

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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 JONG KYUNG KIM, DONG JIN MOAK
CHANG HUN HYUM and CHUL HUL

Appeal No. 1997-1720
Application 08/155,881

ON BRIEF

Before KIMLIN, JOHN D. SMITH and KRATZ, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-4, all the claims remaining in the present application. Claim 1 is illustrative:

1. A method of applying a molding material which becomes malleable with heat into a designated mold while eliminating air entrapment within the molded material, the method comprising the steps of:

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"air is

advantageously minimized in the mold, thereby decreasing the number of air pockets in the resultant molded material." (page 7 of brief).

Appealed claims 1-4 stand rejected under 35 U.S.C. § 103 as being unpatentable over Konishi.

Upon careful consideration of the opposing arguments presented on appeal, we find that the prior art applied by the examiner fails to establish a *prima facie* case of obviousness for the claimed method. Accordingly, we will not sustain the examiner's rejection.

The examiner recognizes that the molding material depicted in Figure 3 of Konishi is heated in such a way that the temperature of section (a) is greater than the temperature of section (c), and the temperature of section (c) is greater than the temperature of section (b). In other words, section (b) of the molding material is at a lower temperature than both sections (a) and (c). However, since

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sections (a) and (c) are closer to the mold than section (b), the examiner reasons that the claimed "distribution is readable on such as it flows from the hottest to

the coolest" (page 5 of answer). While appellants contend that the reference discloses that the least temperature is applied to the molding material situated between the compressing plunger and the mold, the examiner responds that "[t]he argued gradient heating set forth in claim 1 is not deemed claimed as argued" (page 5 of answer). The examiner explains that "the greatest temperature is applied closest to the mold and this is met in Konishi [and] the furthest away from the mold is least heated and this is also met by the applied reference." (page 5 of answer).

The flaw in the examiner's reasoning is that the examiner is not ascribing the proper interpretation to the claim language "gradient heat" as it is normally defined and disclosed in the present specification. The first definition

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for the word "gradient" in Webster's New Collegiate Dictionary (1976) is "the rate of regular or graded ascent or descent", and appellants' specification describes gradient heating at page 3 as follows:

Specifically, container 10 is first gradiently heated as shown by the temperature distribution graph 20. The greater heat is applied to container 10 near orifice 18, and the heat decreases at generally a linear rate in a direction opposite orifice 18. The lesser heat is near the end of container 10, opposite orifice 18."

Given this reasonable interpretation to the claim language "applying a gradient heat to the molding material", manifestly, it cannot be gainsaid that Konishi fails to teach or suggest such gradient heating of the molding material.

Based on the foregoing, the examiner's decision rejecting the appealed claims is reversed.

REVERSED

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EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOHN D. SMITH)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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)	
PETER F. KRATZ)	
Administrative Patent Judge)	

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Motorola, Inc.
Suite R3108
P.O. Box 10219
Scottsdale, AZ 85271-0219