



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

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes details for application 14/933,024, inventor Kelyn Anne ARORA, and examiner KRASNOW, NICHOLAS R.

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* KELYN ANNE ARORA, TIMOTHY IAN MULLANE,  
JILL MARLENE ORR, DONALD CARROLL ROE, and  
JOHN BRIAN STRUBE

---

Appeal 2019-006504  
Application 14/933,024  
Technology Center 1700

---

Before JEFFREY T. SMITH, KAREN M. HASTINGS, and  
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

STATEMENT OF THE CASE

---

<sup>1</sup> 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 Procter & Gamble Company. (Appeal Br. 1.)

Appellant's invention generally relates to aperture to webs that are useful in disposable absorbent products. (Spec. 1.) Claim 1 illustrates the subject matter on appeal and are reproduced below:

1. A method of producing a patterned apertured web, the method comprising:  
providing a web having a central longitudinal axis, wherein the web comprises a plurality of overbonds extending parallel to, within +/- 5 degrees, the central longitudinal axis;  
conveying the web in a machine direction, wherein the machine direction is parallel to, within +/- 5 degrees, a direction of extension of the central longitudinal axis of the web; and  
stretching the web in a cross-machine direction that is perpendicular to, within +/- 5 degrees, the machine direction to cause at least some of the overbonds to at least partially rupture and at least partially form patterned apertures in the web;  
wherein at least some of the patterned apertures have Absolute Feret Angles, according to the Aperture Test, of at least about 20 degrees and less than about 70 degrees;  
and  
wherein at least some of the patterned apertures have an Aspect Ratio, according to the Aperture Test, in the range of about 2:1 to about 6:1.

Appeal Br. 11, Claims Appendix.

The following rejections are presented for our review:

I. Claims 1–14 and 16–20 are rejected under 35 U.S.C. § 103, as unpatentable over the combination of Gillespie (US 6,632,504 B1; Oct. 14, 2003), Benson (US 5,914,084; June 22, 1999), Lee (US 2014/0324009 A1; Oct. 30, 2014), and Amirnasr (Dissertation, 2012).

II. Claim 15 is rejected under 35 U.S.C. § 103 as unpatentable over the combination of Gillespie, Benson, Lee, Amirasr, and Ahoniemi (US 2008/0300562 A1; Dec. 4, 2008).

### OPINION

After review of the respective positions provided by Appellant and the Examiner, we AFFIRM the Examiner’s rejections of claims 1–14 and 16–20 under 35 U.S.C. § 103(a) as obvious over of Gillespie, Benson, Lee, and Amirasr as well as the rejection of claim 15 over those references further in view of Ahoniemi.<sup>2</sup>

We consider the record to determine whether Appellant has identified reversible error in the Examiner’s rejections. *See 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,” citing *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential)).

Appellant argues for reversal of all of the rejected claims as an undifferentiated group. (*See generally* Appeal Br. 3–10.) We, therefore, select claim 1 as representative of the claims on appeal. 37 C.F.R. § 41.37(c)(1)(iv) (2018).

Because we discern no reversible error in the Examiner’s factual findings, analysis, and conclusion, we adopt them as our own. We add the following for emphasis only.

Appellant argues that the aperturing processes of Gillespie and Lee are quite different therefore the teachings of these references cannot be

---

<sup>2</sup> The complete statement of the rejections on appeal appears in the Non-Final Office Action. (Non-Final Act. 4–10.)

legally combined. (Appeal Br. 6–7.) Appellant argues the Gillespie and Lee combination is based on impermissible hindsight. (Appeal Br. 7–9.)

Appellant argues Gillespie only teaches apertures that are machine direction oriented and nothing in Gillespie teaches how to make the orientation of the apertures different than the direction of the over bonds. (Appeal Br. 7–8.)

Appellant argues Lee’s aperturing process, that produces more intricate patterns, would not have taught a person of ordinary skill in the art how to create these types of patterns utilizing over binding and cross-directional stretching technology. (Appeal Br. 9.)

The Examiner finds, and Appellant does not dispute, that Gillespie teaches a method of producing an aperture to web comprising over binding and cross-directional stretching as required by the claimed invention.<sup>3</sup>

(Non-Final Act. 5–6.) The Examiner recognized Gillespie failed to disclose the Ferret Angle of the bond cites. (Non-Final Act. 6.) Addressing this distinction, the Examiner cites Lee for describing pattern apertured webs wherein the apertures are patterned with various Ferret Angles. (Non-Final Act. 6–7; Lee ¶ 91.) The Examiner concludes that it would have been obvious to perform the process of Gillespie incorporating apertures patterned with various Ferret Angles in order to form fibrous nonwoven webs having a number of desired functions including improved absorbency, improved breathability and a bulkier and thicker feel as taught by Lee. (Non-Final Act. 7.)

Contrary to Appellant’s arguments, it is not necessary to physically incorporate the aperturing process of Lee into the process of Gillespie to

---

<sup>3</sup> Appellant has not contested the Examiner's reliance on Benson for describing conveying patterned aperture webs in a machine direction.

render obvious the claimed invention. *See In re Sneed*, 710 F.2d 1544, 1550 (Fed. Cir. 1983); *see also In re Etter*, 756 F.2d 852, 859 (Fed. Cir. 1985) (en banc) (“Etter’s assertions that Azure cannot be incorporated in Ambrosio are basically irrelevant, the criterion being not whether the references could be physically combined but whether the claimed inventions are rendered obvious by the teachings of the prior art as a whole.”) “The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference. . . . Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art.” *In re Keller*, 642 F.2d 413, 425 (CCPA 1981). *See also In re Sneed*, 710 F.2d 1544, 1550, (Fed. Cir. 1983) (“[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review.”); and *In re Nievelt*, 482 F.2d 965, 968 (CCPA 1973) (“Combining the teachings of references does not involve an ability to combine their specific structures.”).

It has not been disputed that forming webs comprising apertures having various sizes and shapes that may also differ from one another was known to persons of ordinary skill in the art. (e.g., Lee ¶ 87.) Gillespie discloses the fragile bond cites are produced by thermal or ultrasonic point bonding utilizing cylindrical calendar rolls having the desired pattern. (Gillespie col. 5, ll. 2–5.) Gillespie further discloses the bond cites are structured in a range to readily rupture was subject to tensile strength to form discrete spaced apart apertures in the nonwoven web. (Gillespie col. 5, ll. 13–16.) A person of ordinary skill in the art would have reasonably expected that cylindrical calendar rolls would have been suitable for holding a pattern that would have resulted in web apertures having various angles. A

person with ordinary skill in the art possesses a certain basic level of skill. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007) (“A person of ordinary skill is also a person of ordinary creativity, not an automaton.”). In view of the prior art cited one with ordinary skill in the art would have readily recognized that a cylindrical calendar rolls would have been suitable for holding a pattern that would have resulted in web apertures having various Ferret Angles. Appellant has not directed us to evidence that apertures created having various Ferret Angles would not readily ruptured when subject to tensile strength as required by Gillespie.

Appellant has not refuted the Examiner’s position that webs comprising apertures patterned with various Ferret Angles provides fibrous nonwoven webs with desirable characteristics including improved absorbency, improved breathability and a bulkier and thicker feel as taught by Lee.

Accordingly, we sustain the Examiner’s 35 U.S.C. § 103 rejections of claims 1–20.

CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1-7, 9-11, 16-19	103	Gillespie, Benson, Lee, Amirnasr	1-14, 16- 20	
15	103	Gillespie, Benson, Lee, Amirnasr, Ahoniemi	15	
<b>Overall Outcome</b>			1-20	

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