



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. |
|---|-------------|----------------------|---------------------|------------------|
| 15/295,794 | 10/17/2016 | Fred Pisacane | 44921.0517 | 9218 |
| 95996 | 7590 | 07/02/2020 | EXAMINER | |
| Zeman-Mullen & Ford, LLP 233 White Spar Road Prescott, AZ 86303 | | | NGUYEN, DUNG V | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3723 | |
| | | | NOTIFICATION DATE | DELIVERY MODE |
| | | | 07/02/2020 | 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):

ktopolewski@zmfiplaw.com
lzemanmullen@zmfiplaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte FRED PISACANE

Appeal 2019-006712
Application 15/295,794
Technology Center 3700

Before JOHN C. KERINS, STEFAN STAICOVICI, and LEE L. STEPINA,
Administrative Patent Judges.

Opinion for the Board filed by *Administrative Patent Judge*,
LEE L. STEPINA

Opinion Dissenting-in-part filed by *Administrative Patent Judge*,
STEFAN STAICOVICI

STEPINA, *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 to reject claims 1–9. 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. Appellant identifies the real party in interest as Fred Pisacane. Appeal Br. 1.

CLAIMED SUBJECT MATTER

Appellant's disclosure is directed to a laminated mop head that uses fabric lamination over a foam block. Spec. ¶ 2.

Claim 1, reproduced below, is illustrative of the claimed subject matter.

1. A laminated foam mop head comprised of:
 - a foam block having a top surface, a bottom surface, and two side surfaces;
 - at least one fabric material laminated with heat and pressure along both the complete bottom and side surfaces of the foam block without using an adhesive such that the shape of the foam block after lamination retains its block shape; and
 - a bracket comprised of a top member and two identical side members where the bracket is attached to the top surface of the foam block such that the bottom and side surfaces of the foam block are drawn upward and inward to form a mop head having an elliptical shaped cross section and the top surface of the foam block is pushed inward and not exposed.

Appeal Br. 16 (Claims App.).

REFERENCES

The prior art relied upon by the Examiner is:

| Name | Reference | Date |
|----------|--------------|----------------|
| Siemund | US 3,406,420 | Oct. 22, 1968 |
| Mallory | US 4,050,111 | Sept. 27, 1977 |
| Mattesky | US 5,152,809 | Oct. 6, 1992 |

REJECTIONS²

- I. Claim 1 is rejected under 35 U.S.C. § 103(a) as unpatentable over Mallory and Mattesky.
- II. Claims 4 and 7 are rejected under 35 U.S.C. § 103(a) as unpatentable over Mallory.
- III. Claims 2, 3, 5, 6, 8, and 9 are rejected under 35 U.S.C. § 103(a) as unpatentable over Mallory, Mattesky, and Siemund.

OPINION

Rejection I–Mallory and Mattesky (claim 1)

The Examiner finds that Mallory discloses many of the elements recited in claim 1, including a fabric material (cover 36) laminated along the complete bottom and side surfaces of a foam block (sponge 32), but relies on Mattesky to teach “a method of laminating foam . . . to a web . . . with heat and/or pressure without using adhesive.” Non-Final Act. 2 (citing Mallory 2:7–55, Figs. 1, 2; Mattesky 4:7–45, 6:49–7:63, Figs. 2–5). In proposing to modify the laminated fabric material of Mallory such that it is the result of a lamination process using *heat and pressure* as taught by Mattesky, the Examiner reasons “[i]t would have been recognized by one of ordinary skill in the art that applying the known technique taught by Mattesky to the mop head of Mallory would have yielded predictable results and results in an improvement mop head” in which the predictable result would have been “a mop head that would prevent separation or disengagement of the web from

² The Final Office Action dated May 18, 2018, hereinafter “Final Act.” or “Final Office Action,” incorporates the statement of rejections I–III in the Non-Final Office Action dated September 14, 2017, hereinafter “Non-Final Act.” or “Non-Final Office Action,” by reference. *See* Final Act. 2; Non-Final Act. 2–4.

Appeal 2019-006712
Application 15/295,794

the foam block.” *Id.* at 2–3 (citing *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007)).

Appellant argues “[l]amination, by definition, requires that the layers be united by an adhesive or other means[, and u]nlike Applicant’s claimed invention, Mallory fails to disclose at least one fabric material laminated along both the complete bottom and side surfaces of the foam block with any means.” Appeal Br. 9 (emphasis omitted). Instead, Appellant asserts, “Mallory discloses a web of netlike material extending over the outer side and face of a sponge ‘in a conventional manner.’” *Id.* Appellant contends that cover 36 of Mallory is secured to sponge 32 via a clamp. *Id.* (citing Mallory 2:52–55). According to Appellant, this means that “even without requiring the exact process of lamination claimed by Applicant, Mallory also fails to disclose that a fabric material is laminated at all along both the complete bottom and side surfaces of a foam block.” *Id.*

In response, the Examiner states “Mallory is not relied upon for the process of laminating with heat and pressure without using an adhesive. Mallory (Fig. 1–2) shows a fabric that extends over three surfaces of a foam block.” Ans. 4.

Appellant’s Specification describes the process of laminating as follows: “Fabric material 22 may be laminated to the bottom surface 16 and side surfaces 18 of the foam block by *using any known means of uniting superimpose[d] layers* that does not include a glue or adhesive, such as, for example, heat and pressure applied to the superimposed layers.” Spec. ¶ 11 (emphasis added). Thus, the Specification provides two examples of lamination, one performed via the use of glue or adhesive and the other via the use of heat and pressure. In both cases, the two materials are “united” as a result of the lamination. In light of the Specification, the broadest

reasonable interpretation of the term “laminated” requires more than merely placing and securing of one layer over another, it requires uniting these layers. We agree with Appellant that Mallory teaches clamping cover 36 to sponge 32. *See* Mallory 2:42–55, Figs. 1, 2. Under the broadest reasonable interpretation of the term “laminated,” Mallory’s clamped combination of cover 36 and sponge 32 does not qualify as a fabric material laminated along a surface of a foam block. Thus, the Examiner’s finding that “Mallory discloses a mop head 10 comprising a foam block 32 having top, bottom surface, two side surfaces, a fabric material 36 *laminated* along both the bottom and side surfaces of the foam block 32 without using an adhesive” (Non-Final Act. 2) is not supported by a preponderance of the evidence. The Examiner’s proposed modification to window cleaner 10 of Mallory presumes Mallory’s fabric 36 and block 32 are laminated. *See* Non-Final Act. 2–3. In other words, the Examiner proposes to modify a laminated structure in Mallory such that its lamination is created via heat and pressure.³ As the Examiner’s rejection of claim 1 relies on an insufficiently supported finding of fact, we do not sustain the rejection of claim 1.

Rejection II–Mallory (claims 4 and 7)

Independent claim 4 recites, in part, “a foam block having a top surface, a bottom surface, and two side surfaces; at least one fabric material

³ We realize that in a Decision in Appeal Number 2014-007376, Application Serial Number 11/401,686, hereinafter the “’376 Decision,” the Board affirmed a rejection of a similar claim as unpatentable over Mallory and Mattesky. ’376 Decision 6. However, claims 4 and 7 in Rejection II of the present Appeal are based on Mallory alone and make clear that the Examiner does not propose to modify the window cleaner of Mallory to include lamination of fabric 36 to block 32, but, rather, the Examiner is relying on Mallory *to disclose* that fabric 36 is laminated to block 32. No rejection similar to Rejection II was addressed in the ’376 Decision.

laminated to the complete bottom and side surfaces of the foam block.”

Appeal Br. 16 (Claims App.). Claim 4 further recites that the foam block has an elliptical shape with pointed edges. *See id.* Independent claim 7 recites substantially similar limitations. *See id.* at 17.

The Examiner finds

Mallory discloses the claimed invention as above except for a mop head having an elliptical shaped cross section with pointed edges such that a center point located between the two pointed edges is equidistant to the bottom surface of the foam block and a center of the open bottom of the bracket or a top surface of the foam block that the two end surfaces of the foam block form elliptical shapes having pointed ends such that a vertical distance from the pointed ends to the bottom of the foam block is about the same as a vertical distance to the bracket.

Non-Final Act. 3 (emphasis added). Thus, the Examiner finds that Mallory fails to disclose only the recited details of the shape of the mop head in claims 4 and 7.⁴ The Examiner determines that the recited shape is not disclosed as critical to Appellant’s invention, and, therefore, it would have been an obvious matter to change the shape of Mallory’s foam block to meet these requirements. *Id.*

Appellant argues that Mallory fails to disclose that cover 36 is laminated to the bottom and sides of sponge 32. Appeal Br. 12; Reply Br. 4. The Examiner does not directly address Appellant’s argument regarding lamination as it applies to claims 4 and 7. As discussed above, we do not agree that Mallory teaches that cover 36 and sponge 32 are laminated to each other. Accordingly, we do not sustain the rejection of claims 4 and 7 as unpatentable over Mallory.

⁴ Unlike claim 1, claims 4 and 7 do not require lamination via heat and pressure.

Appeal 2019-006712
Application 15/295,794

Rejection III—Mallory, Mattesky, and Siemund (claims 2, 3, 5, 6, 8, and 9)

Claims 2, 3, 5, 6, 8, and 9 each depend from one of claims 1, 4, and 7. Appeal Br. 16–17 (Claims App.). The Examiner does not rely on Siemund in any manner that would remedy the deficiency in the findings of fact regarding Mallory discussed above with respect to Rejections I and II. *See* Non-Final Act. 4. Accordingly, we do not sustain the rejection of claims 2, 3, 5, 6, 8, and 9 as unpatentable over Mallory, Mattesky, and Siemund.

CONCLUSION

The Examiner’s rejections are affirmed.

DECISION SUMMARY

| Claims Rejected | 35 U.S.C. § | Reference(s)/Basis | Affirmed | Reversed |
|------------------------|--------------------|----------------------------|-----------------|------------------|
| 1 | 103(a) | Mallory, Mattesky | | 1 |
| 4, 7 | 103(a) | Mallory | | 4, 7 |
| 2, 3, 5, 6, 8, 9 | 103(a) | Mallory, Mattesky, Siemund | | 2, 3, 5, 6, 8, 9 |
| Overall Outcome | | | | 1–9 |

REVERSED

STAICOVICI, *Administrative Patent Judge*, Dissenting-in-part.

I respectfully dissent from the Majority's decision to reverse the Examiner's rejections under U.S.C. § 103(a) of claim 1 as unpatentable over Mallory and Mattesky and of claims 2, 3, 5, 6, 8, and 9 as unpatentable over Mallory, Mattesky, and Siemund.

With respect to independent claim 1, the Examiner finds that Mallory discloses "a fabric material 36 *laminated* along both the bottom and side surfaces of the foam block 32 without using an adhesive." Non-Final Act. 2 (emphasis added).

The Majority determines that because Mallory discloses *clamping* cover 36 to sponge 32 (*see* Mallory 2:42–55, Figs. 1, 2) and "the term 'laminated' requires *uniting* these layers," the Examiner's finding that Mallory's fabric material 36 and foam block 32 are "laminated" is not supported by a preponderance of the evidence. *See supra* (citing Spec. para. 11).

I do not agree that the Examiner's use of the term "laminated" in the Non-Final Action, when referring to Mallory's teachings, is fatal to the rejection, because in the Answer the Examiner clarifies Mallory's teachings and finds that "Mallory . . . shows a fabric that *extends* over three surfaces of a foam block." Ans. 4 (citing Mallory, Figs. 1, 2). Hence, the Examiner recognizes that Mallory's fabric material 36 merely *extends* over foam block 32, and, thus, acknowledges that fabric material 36 and foam block 32 are not *united*, which is why the Examiner then employs Mattesky to teach a laminating process to unite fabric material 36 and foam block 32. *See* Non-Final Act. 2–3; Ans. 4–5.

The Examiner's reasoning to modify Mallory's clamp attachment of fabric material 36 to foam block 32 using the laminating process of Mattesky, to "prevent separation or disengagement" of Mallory's fabric material 36 from foam block 32, implies that the Examiner interpreted Mallory's fabric material 36 and foam block 32 as not *united*. See Non-Final Act. 2–3; Ans. 5. In other words, the Examiner's rationale implies that the Examiner interpreted Mallory's fabric material 36 and foam block 32 as not *united*, because the improvement alluded to by the Examiner of employing Mattesky's laminating process is that it "prevent[s] separation or disengagement" of Mallory's fabric material 36 from foam block 32.

As such, the Examiner's clarification of the interpretation of Mallory's teachings presented in the Answer is consistent with the Examiner's reasoning to combine the teachings of Mallory and Mattesky presented in the Non-Final Action. To view Mallory's fabric material 36 as *united*, i.e., laminated, to foam block 32, would in fact be inconsistent with the Examiner's reasoning to "prevent[s] separation or disengagement" of Mallory's fabric material 36 from foam block 32.

For the foregoing reasons, I am not persuaded of Examiner error and would sustain the rejection under 35 U.S.C. § 103(a) of claim 1 as unpatentable over Mallory and Mattesky.

As for the rejection of claims 2, 3, 5, 6, 8, and 9, Appellant's arguments do not refer to the Examiner's use of Siemund's teachings of a polyester fabric or fiber textile, or the reasoning to combine the teachings of Mallory, Mattesky, and Siemund. See Non-Final Act. 3–4; Appeal Br. 12–13. Hence, I would also sustain the rejection of claims 2, 3, 5, 6, 8, and 9 over the combined teachings of Mallory, Mattesky, and Siemund.

Appeal 2019-006712
Application 15/295,794

Finally, with respect to the rejection of independent claims 4 and 7, because the Examiner's modification of Mallory does not unite, i.e., laminate, fabric material 36 and foam block 32, I concur with the Majority's decision to not sustain the rejection under U.S.C. § 103(a) of claims 4 and 7 as unpatentable over Mallory.