri² in view of Hansson³ and Brull⁴ and claim 12

¹ According to Appellants, the real party in interest is Flooring Technologies Ltd. Appeal Br. 2.

² Amin-Javaheeri, US 2004/0086736 A1, published May 6, 2004 (“Amin-Javaheeri”).

³ Hansson et al., US 6,685,993 B1, issued Feb. 3, 2004 (“Hansson”).

⁴ Brull et al., WO 2006/045763 A2, published May 4, 2006, as evidenced by Brull et al., US 2009/0130311 A1, published May 21, 2009 (“Brull”).

under 35 U.S.C. § 103(a) as unpatentable over Amin-Javaheeri in view of Hansson and Brull and further in view of Kamiyama.⁵

We have jurisdiction under 35 U.S.C. § 6(b).⁶

We AFFIRM.

The subject matter on appeal relates to methods for providing a roller assembly for creating different, structured, decorative patterns on wood material surfaces (*see, e.g.*, claim 21). Appellants disclose that wood material surfaces are usually surface coated to provide wear resistance, protect against moisture and achieve an attractive outward appearance. Spec. ¶ 4. It may be desirable to structure the wood material surface in a three-dimensional manner, as disclosed by Appellants. *Id.* ¶ 7. For example, it is desirable to imitate the pore structure of wood by using not only colored paint but also lacquers to provide a three-dimensional impression of the wood surface. *Id.* ¶ 8. A surface structure of a structured lacquer application roller applies a lacquer to some portions of a wood material surface to create optical pores. *Id.*

To make a realistic, consistent optical appearance, a pore pattern provided by lacquer coats must be matched with underlying decorative paint coats. *Id.* ¶ 9. This is accomplished by using a structured lacquer application roller matched to the decorative paint pattern produced by the decorative paint rollers so they combine to create a decorative pattern having a three-dimensional effect. *Id.*

There is, however, a problem of time and cost in using matched sets of structured lacquer application rollers and decorative paint rollers because a new

⁵ Kamiyama, US 2007/0141328 A1, published June 21, 2007 (“Kamiyama”).

⁶ Our decision refers to the Appellants’ Specification filed Nov. 24, 2008 (Spec.), the Final Office Action mailed June 5, 2014 (Final Act.), the Appeal Brief filed Nov. 25, 2014 (Appeal Br.), the Examiner’s Answer mailed Mar. 11, 2015 (Ans.), and the Reply Brief filed May 11, 2015 (Reply Br.).

matched set must be provided for each decorative pattern. *Id.* Appellants disclose a simplified method in which at least two different decorative paint rollers are matched to a structured lacquer application roller to produce two different decorative patterns. *Id.* ¶¶ 10, 12. As a result, only one structured lacquer application roller is produced for a group of decorative patterns, which saves money and time. *Id.* ¶ 13.

Independent claim 21 is illustrative and is reproduced below from the Claims Appendix of the Appeal Brief.⁷ The limitations at issue are italicized.

21. A method for providing a roller assembly for creating different, structured, decorative patterns on wood material surfaces, which comprises the steps of:

providing a roller assembly comprising a first plurality of decorative paint rollers, a second plurality of decorative paint rollers and at least one structured lacquer application or embossing roller, wherein the at least one structured lacquer application or embossing roller and the first plurality of decorative paint rollers are matched for creating a first structured decorative pattern, and wherein the at least one structured lacquer application or embossing roller and the second plurality of decorative paint rollers are matched for creating a second structured decorative pattern different from the first structured decorative pattern;

applying said first plurality of decorative paint rollers and subsequently the at least one structured lacquer application or embossing roller to a wood material for creating said first structured decorative pattern;

changing only said first plurality of decorative paint rollers to said second plurality of decorative paint rollers; and

applying said second plurality of decorative paint rollers and subsequently the at least one structured lacquer application or embossing roller to another wood material surface for creating said second structured decorative pattern.

⁷ Appeal Br. Claims Appendix 14–15.

B. DISCUSSION

Rejection over Amin-Javaheri in view of Hansson and Brull

Claims 14–19, 21, and 22 are rejected under 35 U.S.C. § 103(a) as unpatentable over Amin-Javaheri in view of Hansson and Brull. Appellants argue claims 14–19 and 21 as a group and claim 22 as a separate group. Appeal Br. 9–12. We select claims 21 and 22 as representative of these groups. The remaining claims stand or fall with the claim from which they depend.

Claims 14–19 and 21

The Examiner finds Amin-Javaheri discloses a method for creating a natural wood finishing pattern using a roller assembly comprised of a plurality of decorative paint printing rollers. Final Act. 3–4. To support these findings, the Examiner cites paragraphs 4, 14, 15, and 18 of Amin-Javaheri. *Id.* Paragraph 14 of Amin-Javaheri discloses a method of creating a natural wood grain finish on polyvinyl chloride / wood composite window blinds. Paragraph 15 discloses passing the polyvinyl chloride composite through “a series of paint transfer stations that impart a natural wood grain finish” by transferring paint “with a printing roller having a wood grain pattern.” In a preferred embodiment, the window blind slat makes one pass through a series of paint transfer rollers in an assembly line fashion. Amin-Javaheri ¶ 15. Therefore, the disclosure of Amin-Javaheri supports the Examiner’s findings.

The Examiner further finds Amin-Javaheri discloses that a variety of different decorative patterns may be formed, citing paragraph 18 of Amin-Javaheri. Final Act. 3. Based on this disclosure, the Examiner finds Amin-Javaheri discloses a second plurality of decorative paint rollers in order to form a different decorative

pattern. *Id.* at 4.⁸ More specifically, Amin-Javaheeri discloses that “paint is transferred with a printing roller *having a wood grain pattern.*” Amin-Javaheeri ¶ 15. The Examiner finds that “when forming a different decorative pattern, such as being a different wood finishing pattern, a different or second plurality of decorative paint printing rollers would be needed” and further finds that “this need arises as a result of natural appearance differences between different, to-be-imitated wood finishing patterns.” Final Act. 4. Thus, one of ordinary skill in the art would have understood that the different decorative patterns (e.g., wood patterns) formed according to the invention of Amin-Javaheeri would require different sets of paint rollers.

The Examiner also finds Amin-Javaheeri discloses a coating of clear lacquer as a top coat, which is disclosed in paragraph 17 of Amin-Javaheeri. *Id.* at 4.

The Examiner finds Amin-Javaheeri does not disclose embossing. *Id.* The Examiner finds Hansson discloses a process in which a top coating of clear, protective lacquer is embossed with a surface-structured roller so the top coat may imitate the natural pore structure of wood. *Id.* Hansson discloses applying layers of curable lacquer on a decorative surface in column 2, lines 35–54. Hansson discloses “[i]t is also possible to simulate very small, micro structure features as, for example, pores that normally occur in wood by pressing hard structured rollers on the cured structured surface achieved above” in column 6, lines 48–52. Thus, the disclosure of Hansson supports the Examiner’s findings that Hansson discloses embossing a lacquer coating with a surface-structured roller in a process to produce an imitation wood surface.

⁸ At page 2 of the Reply Brief, Appellants assert no citation was provided in the Answer to support the finding that Amin-Javaheeri discloses a first set of paint rollers and a second set of paint rollers. Clearly, the Examiner relies on paragraphs 15, 16, and 18 of Amin-Javaheeri to support that finding. *See* Final Act. 3–4.

The Examiner determines it would have been inherent for the embossing roller to be matched with a previously formed design beneath the embossed top coat, noting how the pore structure of a particular imitation wood design would necessarily be matched with the flat image of the wood design previously painted on an article. *Id.* at 4–5. The Examiner concludes it would have been obvious to modify Amin-Javaheeri in view Hansson to emboss the clear lacquer coat of Amin-Javaheeri. *Id.* at 5.

The Examiner finds Amin-Javaheeri, as modified by Hansson, does not disclose forming different wood patterns by changing only the plurality of decorative paint rollers, as recited in claim 21. *Id.* at 5. Citing paragraph 26 of Brull, the Examiner finds Brull discloses producing different wood grain patterns by changing only an ink or paint pattern while maintaining the same embossing pattern. *Id.*

More specifically, Brull discloses a method of decorating articles to imitate natural materials, such as wood. Brull ¶ 1. In Brull’s process, a surface of an article is embossed with an embossing roller and the surface is printed by transferring ink from an ink film. *Id.* ¶¶ 14–16. In paragraph 26, Brull discloses varying a decoration “simply by changing the embossing roller and/or the pattern of the transferable ink film.” The Examiner further explains paragraphs 7, 14–18, and 26 of Brull demonstrate that the pattern of the ink film is not set or determined by the embossing roller. Ans. 7. The Examiner concludes it would have been obvious to modify Amin-Javaheeri, as modified by Hansson, in view of Brull to switch only decorative paint rollers for decorative wood patterns because it is a known technique for producing different realistic wood patterns and provides cost savings benefits that would have been recognizable to one of ordinary skill in the art. Final Act. 5–6.

Paragraph 18 of Brull states the process of Brull “combines in one step both the application of any type of pattern (printing) and effects a superficial structure (embossing) on a plastic article.” This supports the Examiner’s explanation that the ink film of Brull has a pattern of its own, which is referred to by the language “the pattern of the transferable ink film” in paragraph 26 of Brull, and this pattern is independent of the embossing roller. Moreover, paragraph 26 of Brull discloses changing only the embossing roller, changing only the pattern of the ink film, or changing both the embossing roller and the pattern of the ink film when switching decorative designs. Therefore, the disclosure of Brull supports the Examiner’s findings.

Appellants contend Amin-Javaheeri does not disclose “using the paint roller in combination with any other parts of a larger system,” “does not teach changing paint or combining multiple paints to create further patterns,” and does not teach “using multiple sets of paint rollers that are defined to have common components.” Appeal Br. 9; Reply Br. 2. These arguments are not persuasive of reversible error because they do not address the Examiner’s rejection. As discussed above, the Examiner finds that although Amin-Javaheeri does not disclose an embossing roller, the Examiner finds Hansson discloses a process using an embossing roller that is matched with a previously formed design and finds Brull discloses producing different wood grain patterns by changing only an ink or paint pattern while maintaining the same embossing pattern. Thus, the Examiner relies upon Hansson and Brull for the features argued by Appellants. Moreover, the limitations of “changing paint or combining multiple paints to create further patterns” and “using the paint roller in combination with any other parts of a larger system,” do not

particularly relate to the language of claim 21, as stated by the Examiner. Ans. 3, 4.⁹

With regard to Hansson, Appellants contend Hansson does not “mention or suggest the lacquering and curing steps in connection with any system or any other decorative processes” and does not disclose creating different patterns. Appeal Br. 9–10; Reply Br. 3. These arguments also do not address the Examiner’s rejection or otherwise direct us to a reversible error because the Examiner finds Amin-Javaheeri discloses a method of creating a decorative pattern, such as different wood patterns, in which a plurality of paint rollers may be used and a top lacquer coat may be applied. Final Act. 3–4. The Examiner finds Hansson discloses embossing in a process to manufacture a wood grain patterned object and concludes it would have been obvious to use Hansson’s embossing roller in the process of Amin-Javaheeri. *Id.* at 4–5. Appellants further argue Hansson does not disclose applying different lacquer tones to the same item. Appeal Br. 10. This argument is also unpersuasive of reversible error because the language of claim 21 does not require the application of different lacquer tones to the same item, as stated by the Examiner. Ans. 6.

In response to the Examiner’s finding that both Amin-Javaheeri and Hansson match the applied ink pattern and the embossing pattern to form a desired wood pattern,¹⁰ Appellants argue that first and second pluralities of decorative paint rollers are matched to each other, not simply to a desired wood pattern. Reply Br. 4. It is unclear how this argument relates to the language of claim 21, which recites

⁹ The Examiner finds Amin-Javaheeri teaches that “multiple paints are applied correspondingly in a one-to-one fashion using the series of paint rollers, namely in an assembly line fashion, to create a particular desired pattern.” Ans. 4.

¹⁰ Ans. 8.

wherein the at least one structured lacquer application or embossing roller and the first plurality of decorative paint rollers are matched for creating a first structured decorative pattern, and wherein the at least one structured lacquer application or embossing roller and the second plurality of decorative paint rollers are matched for creating a second structured decorative pattern different from the first structured decorative pattern

Appeal Br. Claims Appendix 14–15.

Thus, claim 21 recites the first plurality of decorative paint rollers is matched to the embossing roller for a first decorative pattern and the second plurality of decorative paint rollers is matched to the embossing roller to make a second, distinct decorative pattern. To the extent the Examiner erred in finding Amin-Javaheri discloses matching between decorative paint rollers and at least one structured lacquer application or embossing roller, as recited in claim 21, such an error is harmless because the Examiner relies on Hansson in combination with Brull to teach the matching recited in claim 21, as discussed above.

Additionally, Appellants argue Brull’s use of a single roller to both apply texture and transferrable ink to a plastic article “does not reach the level of the presently claimed method.” Appeal Br. 10. Appellants further argue Brull “does not reach the level of complexity of the presently claimed method, which calls for different designs which are produced by a combination of different rollers, and which matches certain rollers with different pluralities of other rollers for creating different decorative patterns.” Reply Br. 4–5. By generally arguing the claimed method is more complex, this argument does not articulate a particular error in the Examiner’s findings. Moreover, the arguments do not address the Examiner’s rejection because, as discussed above, the Examiner finds Amin-Javaheri discloses first and second pluralities of decorative rollers for different designs and finds Hansson inherently discloses matching between decorative rollers and an

embossing roller. The Examiner relies on Brull to show that using the same embossing roller to produce different wood patterns would have been obvious to one of ordinary skill in the art.

Appellants do not present any arguments in support of the separate patentability of claims 14–19. Appeal Br. 11. Therefore, the § 103(a) rejection of claims 14–19 and 21 over the combination of Amin-Javaheri, Hansson, and Brull is sustained.

Claim 22

Claim 22 depends from claim 21 and further recites, among other things, designing at least a first imitation of a wood surface and a second imitation of a wood surface different from the first imitation, wherein the first and second imitations include color patterns and pore structures, and wherein the pore structures of the first imitation are at least similar to the pore structures of the second imitation.

Appeal Br. Claims Appendix 15.

In the rejection of claim 22 over the combination of Amin-Javaheri, Hansson, and Brull, the Examiner determines that because Brull discloses different decorative patterns may be formed by switching the ink pattern of a wood grain and reusing the same embossing roller, two different structured patterns made using the same embossing roller would necessarily be similar. Final Act. 6–7.

Appellants assert Amin-Javaheri, Hansson, and Brull are silent with respect to any relationship between a first pattern and a second pattern and disclose “stand-alone situations,” not systems or methods that produce multiple patterns. Appeal Br. 11.

We agree with the Examiner that Brull’s disclosure of an embossing roller that can be used for different patterns, as disclosed in paragraph 26 of Brull, demonstrates how different patterns made using the same embossing roller “must

share a commonality in their embossments or their pore structure imitation.” Ans. 9. Appellants’ arguments do not direct us to a reversible error in the Examiner’s reasoning. Therefore, the § 103(a) rejection of claim 22 over the combination of Amin-Javaheri, Hansson, and Brull is sustained.

Rejection over Amin-Javaheri, Hansson, Brull, and Kamiyama

Claim 12 is rejected under 35 U.S.C. § 103(a) as unpatentable over Amin-Javaheri, Hansson, and Brull and further in view of Kamiyama.

Appellants do not present any arguments in support of the separate patentability of claim 12. Rather, Appellants merely reiterate the arguments set forth in support of the patentability of claim 21. Appeal Br. 12. For the reasons set forth above, those arguments are not persuasive of reversible error. Therefore, the § 103(a) rejection of claim 12 over the combination of Amin-Javaheri, Hansson, Brull, and Kamiyama is also sustained.

C. DECISION

The decision of the Examiner is affirmed.

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).

AFFIRMED