



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.
13/835,352	03/15/2013	Glenn J. Beach	CYB-12202/03	7402
131270	7590	02/21/2018	EXAMINER	
BELZER PC			HAYES, BRET C	
ATTN: John G. Posa			ART UNIT	
2905 Bull Street			PAPER NUMBER	
Savannah, GA 31405			3641	
			MAIL DATE	
			DELIVERY MODE	
			02/21/2018	
			PAPER	

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GLENN J. BEACH, JAMES BURKOWSKI,
AMANDA CHRISTIANA, TREVOR DAVEY, CHARLES J. JACOBUS,
JOSEPH LONG, GARY MOODY, and GARY SIEBERT

Appeal 2016-006232
Application 13/835,352
Technology Center 3600

Before CHARLES N. GREENHUT, JILL D. HILL, and
THOMAS F. SMEGAL, *Administrative Patent Judges*.

SMEGAL, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ seeks our review under 35 U.S.C. § 134 of the Examiner's rejections² under 35 U.S.C. § 103(a) of claims 1–8, 12–15, 17, and 20 as unpatentable over either Chung (US 7,610,858 B2, iss. Nov. 3, 2009 and Mantel (US 4,475,435, iss. Oct. 9, 1984) or Mantel and Chung; of claim 9 as

¹ Appellant identifies the real party in interest as Cybernet Systems Corporation. Appeal Br. 1.

² The Appeal is taken from the adverse decision of the Examiner as set forth in the Final Office Action, dated May 12, 2015 (“Final Act.”). We note that in the Advisory Action dated August 27, 2015, the Examiner withdrew the rejections of claim 3 under 35 U.S.C. § 112, second paragraph, (Advisory Act. 2) and of claim 1 under either 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a) over Chung. (Advisory Act. 5).

unpatentable over Mantel, Chung, and Attarwala (US 6,460,464 B1, iss. Oct. 8, 2002); of claims 16 and 18 as unpatentable over Mantel, Chung and Nuetzman (US 2013/0180392 A1, pub. July 18, 2013); and of claim 19 as unpatentable over Mantel, Chung, and Rennard (US 2003/0217665 A1, pub. Nov. 27, 2003).³ We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

CLAIMED SUBJECT MATTER

Claim 1, the only independent claim, is reproduced below and illustrates the claimed subject matter.

1. A system for manufacturing polymer ammunition, comprising:
 - a first feed station for delivery of lower case portions, each lower case portion including a metal head end;
 - at least one subsequent feed station for delivery of upper case portions each upper case portion having an open top end;
 - wherein one or both of the upper and lower case portions are polymeric;
 - a case assembly station to receive the lower and upper case portions and join the lower and upper case portions through gluing or plastic welding;
 - a case feeder for receiving and conveying the assembled cases;
 - a primer feed and insert station operative to receive primers and the assembled cases, and insert one of the primers onto the head end of each case through the open end of that case;
 - a propellant fill station operative to receive the primed cases and propellant, and fill each case with the propellant through the open end of that case to provide propellant-filled cases;
 - a bullet feeder station operative to receive the propellant-filled cases and bullets, and insert one of the bullets into open end of each case, thereby closing off the open end thereof; and

³ Claims 10 and 11 were canceled in an amendment filed February 26, 2015.

a crimping station operative to attach each bullet to the case into which that bullet was inserted and output assembled rounds of ammunition.

App. Br. 11 (Claims Appendix).

ANALYSIS

Obviousness of Claims 1–8, 12–15, 17, and 20 over Chung and Mantel

We are persuaded by Appellants’ arguments that the Examiner fails to establish a *prima facie* showing of obviousness in rejecting claims 1–8, 12–15, 17, and 20 over Chung and Mantel. *See* Appeal Br. 2–8; *see also* Reply Br. 1–5.

In rejecting claim 1, the Examiner finds that “Chung fairly discloses the cartridge case and its manufacture as well as certain other process steps that can occur in-line or at another location [], except for positively disclosing individual stations, feeders, and sensors,” as recited by claim 1. Ans. 3. The Examiner then looks to Mantel for teaching “an in-line progressive brass shell reloader 12,” including variations of the limitations of claim 1 that are “well known in the art for the purpose of manufacturing ammunition,” and reasons that it would have been obvious “to modify Chung as taught by Mantel in order to manufacture ammunition.” *Id.* (citing Mantel, col. 1, l. 47–col. 3, l. 49).

In particular, the Examiner finds that

[a]ll claimed elements were known in the prior art and one skilled in the art *could have combined* the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to a skilled artisan at the time the invention was made.”

Id. (emphasis added).

Appellant contends that while “Chung states that ‘the ammunition cartridges [of Chung] may be assembled without modification of [existing] production lines,’” “Chung gives no substantive details regarding the way in which ‘existing production lines’ are arranged, and the Examiner makes no comparisons between [Appellant’s] claim limitations and ‘existing production lines.’” Appeal Br. 2. Appellant reasons that “[w]hile Chung does specify the components used for assembly, Chung is silent regarding how such components are actually assembled,” pointing out, *inter alia*, while Appellant’s “claim 1 includes the limitation of a first feed station for delivery of lower case portions,” that “[t]his is not disclosed or suggested by Chung, and the Examiner has offered no evidence that ‘existing production lines’ have a feed station for delivery of lower case portions.” *Id.* 3; Reply Br. 1–3.

In response, the Examiner argues, *inter alia*, “Chung discloses [that] ‘polymeric cartridge casings should require little to no modification of conventional ammunition manufacturing equipment and methods [to make the casings],’” Ans. 9 (citing Chung, col. 1, ll. 63–65). The Examiner also reasons that “Chung sufficiently obviates the claimed invention because stations, etc., are well known in the art and would be normal to the manufacturing process.” *Id.* at 10.

Regarding Mantel, which Appellant admits “is directed to a grass shell casing *reloader*,” the Examiner contends that “this is exactly the kind of equipment and method Chung discloses as being conventional and requiring little to no modification to make the casings disclosed therein,” reasoning that “[o]ne of ordinary skill in the art would recognize that, for casings having more than a single shell piece, more than one such station

would be required, and that this would [] obviously fall within the ‘little to no modification’ disclosed by Chung.” *Id.* at 10–11.

However we agree with Appellant that “the Examiner has largely ignored Appellants’ [claim] limitations regarding what functions the stations perform,” and “has not made comprehensive comparisons between all of [Appellant’s] claim limitations and the prior art to determine what those imitations fairly convey to a person of ordinary skill in the pertinent art in the context in which they are used.” Reply Br. 2–3. Claim 1 recites a first feed station, a subsequent feed station, a case assembly station, a primer feed and insert station, a propellant fill station, a bullet feeder station, and a crimping station. While there may be some reasonableness in the Examiner’s assertion that “conventional ammunition manufacturing equipment and methods would inherently include separate stations, as opposed to a single station for performing every necessary task, since this well-known concept of mass production increases production,” the claim more particularly recites specific stations for which the Examiner has not provided a basis in fact and/or technical reasoning that supports the specific claimed stations necessarily flowing from the teachings of the applied prior art. *See In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993).

We therefore find that the Examiner’s legal conclusion of obviousness is not supported by evidence and, thus, cannot stand. *See In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967) (holding that “[t]he legal conclusion of obviousness must be supported by facts. Where the legal conclusion is not supported by facts it cannot stand.”).

For the foregoing reasons, we do not sustain the Examiner’s rejection of claims 1–8, 12–15, 17, and 20 over Chung and Mantel. For the same

reasons, we do not sustain the further rejections of claims 1–8, 12–15, 17, and 20 over Mantel and Chung.

Obviousness of claim 9 over Mantel, Chung, and Attarwala; of claims 16 and 18 over Mantel, Chung and Nuetzman; and of claim 19 as unpatentable over Mantel, Chung, and Rennard

The Examiner’s rejections of claim 9 over Mantel, Chung, and Attarwala; of claims 16 and 18 over Mantel, Chung and Nuetzman; and of claim 19 over Mantel, Chung, and Rennard is based on the same unsupported findings discussed above with respect to the disclosures of Chung and Mantel. Final Act. 7–9. The addition of Attarwala, Nuetzman, or Rennard does not remedy the deficiencies of Chung and Mantel, as discussed *supra*.

Accordingly, we do not sustain the Examiner’s decisions rejecting claim 9 over Mantel, Chung, and Attarwala; claims 16 and 18 over Mantel, Chung and Nuetzman; and claim 19 as unpatentable over Mantel, Chung, and Rennard.

DECISION

We reverse the Examiner’s rejections.

REVERSED