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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes details for application 15/221,626 filed 07/28/2016 by Arman Ashraf, attorney 13968M, confirmation 3274. Also includes examiner GAITONDE, MEGHA MEHTA, art unit 1781, notification date 09/11/2020, and delivery mode ELECTRONIC.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ARMAN ASHRAF and PAUL THOMAS WEISMAN

Appeal 2019-006378
Application 15/221,626
Technology Center 1700

Before CATHERINE Q. TIMM., N. WHITNEY WILSON, and
MERRELL C. CASHION, JR., *Administrative Patent Judges*.

WILSON, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's November 20, 2018 decision to finally reject claims 1, 3, 4, 9, and 11–14. 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 The Proctor & Gamble Company (Appeal Br. 1).

CLAIMED SUBJECT MATTER

Appellant's disclosure is directed to a spunbond nonwoven fabric (Abstract). The fabric has a first surface and second surface, and at least a first and second visually discernable zone on at least one of the surfaces (*id.*). Each of the first and second zones has a pattern of three-dimensional features (Appeal Br. 2). Each of the three-dimensional features defines a microzone comprising a first region and a second region (*id.*). The first and second regions have a difference in values for basis weight, wherein the difference in values for basis weight for at least one of the microzones in the first zone is different from the difference in values for basis weight for at least one of the microzones in the second zone, wherein the basis weight of every region of the spunbond nonwoven fabric is greater than zero (*id.*). Details of the claimed invention are set forth in claim 1, which is reproduced below from the Claims Appendix (*emphasis added*):

1. A spunbond nonwoven fabric comprising:
 - a. a first surface and a second surface and at least a first and second visually discernible zone on at least one of the first and second surface, each of the first and second zones having a pattern of three-dimensional features, each of the three-dimensional features defining a microzone comprising a first region and a second region, the first and second regions having a difference in values for basis weight, and
 - b. wherein the difference in values for basis weight for at least one of the microzones in the first zone is different from the difference in values for basis weight for at least one of the microzones in the second zone, *wherein the basis weight of every region of the spunbond nonwoven fabric is greater than zero.*

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Kuroda et al.	US 2005/0148971 A1	July 7, 2005
Kudo et al.	US 2006/0189954 A1	August 24, 2006

REJECTION

Claims 1, 3, 4, 9, and 11–14 are rejected under 35 U.S.C. § 103 as unpatentable over Kuroda in view of Kudo.

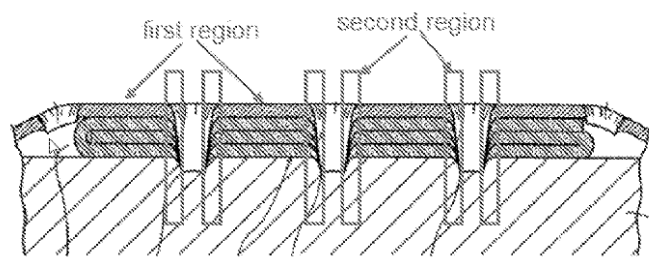
DISCUSSION

The Examiner finds that Kuroda teaches each element of claim 1, except that Kuroda does not teach that its non-woven fabric is spunbonded (Final Act. 2–4, citing Kuroda, Figs. 1–4, ¶¶ 68, 70, 72, 82–84). In particular, the Examiner relies on the disclosures relating to the apertures in Kuroda’s fabric as disclosing the claimed relative basis weights for the various regions and microzones (Final Act. 3). In particular, the Examiner states on page 3–4 of the Answer that:

The spunbond nonwoven fabric of the claim requires a first zone and second zone. The first and second zones both include a pattern of 3D features. The 3D features each define a microzone which includes first and second regions. As set forth in the office action (page 3) the prior art teaches first and second zones (20A and 20B); the first and second zone both include a pattern of 3D feature (provided by the array of holes). The pattern includes microzones with first (the fabric) and second regions (the hole sidewall).

. . . [T]he Examiner has interpreted the second region of the first zone to be a sidewall 25b of the hole 25 and the first region of the first zone to be the remainder of the material layer 3 [see annotated FIG. 3 from Kuroda below]. In the

Examiner's annotated figure, the second regions have been boxed in, and the first regions are the material segments between the boxes. As shown in the figure, the entire fabric material can be divided into first regions and second regions. The holes are not either the first region or the second region because there is no fabric material in the hole. ***Stated another way, the holes are not a region of the fabric, and thus their basis weight (or lack thereof) is not relevant to the claimed invention*** (emphasis added).



An annotated version of Kuroda's FIG. 3 shows an enlarged sectional view showing how liquid passage holes are apertured in a front portion of Kuroda's fabric.

Appellant does not dispute the Examiner's reasoning with respect to the relative basis weights for the regions and microzones (see Appeal Br. 3–4). Appellant argues that because portions of Kuroda's fabric have holes (which inherently have a basis weight of zero), Kuroda's fabric does not teach the limitation "wherein the basis weight of every region of the spunbond nonwoven fabric is greater than zero" (Appeal Br. 4).

The Examiner counters with the argument that "one of ordinary skill in art would not consider a hole to be part of the fabric" (Ans. 3). Thus, the resolution of this appeal depends on whether the claim language "wherein the basis weight of ***every region*** . . . is greater than zero" (emphasis added) excludes a fabric with holes. That

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determination, in turn, depends on the meaning of “every region” as used in the claim.

Appellant takes the position that:

It is very clear from the [Appellant’s] specification and drawings that the area of the nonwoven fabric is broken down into zones, and those zones are broken down into three dimensional features, and those three-dimensional features are broken down into microzones, and those microzones are broken down into regions. ***In other words, the entire nonwoven fabric consists of regions, as defined by the [Appellant’s] specification and drawings. If every region of the nonwoven fabric has a basis weight greater than zero, there cannot be any holes present in the nonwoven fabric.***

(Appeal Br. 4, emphasis added). In essence, Appellant argues that the claim language at issue necessarily excludes any fabric with holes, though Appellant does not direct us to any specific portion of the Specification which teaches or suggests this interpretation.

Nevertheless, the limitation at issue was found in original claim 6, and thus is part of the original disclosure. In order for a region to have a basis weight of zero, it has to be a hole (i.e., be empty). If there is material present in a region of the fabric, the basis weight for that region is necessarily greater than zero. Therefore, the claim construction advocated by the Examiner would mean that the limitation at issue is meaningless because every single region of the fabric which is not a hole would necessarily have a basis weight greater than zero. Such an interpretation is not reasonable. *See, e.g., Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP*, 616 F.3d 1249, 1257 (Fed. Cir. 2010) (claims must be interpreted with an eye toward

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giving effect to all terms in the claim); *Unique Concepts, Inc. v. Brown*, 939 F.2d 1558, 1563 (Fed. Cir. 1991).

Thus, we agree with Appellant that the Examiner has not established that the limitation “wherein the basis weight of every region . . . is greater than zero” would have been obvious in view of the prior art. Accordingly, we reverse the rejection.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 3, 4, 9, 11-14	103	Kuroda, Kudo		1, 3, 4, 9, 11-14

REVERSED