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CYTEC INDUSTRIES INC. 1937 WEST MAIN STREET STAMFORD, CT 06902			PIZIALI, ANDREW T	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ROBERT BLACKBURN and SAMUEL JESTYN HILL

Appeal 2019-001745
Application 14/824,462
Technology Center 1700

BEFORE ROMULO H. DELMENDO, BEVERLY A. FRANKLIN, and
JANE E. INGLESE, *Administrative Patent Judges*.

BEVERLY A. FRANKLIN, *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 1–17. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

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 Cytotec Industries Inc. Appeal Br. 2.

CLAIMED SUBJECT MATTER

Claim 1 is illustrative of Appellant's subject matter on appeal and is set forth below:

1. A woven fabric for composite reinforcement comprising:

unidirectional fiber tows arranged parallel to each other in a sheet-like formation; and

strips of nonwoven fibers interlaced with the unidirectional fiber tows in a weaving pattern,

wherein the unidirectional fiber tows are not attached to another layer, and each unidirectional fiber tow is comprised of a plurality of continuous fiber filaments, and

wherein each strip of nonwoven fibers is a self-supporting, single-layer material, which is not attached to another layer of fibers, and is comprised of randomly arranged and/or randomly oriented fibers.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Lin et al.	US 2010/0024489 A1	February 4, 2010
Beraud et al.	US 2012/0237707 A1	September 20, 2012

REJECTIONS

1. Claims 1–17 are rejected under 35 U.S.C. § 112(b) or 35 U.S.C. § 112 (pre-AIA), second paragraph, as being indefinite.

2. Claims 1–17 are rejected under 35 U.S.C. § 103 as being unpatentable over Lin in view of Beraud.

OPINION

Our Decision addresses the claims separately to the extent they are so argued by Appellants. 37 C.F.R. § 41.37(c)(1)(iv).

Upon consideration of the evidence and each of the respective positions set forth in the record, we find that the preponderance of evidence supports Appellant’s position in the record with regard to the prior art rejection (our comments on the indefiniteness rejection are detailed *infra*). We thus reverse the Examiner’s decision to reject the appealed claims for the reasons provided by Appellant in the record, and add the following for emphasis. We can focus on the reference of Beraud (because this is the reference used by the Examiner regarding the claim limitation at issue) in making our determinations herein.

Rejection 1

We first note that Appellant does not appeal this rejection as it pertains to claims 6 and 8 (Appeal Br. 3), so we summarily affirm this rejection with regard to claims 6 and 8.

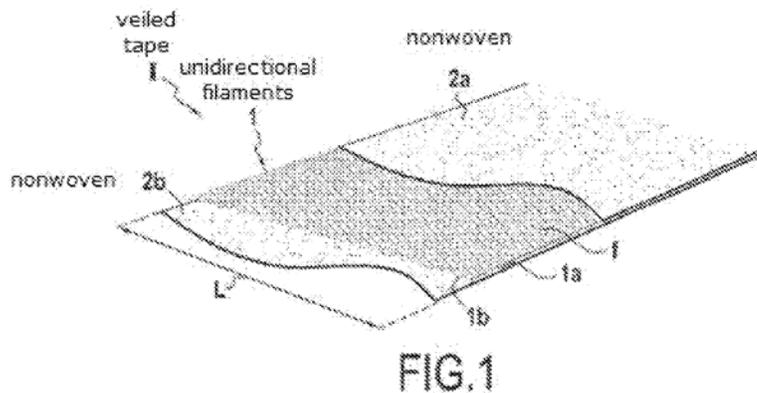
With regard to claim 1, it is the Examiner’s position that the phrase “sheet-like formation” renders the claims indefinite, stating that the intended scope of the claim is unclear, and the claim is subjective rather than definitive. Ans. 3. However, we agree with Appellant that this phrase is definite for the reasons given on pages 3–4 of the Appeal Brief. We add that

page 5 of the Specification describes what is meant by this phrase and refers to Figure 6 in this regard.

In view of the above, we reverse Rejection 1 with regard to claims 1–5, 7, and 9–17, but affirm with regard to claims 6 and 8.

Rejection 2

At issue in this rejection is whether the Examiner’s interpretation of the limitation “wherein the unidirectional fiber tows are not attached to another layer, and each unidirectional fiber tow is comprised of a plurality of continuous fiber filaments” recited in claim 1 is proper. It is the Examiner’s position that claimed fiber tows encompass Beraud’s nonwoven veils 2a and 2b (shown in the annotated depiction of Beraud’s Figure 1, below). Ans. 8–9.



It is Appellant’s position that nonwoven veils 2a and 2b are not a part of the unidirectional fiber tow (unidirectional filaments as labeled in the figure above) because the claim recites the unidirectional fiber tow as being a plurality of continuous fiber filaments that are not attached to another layer. We are persuaded by such argument. Appellant’s Figure 5 (below) further supports this claim interpretation.

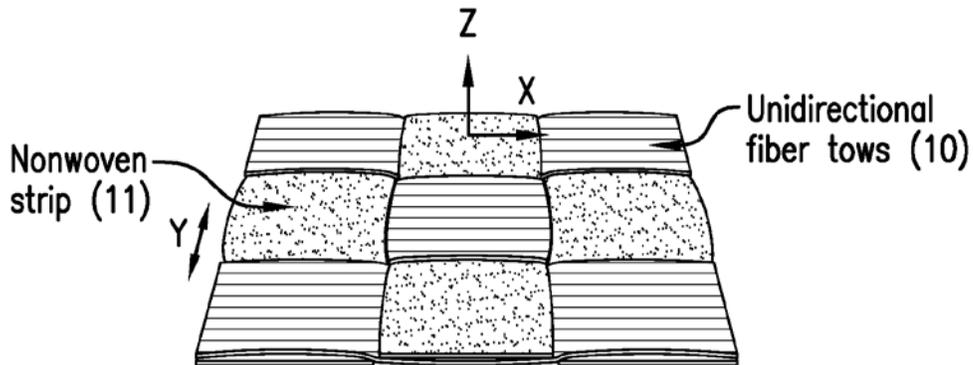


FIG. 5

Therefore, we agree with Appellant that because the claim, as properly interpreted, excludes the tow from being attached to another layer, Beraud does not teach this claim limitation. We thus reverse Rejection 2.

CONCLUSION

Rejection 1 is reversed, except for claims 6 and 8.

Rejection 2 is reversed.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-17	112(b)	Indefiniteness	6 and 8	1-5, 7, and 9-17
1-17	103	Lin, Beraud		1-17
Overall Outcome			6 and 8	1-5, 7, and 9-17

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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). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART