

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM A. MILLWARD
and JOHN DABINETT

Appeal No. 1998-3427
Application No. 08/442,109¹

HEARD: September 14, 1999

Before PATE, STAAB, and CRAWFORD, Administrative Patent Judges.
CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 31 through 46, which are all of the claims pending in this application. Claims 1 through 30 have been canceled.

The appellants' invention relates to a method of making a composite pipe. An understanding of the invention can be

¹ Application for patent filed May 16, 1995.

derived from a reading of exemplary claim 31, which appears in the appendix to the appellants' brief.

The prior art

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Cocks	4,351,364	Sep. 28,
1982		

The rejections

Claims 31 through 35, 37 through 41, 43, 45 and 46 stand rejected under 35 U.S.C. § 102 as being anticipated by Cocks.

Claims 36, 42 and 44 stand rejected under 35 U.S.C. § 103 as being unpatentable over Cocks.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 12, mailed January 6, 1998) for the examiner's complete reasoning in support of the rejections, and to the appellants' brief (Paper No. 11, filed October 10, 1997) and reply brief (Paper No. 14, filed March 6, 1998) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art reference, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

We turn first to the examiner's rejection of claims 31 through 35, 37 through 41, 43, 45 and 46 under 35 U.S.C. § 102(b) as anticipated by Cocks. We initially note that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.), cert. denied, 484 U.S. 827 (1987).

Appellants argue that Cocks does not disclose "forming the outer lining by helically winding a plurality of layers of continuous filament fiber material onto said core" as recited in claim 31.

The examiner responds to this argument by stating:

. . . Cocks' disclosed fiber materials are considered to be suitable teachings of Appellants' "continuous filament fiber material" as claimed. [Examiner's answer at page 6].

Cocks discloses a steel reinforced pipe in which a fine facing cloth 20 is wound onto a mandrel and impregnated from underneath by epoxy resin. Another layer of epoxy resin is then sprayed onto the facing cloth 20 and during the spraying a layer of woven glass fiber 21 is wound over the face cloth. (Col. 2, lines 51 to 65). The resinated layers of woven glass fiber fabric and fine facing cloth are allowed to gel. A further layer of epoxy resin is then applied together with a layer of chopped fiber strand mat 22 (Col. 3, lines 5-8). A bandaging layer of facing tissue 23 is wound over the chopped fiber strand mat 22 (Col. 3, lines 18-20). A layer of epoxy resin is then sprayed on the facing tissue layer (Col. 3, lines 22 to 23). Cocks also discloses that steel reinforcing strips 31, 33, and 35 are wound on the resin impregnated facing cloth 41 and that an outer lining 16 comprised of a layer of chopped fiber strand mat 40 and woven glass fiber 42 with resin therebetween is wound on the steel layers (Col. 3,

lines 21-48; Col. 4, lines 54 to 62). There is no discussion of continuous filament fiber material.

As such, we agree with the appellants that Cocks does not disclose the use of continuous filament fibers. Therefore, we will not sustain this rejection of claims 31 or claims 32 through 35, 37 through 41, 43, 45 and 46 dependent therefrom.

We turn next to the examiner's rejection of claims 36, 42 and 44 under 35 U.S.C. § 103 as being unpatentable over Cocks. Each of the claims subject to this rejection is ultimately dependent on claim 31. As such, each of the claims which are subject to this rejection require the step of "forming the outer lining by helically winding a plurality of layers of continuous filament fiber material." We find no suggestion in Cocks to utilize continuous filament fiber material. Rather, Cocks suggest that a composite pipe should be formed using woven glass fiber and chopped fiber strand mat. (Col. 2, lines 51 to 65; Col. 4, lines 57 to 62). In view of the foregoing, we will not sustain this rejection.

The decision of the examiner is reversed.

REVERSED

WILLIAM F. PATE, III)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LAWRENCE J. STAAB)	APPEALS
Administrative Patent Judge)	AND
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