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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte EDWARD JOHN FEWKES, STEPHAN LVOVICH LOGUNOV,
and CYNTHIA JEAN WILSON

Appeal 2019-004077
Application 14/540,293
Technology Center 3700

Before BIBHU R. MOHANTY, KENNETH G. SCHOPFER, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

SILVERMAN, *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 rejecting claims 1–4, 7, 9, 10, 12, and 23. 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. The Appellant identifies the real party in interest as Corning Incorporated. Appeal Br. 1.

ILLUSTRATIVE CLAIM

1. An illuminated bandage comprising:
 - a power source;
 - a light source coupled to the power source to generate light; and
 - a patch comprising a supporting medium having an absorptive textile material and at least one light diffusing element disposed in the absorptive textile material of the supporting medium and optically coupled to the light source, wherein:
 - the at least one light diffusing element comprises at least one light diffusing fiber;
 - the at least one light diffusing fiber comprises a core, a cladding, and a plurality of air lines disposed in at least one of the core and the cladding; and
 - the at least one light diffusing fiber outputs light through a sidewall of the light diffusing fiber to promote a photochemical reaction.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Daniel	US 4,234,907	Nov. 18, 1980
Parker	US 2006/0167532 A1	July 27, 2006
Hua et al. ("Hua" herein)	US 7,542,645 B1	June 2, 2009
Bickham et al. ("Bickham" herein)	US 2011/0122646 A1	May 26, 2011

REJECTION

Claims 1–4, 7, 9, 10, 12, and 23 are rejected under 35 U.S.C. § 103 as unpatentable over Parker, Daniel, Bickham, and Hua.

FINDINGS OF FACT

The findings of fact relied upon, which are supported by a preponderance of the evidence, appear in the following Analysis.

ANALYSIS

The Parker reference discloses “phototherapy treatment devices for use in applying area light energy to a wound to help in the healing process.” Parker ¶ 1. The Examiner finds that Parker’s “adhesive patch or tape 20” (*id.* ¶ 28) teaches a “supporting medium,” which is recited in independent claim 1. Final 7. “However,” the Examiner acknowledges, “Parker does not teach . . . the supporting medium having an absorptive textile material, and the light diffusing element being disposed in the absorptive textile material of [the] supporting medium.” *Id.*

The Daniel reference discloses “a fabric utilizing fiber optic illumination wherein the fiber optic elements are threads of the fabric.” Daniel col. 1, ll. 31–32. More particularly, Daniel describes “fabric 10 in which the cloth threads 11 are shown with the fiber optic filaments 12 being woven therewith,” wherein the “cloth threads” are “made of conventional fibers, such as cotton, nylon, wool, and the like,” and the “optical filaments” are “made of single optical fibers.” *Id.* at col. 2, ll. 32–40.

The Examiner finds that Daniel teaches claim 1’s “supporting medium having an absorptive textile material” and a “light diffusing element disposed in the absorptive textile material of the supporting medium.” Final 7. According to the Examiner,

It would have been obvious to one of ordinary skill in the art before the effective filing date of the claimed invention to modify [the] Parker illuminated bandage by incorporating a supporting medium having an absorptive textile material in

which the light diffusing element is disposed, as taught by Daniel, because doing so allows light diffusing element being [sic] well supported.

Id. at 8. *See also* Ans. 6.

Asserting error in the rejection, the Appellant argues the Examiner has not provided a sufficient reason why a person of ordinary skill in the art, at the relevant time, would have combined Parker’s teachings with Daniel’s technique for supporting a light-diffusing element with an absorptive material, such as cotton fibers. Appeal Br. 8. “In particular,” the Appellant states, “the Examiner has failed to demonstrate how/why the device of Parker does not already adequately support its light guide 3.” *Id.* “Thus,” the Appellant argues, “there is no reason found in the prior art or otherwise to look to Daniel to provide additional support to the light guide 3 of Parker.” *Id.*

Indeed, the Examiner says that a person of ordinary skill in the art would have combined the identified teachings of Parker and Daniel, in order for the claimed “light diffusing element” (taught by Parker) to be “well supported.” Final 8. Yet, as the Appellant points out (Appeal Br. 8), the Examiner does not identify any findings to the effect that Parker’s teaching of the claimed “supporting medium” (Final 7) might fail to provide “support[]” adequate to satisfy claim 1, and the Examiner does not otherwise explain why or how one of ordinary skill in the art would have recognized that any such deficiency in Parker would be rectified by Daniel’s technique. Accordingly, the rejection does not articulate a reason for combining the teachings of Parker with redundant teachings of Daniel. *See In re Anova Hearing Labs, Inc.*, 809 F. App’x 840, 843 (Fed. Cir. 2020) (nonprecedential) (“The Board . . . does not explain why a person of

ordinary skill in the art would be motivated to modify Brown, which already includes vents, to address occlusion effect. The Board does not explain why a person of skill in the art would conclude that Brown needed to be modified.”) (citation omitted); *South-Tek Sys., LLC v. Engineered Corrosion Sols., LLC*, 748 F. App’x 1003, 1007 (Fed. Cir. 2018) (nonprecedential) (rejecting Petitioner’s argument “that a person of ordinary skill would have been motivated to use Wood’s drain to allow water to drain from Viking’s system,” where “Viking’s system already includes a drum drip drain that serves this purpose”).

Accordingly, we do not sustain the rejection of independent claim 1 (the sole independent claim in the Appeal) and dependent claims 2–4, 7, 9, 10, 12, and 23 under 35 U.S.C. § 103.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–4, 7, 9, 10, 12, 23	103	Parker, Daniel, Bickham, Hua		1–4, 7, 9, 10, 12, 23

REVERSED