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Row 2: 96313, 7590, 02/21/2018, MIYAZAKI & METSUGI, 1800 Alexander Bell Drive, Suite 200, Reston, VA 20191, EXAMINER FRANKLIN, JODI COHEN, ART UNIT 1741, PAPER NUMBER, NOTIFICATION DATE 02/21/2018, DELIVERY MODE ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HIROKAZU TAKEUCHI, MASANORI WADA,
OSAMU ODANI, MASAYUKI IKEMOTO, and MASASHI TABE

Appeal 2017-005737
Application 14/100,190
Technology Center 1700

Before KAREN M. HASTINGS, MONTE´ T. SQUIRE,
and SHELDON M. McGEE, *Administrative Patent Judges*.

HASTINGS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ requests our review under 35 U.S.C. § 134 from the Examiner’s decision rejecting claims 2–7 and 10–13 under 35 U.S.C. § 103(a) as unpatentable over at least the basic combination of Dannoux (US 2012/0131961 A1; published May 31, 2012) and Barefoot (US

¹ Appellant is the Applicant, Nippon Electric Glass Co., LTD, and is also identified as the real party in interest (Appeal Br. 2).

2010/0035038 A1; published Feb. 11, 2010).² We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

Claim 2 is illustrative of the subject matter on appeal:

2. A method for producing a reinforced glass sheet with a bent portion, the reinforced glass sheet including a flattened portion and the bent portion continued to the flattened portion, the method comprising:

a reinforcement step of chemically reinforcing a flat glass sheet to obtain a reinforced flat glass sheet; and

a deformation step of heating the reinforced flat glass sheet so that a viscosity of a portion of the reinforced flat glass sheet for forming the bent portion is between 10^8 dPa·s and 10^{11} dPa·s and deforming the reinforced flat glass sheet to obtain the reinforced glass sheet with the flattened portion and the bent portion.

Appellant relies solely upon the arguments made for claim 2 for all the other claims (Appeal Br. 9).

ANALYSIS

Upon consideration of the evidence relied upon in this appeal and each of Appellant's contentions, we find that the preponderance of the evidence supports the Examiner's conclusion that the subject matter of Appellant's claims is unpatentable over the applied prior art.

² The Examiner applies additional prior art to various dependent claims (Final Action 4–6). Appellant relies solely on the arguments directed to independent claim 2 (Appeal Br. 9).

We add the following primarily for emphasis.

It has been established that “the [obviousness] analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007); *see also In re Fritch*, 972 F.2d 1260, 1264–65 (Fed. Cir. 1992) (a reference stands for all of the specific teachings thereof as well as the inferences one of ordinary skill in the art would have reasonably been expected to draw therefrom).

Appellant focuses their arguments on claim 2 (Appeal Br. 4–12). Appellant argues that Dannoux in paragraph 39 only teaches a glass that may be reinforced as a starting material to form a shaped article, and does not encompass a reinforced glass as the starting material as stated by the Examiner (Appeal Br. 4, 5). Appellant also argues that since Dannoux teaches reinforcing the glass after bending same in paragraph 54, one cannot interpret paragraph’s 39’s incorporation of Barefoot as suggesting that a reinforced glass may be bent (Appeal Br. 6, 7). Finally, Appellant argues that the Examiner’s position that it would have been obvious to change the order of steps (as there are only two choices suggested in Dannoux/Barefoot) is flawed (Appeal Br. 7, 8).³

³ It is noted that while the Examiner withdrew an earlier “part of the rejection” based on Dannoux that a selection of any order of steps would have been obvious due to a declaration filed earlier in prosecution (Non-Final Action 6), the Examiner maintained that using either of the two possible order of steps would have been obvious based on Dannoux with Barefoot (*id.*).

These arguments are not persuasive of error in the Examiner's rejection. One of ordinary skill in the art reading Dannoux paragraph 39 with the explicit incorporation of Barefoot which is directed to a strengthened (i.e., reinforced) glass would have appreciated and/or reasonably inferred that the order of the reinforcement and bending steps may vary, even if not explicitly stated. The Examiner's position that one of ordinary skill would have viewed Dannoux as reasonably encompassing and/or suggesting either order of the bending and reinforcement steps is supported by a preponderance of the evidence (Ans. 10–12).⁴ Appellant has not directed us to any evidence establishing that the Examiner's position is erroneous.

Appellant has not shown error in the Examiner's determination that one of ordinary skill in the art, using no more than ordinary creativity, would have performed a reinforcement step to create a chemically reinforced glass sheet after and/or before a deformation step. As stated by the Examiner, one of ordinary skill may well have expected bending a reinforced glass sheet would have resulted in less damage/warpage (Ans. 12). *KSR*, 550 U.S. at 417 (2007) (the predictable use of known prior art elements performing the same functions they have been known to perform is normally obvious; the combination of familiar elements is likely to be obvious when it does no more than yield predictable results); *Ball Aerosol and Specialty Container, Inc. v. Limited Brands, Inc.*, 555 F.3d 984, 993 (Fed. Cir. 2009) (under the

⁴ Indeed, the Supplementary European search report and opinion filed by Appellant on July 28, 2016 in this Application states that since Plumet (US 3,626,723, issued Dec. 14, 1971) explicitly teaches chemically reinforcing a glass body and then bending it, a skilled person would have used either order.

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flexible inquiry set forth by the Supreme Court, the PTO must take account of the “inferences and creative steps,” as well as routine steps, that an ordinary artisan would employ).

Consequently, after consideration of Appellant’s arguments, we are unpersuaded of error in the Examiner’s determination of obviousness. Accordingly, we affirm the Examiner’s prior art rejections under 35 U.S.C. § 103(a) of all the claims on appeal for the reasons given above and presented by the Examiner.

DECISION

The Examiner’s § 103 rejections are affirmed.

TIME PERIOD FOR RESPONSE

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