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Moser Taboada / Ansell Limited 1030 Broad Street Suite 203 Shrewsbury, NJ 07702			RANDALL, JR., KELVIN L	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARIO ANTHONY JAKUS

Appeal 2018-008922
Application 14/260,825
Technology Center 3600

Before JOHN C. KERINS, MICHAEL L. WOODS, and
ARTHUR M. PESLAK, *Administrative Patent Judges*.

WOODS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1, 4–6, 8–10, and 20–23.² Appeal Br. 41. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as Ansell Limited. Appeal Br. 3.

² *See infra* n.3.

CLAIMED SUBJECT MATTER

The application is titled “Folded Packaged Gloves” and the Field of Invention describes the invention as “relat[ing] to packaged gloves comprising two or more folds.” Spec. 2. Claims 1 and 21 are independent. Appeal Br. 42–46 (Claims App.). Claim 1, reproduced below and with emphasis added to a limitation central to our analysis, is illustrative of the claimed subject matter:

1. A package for one glove pair, comprising:
 - a right glove and a left glove, each glove comprising fingers, a palm and a cuff,
 - the right glove and the left glove are arranged in parallel, adjacent to and overlapping each other, and the fingers of the right glove are aligned with the fingers of the left glove, forming a glove pair,
 - at least one glove of the glove pair having an indicia comprising at least one of a logo, a pattern, a mark, or text displayed thereon, and
 - the glove pair having a folded state comprising either at least a portion of the fingers folded over and adjacent to the palm and at least a portion of the cuff folded over and adjacent to the fingers, or at least a portion of the cuff folded over and adjacent to the palm and at least a portion of the fingers folded over and adjacent to the cuff; and*
 - an at least partially transparent packaging encasing the folded glove pair,
 - the packaging being compliant with the shape of the folded glove pair and the packaging maintaining the folded glove pair in the folded state, and
 - at least one of the logo, the pattern, the mark, or the text of the indicia being visible through the packaging while the folded glove pair is encased in the packaging.

Appeal Br. 42 (Claims App., emphasis added).

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Crawford	US 5,044,493	Sept. 3, 1991
Grinberg '221	US 2002/0060221 A1	May 23, 2002
Milliorn	US 2003/0057222 A1	Mar. 27, 2003
Cooke	US 6,625,816 B1	Sept. 30, 2003
Fuller	US 2003/0201276 A1	Oct. 30, 2003
Lennox	2004/0182876 A1	Sept. 23, 2004
Grinberg	US 2004/0245269 A1	Dec. 9, 2004
Reddy	US 2007/0215497 A1	Sept. 20, 2007
Lien	US 2012/0160865 A1	June 28, 2012

REJECTIONS³

- (1) The Examiner rejects claims 1, 6, and 21 as obvious under 35 U.S.C. § 103(a) over Crawford, Reddy, Cooke, Fuller, and Grinberg. Final Act. 6.
- (2) The Examiner rejects claims 8 and 9 as unpatentable under 35 U.S.C. § 103(a) over Crawford, Reddy, Cooke, Fuller, and Grinberg. Final Act. 11.
- (3) The Examiner rejects claim 5 as unpatentable under 35 U.S.C. § 103(a) over Crawford, Reddy, Cooke, Fuller, Lien, and Milliorn. Final Act. 12.
- (4) The Examiner rejects claim 10 as unpatentable under 35 U.S.C. § 103(a) over Crawford, Reddy, Cooke, Fuller, Grinberg, and Lennox. Final Act. 13.

³ The Examiner's rejection of claims 4, 22, and 23 as unpatentable under 35 U.S.C. § 103 over Crawford, Reddy, Cooke, Fuller, Grinberg, and Lien (Final Act. 11) was withdrawn by the Examiner (Ans. 3).

(5) The Examiner rejects claim 20 as unpatentable under 35 U.S.C. § 103(a) over Crawford, Reddy, Cooke, Fuller, and Grinberg '221. Final Act. 14.

OPINION

I. Rejection of Claims 1, 6, and 21

The Examiner rejects claims 1, 6, and 21 as being unpatentable over Crawford, Reddy, Cooke, Fuller, and Grinberg. Final Act. 6.

In rejecting the claims, the Examiner finds that Crawford teaches the claimed “glove pair” having

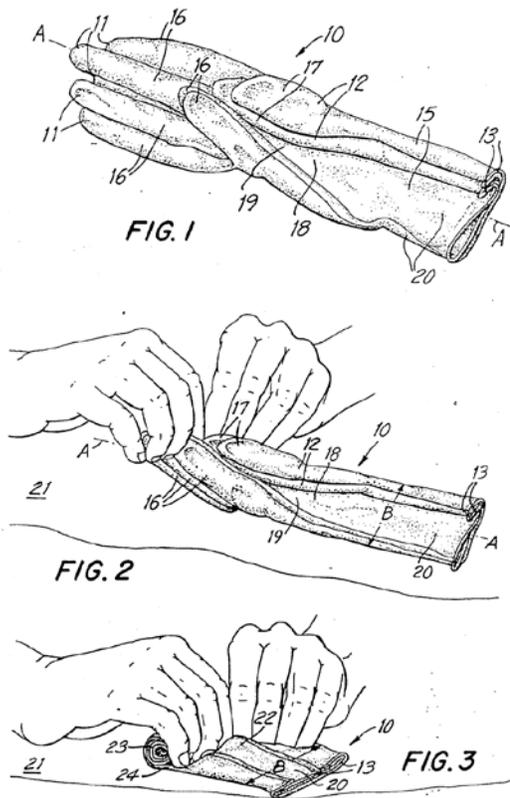
a folded state comprising at least a portion of the fingers (11) folded over adjacent to the palm (18), and at least a portion of the cuff (13) folded over and adjacent to the fingers (11)

or

at least a portion of the cuff folded over and adjacent to the palm and at least a portion of the fingers folded over and adjacent to the cuff.

Final Act. 6 (citing Crawford Figs. 1–5, indentations and emphases added to illustrate a central point of this Decision).

To illustrate the Examiner’s findings, we reproduce Crawford’s Figures 1–3, below:



Crawford describes: Figure 1 as a “perspective view of a pair of juxtaposed gloves prior to being rolled into the preferred form of a compact cylindrical package” (Crawford, 4:6–8); Figure 2 as “showing of a step of gathering the fingers just prior to when the gloves are to be rolled from the finger ends to create the preferred form of the package” (*id.* at 4:9–11); and Figure 3 as “an illustration of the rolling method wherein the juxtaposed gloves are shown partially rolled to the hand parts of the gloves in the process of creating the preferred form of the package” (*id.* at 4:13–16). Crawford further discloses that the “gloves are preferably rolled up . . . from their fingers to their cuffs to drive out air entrapped within the gloves.” *Id.* at 3:8–11. Crawford explains that the “glove pair is rolled as a unit into a cylindrical package about the width of the gloves.” *Id.* at 3:36–37.

The claims require that the gloves form a “folded state” with one of: (1) “a portion of the *cuff folded over and adjacent to the fingers*” or (2) “a portion of the *fingers folded over and adjacent to the cuff*.” Appeal Br. 42 (independent claim 1, emphasis added), 45 (independent claim 21, emphasis added). Under either claimed scenario, at least a portion of the fingers must be adjacent to at least a portion of the cuff.

The Examiner interprets “folded” as, “[t]o bring from an extended to a closed position” (Ans. 5 (internal citation omitted)), and “adjacent” as, “close to; lying near” or “near or close to but not necessarily touching” (*id.* at 9 (internal citation omitted)). Based on these interpretations, the Examiner finds that Crawford’s rolled glove pair meets the claimed limitations. *See id.* at 5–10.

In contesting the rejection, Appellant argues that Crawford does not teach the claimed “folded state” with at least a portion of the fingers “adjacent to” at least a portion of the cuff. *See* Appeal Br. 15–25; *see also* Reply Br. 2–8. Appellant submits its own definition of “folded” as, “bending over a flexible and relatively flat surface over itself” (Appeal Br. 16 (internal citation omitted)) and “adjacent” as, “[n]ext to or adjoining something else” (*id.* at 20 (internal citation omitted)). Appellant further contends that the Examiner’s interpretation of the terms is inconsistent with the Specification. *See* Reply Br. 6 (addressing “folded”), 8 (addressing “adjacent”).

Appellant’s arguments are persuasive.

We disagree with the Examiner’s findings that Crawford’s rolled gloves are in a “folded state” such that a portion of the fingers are “adjacent” to a portion of the cuff.

The Examiner's interpretation effectively renders meaningless the claimed limitation requiring at least a portion of the fingers to be adjacent to at least a portion of the cuff. A skilled artisan would have understood the limitations to mean that the gloves are folded such that a portion of the fingers are closest to a portion of the cuff, without having the palm portion lying between the cuff portion and fingers portion.

Crawford's rolled gloves, on the other hand, are rolled compactly from the fingers to the cuff to expel air, and a skilled artisan would have understood that rolling the gloves in this manner would result in a configuration in which the rolled fingers are first surrounded by the palm section before being surrounded by the cuff section. *See, e.g.*, Crawford Figs. 1–3. Because Crawford's palm portion lies between its fingers portion and its cuff portion, Crawford's gloves do not satisfy the claimed “portion of the cuff folded over and adjacent to the fingers” or (2) “portion of the fingers folded over and adjacent to the cuff.” Appeal Br. 42, 45 (Claims App.).

For the foregoing reasons, we do not sustain the rejection of claims 1, 6, and 21 as unpatentable over Crawford, Reddy, Cooke, Fuller, and Grinberg.

II. Rejection of Claims 5, 8–10, and 20

The Examiner also rejects dependent claims 5, 8–10, and 20 based on the same unsupportable findings discussed above. *See* Final Act. 11–20.

For the same reasons that we reverse the rejection of claims 1, 6, and 21, we also reverse the rejection of dependent claims 5, 8–10, and 20.

CONCLUSION

The Examiner's rejections are reversed.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 6, 21	103	Crawford, Reddy, Cooke, Fuller, Grinberg		1, 6, 21
8, 9	103	Crawford, Reddy, Cooke, Fuller, Grinberg		8, 9
5	103	Crawford, Reddy, Cooke, Fuller, Lien, Milliorn		5
10	103	Crawford, Reddy, Cooke, Fuller, Grinberg, Lennox		10
20	103	Crawford, Reddy, Cooke, Fuller, Grinberg '221		20
Overall Outcome				1, 5, 6, 8-10, 20, 21

REVERSED