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.
14/594,195	01/12/2015	Alan David Willey	13062	8878

27752 7590 06/18/2020

THE PROCTER & GAMBLE COMPANY
GLOBAL IP SERVICES
CENTRAL BUILDING, C9
ONE PROCTER AND GAMBLE PLAZA
CINCINNATI, OH 45202

EXAMINER
KHAN, AMINA S

ART UNIT	PAPER NUMBER
1761	

NOTIFICATION DATE	DELIVERY MODE
06/18/2020	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

centraldocket.im@pg.com
mayer.jk@pg.com
pair_pg@firsttofile.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ALAN DAVID WILEY, ROBB RICHARD GARDNER, and KADY LYNN WILLISON

Appeal 2019-004674
Application 14/594,195
Technology Center 1700

Before LINDA M. GAUDETTE, JAMES C. HOUSEL, and JULIA HEANEY, *Administrative Patent Judges.*

HOUSEL, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject claims 1, 3–11, and 13–18.[2] We have jurisdiction under 35 U.S.C. § 6(b).

---

[1] We use the word Appellant to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as The Proctor & Gamble Company. Appeal Br. 1.

[2] Pending claim 12 is not before us on appeal because the Examiner has withdrawn this claim from consideration. Final Act. 2.

We AFFIRM.[3]

CLAIMED SUBJECT MATTER

The invention relates to a method of treating laundry by including a photoactive component in a treatment composition that is added to the laundry and irradiating the treatment composition with visible light. Spec. 3: 8–11. Appellant discloses that although washing machine appliances may be manufactured with interior lights, it is unlikely that consumers will purchase such new appliances merely to take advantage of a detergent employing photoactive chemistry. *Id.* at 2:13–19. Therefore, Appellant discloses that the method of treating laundry includes providing a source of visible light that is tool-free attachable to and detachable from an interior portion of a washing machine appliance. *Id.* at 3:11–13.

Claim 1, reproduced below from the Claims Appendix to the Appeal Brief, is illustrative of the claimed subject matter:

1. A method for treating laundry comprising the steps of:

providing a treatment composition comprising a photoactivator and a benefit active precursor comprising an oxyhalite;

contacting in an appliance said treatment composition with said laundry; and

irradiating said treatment composition with visible light;

wherein the step of irradiating said treatment composition with visible light is performed with a source of light that is tool

[3] This Decision refers to the Specification ("Spec.") filed January 12, 2015, the Appeal Brief ("Appeal Br.") filed November 13, 2018, and the Examiner's Answer ("Ans.") dated March 27, 2019.

free attachable to and detachable from an interior portion of said appliance.

REFERENCES

The Examiner relies on the following prior art:

Name	Reference	Date
Benjamin et al. ("Benjamin")	US 3,635,828	Jan. 18, 1972
Speakman	US 3,916,652	Nov. 04, 1975
Speakman ("Speakman2")	US 3,927,967	Dec. 23, 1975
Hollander	US 7,081,225 B1	July 25, 2006
Schrott	US 2011/0180118 A1	July 28, 2011
Batchelor et al. ("Batchelor")	US 2012/0093905 A1	Apr. 19, 2012
Smets et al. ("Smets")	WO 2006/055787 A1	May 26, 2006

REJECTIONS

The Examiner maintains, and Appellant requests our review of, the following rejections under 35 U.S.C. § 103:

1. Claims 1, 3, 5, 6, 10, 11, and 13–18 as unpatentable over Speakman in view of Hollander, Benjamin, Smets, and Batchelor;
2. Claims 5 and 7–9 as unpatentable over Speakman in view of Hollander, Benjamin, Smets, and Batchelor, and further in view of Speakman2; and
3. Claim 4 as unpatentable over Speakman in view of Hollander, Benjamin, Smets, and Batchelor, and further in view of Schrott.

OPINION

We review the appealed rejections for error based upon the issues Appellant identifies, and in light of the arguments and evidence produced

thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) (cited with approval in *In re Jung*, 637 F.3d 1356, 1365 (Fed. Cir. 2011) ("[I]t has long been the Board's practice to require an applicant to identify the alleged error in the examiner's rejections."). After considering the argued claims and each of Appellant's arguments, we are not persuaded of reversible error in the appealed rejections. We offer the following for emphasis only.

Appellant argues claim 1 only, and does not otherwise argue either the claims or the rejections separately. We, therefore, decide the appeal as to all grounds of rejection based on the arguments made in support of patentability of claim 1.

The Examiner finds that Speakman teaches a method of treating laundry comprising adding a treatment composition including a photoactivator to laundry and irradiating the laundry with visible light with a light source that may be attached to the cabinet or the rotating drum of the washing machine. Ans. 3. The Examiner finds that Speakman fails to teach that the light source is tool-free attachable and detachable from an interior portion of the machine and that the treatment composition further includes an oxyhalite. *Id.* However, the Examiner finds that Hollander teaches a tool-free attachable and detachable means, i.e., a clip, for mounting a light source for irradiating laundry to an interior portion of a washing machine. *Id.* The Examiner concludes that it would have been obvious to have modified Speakman to tool-free attach and detach the light source to the washing machine by a clip because Hollander teaches that this is an effective arrangement for attaching a light source to an existing washing machine for irradiating laundry in the machine. *Id.* at 4.

With regard to the second feature missing from Speakman, the Examiner finds that Benjamin teaches laundry detergents conventionally include enzymes, oxygen sources for enzymes, and enzymatic catalysts such as sodium chlorite. Ans. 4. The Examiner concludes that it would have been obvious to provide enzymes and sodium chlorite, an oxyhalite, to Speakman's treatment composition in order to enhance enzymatic activity and detergency as taught in Benjamin. *Id.* at 4–5.

Appellant argues that there is no motivation to add Benjamin's enzyme catalyst to Speakman's treatment composition because Speakman neither requires nor discloses enzyme-containing compositions. Appeal Br. 3. Appellant contends that neither Speakman nor Benjamin teaches nor suggests combining a photoactivator and a benefit active precursor material, e.g., sodium chlorite, for generating chlorine dioxide when used in a laundry treating method. *Id.*

Appellant's arguments are not persuasive of reversible error because they fail to address the Examiner's determination that it would have been obvious to include *both* an enzyme and an enzyme catalyst, e.g., sodium chlorite, in Speakman's treatment composition. Thus, although Speakman fails to teach an enzyme-containing composition, the rejection relies on including both the enzyme and the enzyme catalyst based on Benjamin's teaching that such components are conventionally included in laundry treatment compositions. *In re Kerkhoven*, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980) ("It is *prima facie* obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition which is to be used for

the very same purpose. . . . [T]he idea of combining them flows logically from their having been individually taught in the prior art.")

In addition, as the Examiner finds (Ans. 8), claim 1 does not require that chlorine dioxide be generated during the process. *See In re Van Geuns,* 988 F.2d 1181, 1184 (Fed. Cir. 1993) (rejecting appellants' nonobviousness argument as based on limitation not recited in claim)*; In re Self*, 671 F.2d 1344, 1348 (CCPA 1982) ("Many of appellant's arguments fail from the outset because, as the solicitor has pointed out, they are not based on limitations appearing in the claims."). The Examiner also finds that the combination of Speakman and Benjamin necessarily would result in the generation of chlorine dioxide because Speakman's modified treatment composition would include both a photoactivator and an oxyhalite. Ans. 8. Because this finding is reasonable, and Appellant does not challenge it, we accept it as fact. *In re Kunzmann*, 326 F.2d 424, 425 n.3 (CCPA 1964).

Appellant does not otherwise challenge the Examiner's rejection. Accordingly, we sustain the Examiner's obviousness rejection of claim 1, as well as the Examiner's obviousness rejections of dependent claims 3–11 and 13–18.

CONCLUSION

Upon consideration of the record, and for reasons given above and in the Examiner's Answer, the Examiner's decision to reject claims 1, 3–11, and 13–18 as unpatentable under 35 U.S.C. § 103 is *affirmed*.

More specifically,

the rejection of claims 1, 3, 5, 6, 10, 11, and 13–18 as unpatentable over Speakman in view of Hollander, Benjamin, Smets, and Batchelor is *affirmed*;

the rejection of claims 5 and 7–9 as unpatentable over Speakman in view of Hollander, Benjamin, Smets, and Batchelor, and further in view of Speakman2, is *affirmed*; and

the rejection of claim 4 as unpatentable over Speakman in view of Hollander, Benjamin, Smets, and Batchelor, and further in view of Schrott, is *affirmed*.

DECISION SUMMARY

In summary:

Claims Rejected	**35 U.S.C. §**	**Reference(s)/Basis**	**Affirmed**	**Reversed**
1, 3, 5, 6, 10, 11, 13–18	103	Speakman, Hollander, Benjamin, Smets, Batchelor	1, 3, 5, 6, 10, 11, 13–18	
5, 7–9	103	Speakman, Hollander, Benjamin, Smets, Batchelor, Speakman2	5, 7–9	
4	103	Speakman, Hollander, Benjamin, Smets, Batchelor, Schrott	4	
Overall Outcome			1, 3–11, 13–18	

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