

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(2) is not binding precedent of the Board.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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte WENDELL B. COLSON  
and PAUL G. SWISZCZ

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Appeal No. 95-4515  
Application 08/243,000<sup>1</sup>

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HEARD: Feb. 8, 1999

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Before JOHN D. SMITH, WARREN, and LIEBERMAN, Administrative  
Patent Judges.

LIEBERMAN, Administrative Patent Judge.

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<sup>1</sup> Application for patent filed May 16, 1994. According to appellants, this application is a continuation of Application 07/867,476, filed April 13, 1992; which is a division of Application 07/701,165, filed May 17, 1991, now U.S. Patent No. 5,313,999, issued May 24, 1994; which is a continuation-in-part of Application 07/602,998, filed October 24, 1990, now abandoned.

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### **DECISION ON APPEAL**

This is an appeal from the final rejection of claims 122, 124, 129, 130 and 133 through 143, 145 and 146. Claims 125 through 127, 144 and 147 are objected to by the examiner with the indication that these claims would be allowed if written in independent form, including all of the limitations of the base claim and any intervening claims.

### **THE INVENTION**

Appellants' invention is drawn to a method for manufacturing a fabric cellular structure for a light control window covering. The window covering useful for light control has two sheets of material with a plurality of strips of material therebetween adhesively bonded between and to the sheets of material such that the first and second sheets of material are relatively movable in a direction perpendicular to the cut sheets. Claims 122 and 133 are illustrative and read as follows.

122. A method for manufacturing a fabric cellular structure for a light control window covering comprising continuously feeding a first sheet of material; continuously feeding a strip of material having opposed faces and marginal edge portions; applying a first adhesive line to one marginal edge portion of the said strip on one face thereof; applying a second adhesive line to an opposed marginal edge portion of

said strip on the opposed face thereof; cutting said strip into a plurality of cut strips of uniform length; feeding each cut strip to a position juxtaposed to the said first sheet with each said cut strip extending transversely to said first sheet, positioning said first sheet relative to each said strip as said strip is fed thereto thereby to position said strips in overlapping relation, adhesively tack bonding said cut strips to said first sheet in said overlapping relation with said one marginal portions thereof in closely spaced apart relation longitudinally of said first sheet; continuously feeding a second sheet of material in juxtaposed coincident longitudinal and transverse relation with said cut strips and said first sheet and in contact with said opposed marginal portions of said cut strips; pressing together said first and second sheets with said cut strips therebetween; and adhesively bonding said cut strips and sheets to produce a cellular structure in which said first and second wide sheet materials are relatively movable in directions perpendicular to said cut strips to produce a window covering in which said strips selectively produce a closed window covering or an open window covering.

133. A method for manufacturing a fabric light control window covering, comprising continuously supplying a narrow strip material and feeding said strip material longitudinally, said strip material having first and second edges and first and second sides; applying a first adhesive line longitudinally to said strip material adjacent said first edge on said first side; applying a second adhesive line longitudinally to said strip material adjacent said second edge on said second side; feeding a first wide sheet material longitudinally in a direction transverse to said strip material; cutting said strip material into a plurality of individual cut strips having a length substantially equal to the width of said first wide sheet material; pressing said first side of each said cut strip along said first edge against said first sheet material to tack bond each cut strip along said first adhesive line thereon to said sheet material; displacing each cut strip partially away from said first wide sheet material before tack bonding the next successive strip thereto; feeding a second wide sheet material into contact with said second sides of said cut strips bonded to said first

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wide sheet material; and pressing together said first wide sheet material, cut strips, and second wide sheet material to form a bonded sandwich in which said first and second wide sheet materials are movable relative to each other in a direction perpendicular to said cut strips.

The references of record relied upon by the examiner are:

Hansen	4,137,111	Jan. 30, 1979
Hopper	4,386,454	Jun. 7, 1983

#### THE REJECTION

Claims 122, 124, 129, 130, 133 through 143, 145 and 146 are rejected under 35 U.S.C. § 103(a) as unpatentable over Hopper in view of Hansen. <sup>2</sup>

#### OPINION

The examiner characterizes the claimed invention as one obtained from the combination of two references, Hopper and Hansen. The Hopper reference, according to the examiner, discloses a method of making a light control window covering, which includes advancing overlying elongated sheets supplied

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<sup>2</sup> The examiner after rejecting claims 122, 124, 129, 130, 133 through 143, 145 and 146 in the final Office action of September 20, 1994 (Paper No. 24) and grouping the claims in the answer, rejected claims 80, 81, 92 through 94, and 97 through 103 under 35 U.S.C. § 103(a) as being unpatentable over Hopper in view of Hansen in his answer. It appears that the examiner intended to reject claims 122, 124, 129, 130, 133 through 143, 145 and 146 as unpatentable over Hopper in view of Hansen under 35 U.S.C. § 103(a), and we shall treat the rejection as if it had been appropriately set forth.

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from rolls **14** through an apparatus. Simultaneously, a plurality of spacer devices are fed across and between the sheets and in a direction transverse to the feeding direction of the sheets. Thereafter, the spacer devices are adhesively bonded to the upper and lower sheets by the use of hot melt adhesives (examiners answer, pages 2 and 3). Although the examiner does not explicitly explain the shortcomings of Hopper, the record before us is abundantly clear as the examiner states that Hansen is relied upon as disclosing the application of adhesive to opposed second edge of spacer devices to secure the spacer devices to the two sheets in a "sandwich-like construction."

Even if the examiner was correct in combining Hopper and Hansen in the manner **supra**, the method created by combining Hopper and Hansen would fall short of the method claimed in claims 122 and 133, as each of the aforesaid claims requires features that cannot be achieved by combining Hopper and Hansen. **Uniroyal Inc. v. Rudkin-Wiley Corp.**, 837 F.2d 1044, 1052, 5 USPQ2d 1434, 1439 (Fed. Cir.), **cert. denied**, 488 U.S. 825 (1988). Accordingly, we shall not sustain the rejection of the examiner. The rejection before us contains

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two separate sets of claims. The first set includes claim 122, and dependent claims 124, 129 and 130. Independent claim 122 requires the limitation, "positioning said first sheet relative to each said strip as said strip is fed thereto thereby to position said strips in overlapping relation." The examiner in the office action dated September 20, 1994 (Paper No. 24; paragraph no. 2), stated that "it is the examiners position that it would have been within the purview of those having ordinary skill in the art to space the strips closer to each other in the method of the combined references."

We do not agree. The examiner has offered no reasons or motivation to so space the strips. Nor has the examiner even shown that the strips can be spaced in overlapping fashion using the apparatus and method of Hopper. To the contrary, Hopper teaches strips which are not positioned in overlapping relationships as shown by Hopper in figures 2 and 3. Indeed, substantial space exists between the strips. Nor does Hansen solve the problem of overlapping spacing. The purpose of Hansen is to provide a filled cellular material for

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bedding materials, wherein a reasonable size cell is required for the insertion of synthetic filler material.

We find no motivation for one of ordinary skill in the art to provide minimal spaced cellular units by having overlapping strips as suggested by the examiner. There is no motivation to prepare a filled cellular unit with minimal sized units obtained by having closely spaced overlapping spacers, in accordance with the combined teachings of Hopper and Hansen. Accordingly, there is no suggestion to modify the structure of Hansen and no suggestion to modify the structure of Hopper. We therefore conclude that the examiner has failed to establish a **prima facie** case of obviousness against claims 122, 124, 129 and 130.

As to the second set of claims, including claim 133 and dependent claims 134 through 143, 145 and 146, claim 133 provides in part for, "displacing each cut strip partially away from said first wide sheet material before tack bonding the next successive strip thereto." The above limitation was introduced in the Preliminary Amendment (Paper No. 22).

Appellants' invention, as shown in Figure 3, provides for a specific positive mechanism of displacing the strip

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material or vane using a jet of air **79**. In contrast, the record before us is devoid of any argument by the examiner addressing this limitation. The examiner's answer does not address this limitation. Furthermore, we find no teaching in either Hopper or Hansen for the claimed process step, or a mechanism or rationale for providing said procedural step. In the absence of a teaching thereof, the examiner has failed to establish a **prima facie** case of obviousness.

DECISION

The rejection of claims 122, 124, 129, 130, 133 - 143, 145, and 146 is reversed.

**REVERSED**

John D. Smith )

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	Administrative Patent Judge	)	
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		)	
	Charles F. Warren	)	BOARD OF
PATENT		)	
	Administrative Patent Judge	)	APPEALS AND
		)	INTERFERENCES
		)	
		)	
	Paul Lieberman	)	
	Administrative Patent Judge	)	

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