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THE GOODYEAR TIRE & RUBBER COMPANY			FISCHER, JUSTIN R	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PHANIRAJ MUTHIGI,
JAMES GREGORY GILLICK, DAVID RAY HUBBELL,
JOHANN PESCHEK, and PADMAKUMAR PUTHILLATH

Appeal 2019-004966
Application 14/950,680
Technology Center 1700

Before MICHAEL P. COLAIANNI, GEORGE C. BEST, and
DEBRA L. DENNETT, *Administrative Patent Judges*.

DENNETT, *Administrative Patent Judge*.

DECISION ON APPEAL¹

Pursuant to 35 U.S.C. § 134(a), Appellant² appeals from the
Examiner’s decision to finally reject claims 1–5 and 7–14, which constitute

¹ In our Decision, we refer to the Specification (“Spec.”) of Application No. 14/950,680 filed Nov. 24, 2015; the Final Office Action dated Feb. 27, 2019 (“Final Act.”); the Appeal Brief filed March 4, 2019 (“Appeal Br.”); and the Examiner’s Answer dated Apr. 12, 2019 (“Ans.”).

² 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 Goodyear Tire & Rubber Company. Appeal Br. 3.

all of the non-withdrawn claims pending in Application 14/950,680.³ We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

The subject matter of the invention relates to a pneumatic tire, and more particularly, to a belt construction for a pneumatic tire. Spec. ¶ 1. Claim 1, reproduced below from the Claims Appendix of the Appeal Brief, represents the claimed subject matter:

1. A pneumatic tire comprising:
 - a carcass reinforced by a carcass ply extending from a first bead to a second bead; and
 - a belt structure including a first portion and a second portion, the belt structure being disposed radially outward of the carcass ply in a crown portion of the pneumatic tire,
 - the first portion comprising a belt with a belt width extending axially from a first shoulder portion of the crown portion to a second shoulder portion of the crown portion,
 - the second portion comprising a plurality of band structures with widths less than the belt width, one of the band structures having a first group of cords oriented in a first direction relative to a centerline of the pneumatic tire and a second group of cords oriented in a second direction relative to the centerline of the pneumatic tire, the first group of cords being interlaced with the second group of cords, *the belt structure being entirely constructed as an integral structure of a single continuous band.*

Appeal Br. 9 (Claims App.) (emphasis added).

³ According to the Final Office Action, claims 6 and 18–20 are withdrawn from consideration. Final Act. 2.

REFERENCES

The Examiner relies on the following prior art in rejecting the claims on appeal:

Name	Reference	Date
Tani	US 5,316,064	May 31, 1994
Kuze et al. (“Kuze”)	JP 11020406 A	Jan. 26, 1999
Michiels et al. (“Michiels”)	WO 2009/144244 A1	Dec. 3, 2009

REJECTION

The Examiner maintains⁴ the rejection of claims 1–5 and 7–14 under 35 U.S.C. § 103⁵ over Michiels, in view of Tani and, optionally, in further view of Kuze. Final Act. 3–5.

OPINION

We review the appealed rejection for error based upon the issues identified by Appellant 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 evidence presented in this Appeal and each of Appellant’s arguments, we are not persuaded that Appellant identifies reversible error in the rejection of claims 1–5 and 7–14.

⁴ The Examiner has withdrawn the rejection of claims 1–5 and 7–14 under 35 U.S.C. § 112(b) as indefinite (Ans. 3).

⁵ Because this application was filed after the March 16, 2013, effective date of the America Invents Act, we refer to the AIA version of the statute.

The Examiner rejects all of the pending claims over at least the combination of Michiels and Tani. *See* Final Act. 3–4. Appellant argues that independent claim 1 is patentable over Michiels, Tani, and Kuze, and makes no additional arguments for patentability of the dependent claims. *See* Appeal Br. 7. Thus, Appellant argues the claims as a group. Accordingly, we decide the sole ground of rejection on the basis of the arguments made in support of patentability of claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Regarding claim 1, the Examiner finds that Michiels teaches the claim limitations except for (1) the implementation of a continuous winding process between the first portion and the second portion of a belt structure, and (2) the use of the same band to form the first and second portions to define an integral structure of a single continuous band. Final Act. 2–3; *see also* Ans. 4.

The Examiner finds that Tani teaches the claim limitations that Michiels does not teach. Final Act. 3; Ans. 4–5. The Examiner concludes that, in the absence of Appellant’s showing of unexpected results, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used Tani’s continuous winding process to manufacture Michiels tire. Final Act. 3–4. The Examiner finds Michiels acknowledges that such continuous winding results in the manufacture of a tire having greater strength. *Id.* at 3.

Appellant argues “that Michiels, Tani, and Kuze, not separately nor together, disclose or suggest a tire with” a belt structure that is entirely constructed as an integral structure of a single continuous band. Appeal Br.

7. According to Appellant, the Examiner has not his burden in establishing a prima facie case of obviousness. *Id.*

We disagree.

This argument of Appellant is not persuasive of reversible error. More substantive arguments are required in an appeal brief to overcome a rejection. *In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (holding that the Board reasonably interpreted 37 C.F.R. § 41.37 (c)(1)(vii) as requiring “more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art”).

Furthermore, we find that the Examiner *has* met his initial burden in establishing a prima facie case of obviousness. Final Act. 3–4; Ans. 4–5. Appellant fails to address (and rebut) the Examiner’s finding that Tani teaches the construction of a tire having a multi-layered crown structure by incorporating a continuous winding process. *See* Final Act. 3.

In the Answer, the Examiner explains that Tani teaches it is known to continuously wind a band from *a first layer* to *a second layer*, i.e., the claimed “a first portion” to “a second portion,” respectively. Ans. 15; Appeal Br. 9 (Claims App.). The Examiner finds that Tani teaches the known use of the same cord to form first and second belt layers by spiral winding. Ans. 5 (citing Tani col. 5, ll. 1+); *see also* Tani Figs. 1a, 1b.

On these bases, we are unpersuaded by Appellant’s argument for reversible error. We sustain the rejection of claim 1. For the same reasons, we likewise sustain the rejection of claims 2–5 and 7–14.

CONCLUSION

We affirm the Examiner's rejection of claims 1–5 and 7–14 Michiels in view of Tani, and, optionally, in further view of Kuze.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1–5, 7–14	103	Michiels, Tani Kuze	1–5, 7–14	

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