

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(2) is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte OLLI P. TUOMINEN,  
MATTHEW B. HOYT, DAVID F. MITCHELL, CAROL W. MORGAN,  
CLYDE G. ROBERTS, and ROBERT A. TYLER

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Appeal No. 1997-1797  
Application No. 08/198,936

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ON BRIEF  
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Before WINTERS, KIMLIN, and GARRIS, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 1 through 10 which are all of the claims pending in the application.

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The subject matter on appeal relates to a process for the production of filaments of potentially superconducting material which comprises preparing a liquid suspension of potential superconducting material and forming multicomponent filaments having a core of the suspension and a viscose sheath which contains cellulose xanthate. Further details of this appealed subject matter are set forth in representative independent claim 1 which reads as follows:

1. A process for the production of filaments of potentially superconducting material comprising:

(a) preparing a liquid suspension which contains at least 10 weight percent potential superconducting material;

(b) forming multicomponent filaments having a core of the suspension and a viscose sheath which contains cellulose xanthate; and

(c) thereafter, regenerating cellulose form [sic, from] the cellulose xanthate to form a rayon matrix.

The references relied upon by the examiner as evidence of obviousness are:

Cass, "Fabrication of Continuous Ceramic Fiber by the Viscous Suspension Spinning Process," Ceramic Bulletin, Vol. 70, No. 3, pp. 424, 426, 428 and 429 (1991).

Japanese

63-308812

December 1988

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All of the claims on appeal<sup>1</sup> stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Cass in view of the Japanese reference.

We refer to the brief and to the answer for a complete exposition of the opposing viewpoints expressed by the appellants and by the examiner concerning the above noted rejection.

#### OPINION

For the reasons set forth below, we cannot sustain this rejection.

The pivotal consideration on this appeal involves claim interpretation and in particular the proper interpretation to place upon step (b) of appealed independent claim 1 which requires "forming multicomponent filaments having a core of the suspension and having a viscose sheath which contains cellulose xanthate." According to the examiner's interpretation of this claim, "the core need not have a

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<sup>1</sup>The statement of rejection which appears on page 5 of the answer reflects that less than all of the appealed claims are included in the rejection before us. However, this appears to be an inadvertent error on the examiner's part, and, particularly in light of our disposition of this appeal, the error is harmless.

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composition different from the sheath" and "[t]hus a uniform composition fiber . . . could anticipate the claims" (answer, page 8). It is the examiner's basic position that, when so interpreted, the independent claim requirements relating to a "core of the suspension" and a "viscose sheath" are satisfied by the uniform filament composition resulting from the Cass and Japanese reference combination. We share the appellants' view, however, that this claim interpretation by the examiner is improper.

It is axiomatic that, in proceedings before the Patent and Trademark Office, claims in an application are to be given their broadest reasonable interpretation consistent with the specification and that claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. In re Sneed, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983).

The examiner's claim interpretation is certainly broad. Pursuant to this interpretation, step (b) of the appellants' independent claim is satisfied even when forming filaments or fibers from a uniform composition of suspension material in homogenous admixture with viscose (i.e., in accordance with

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the Cass process) because "one can call the outer layer . . . a sheath and the remaining portion of the fiber the core" (answer, page 7). The problem with this interpretation is that it is not a reasonable interpretation consistent with the appellants' specification. For example, the first full paragraph on page 3 of the subject specification discusses the Cass process as being unsatisfactory and thereby makes it clear that the examiner's claim interpretation is unreasonable and inconsistent with the specification. Moreover, we perceive merit in the appellants' argument that one of ordinary skill in the art would not interpret appealed claim 1 as the examiner has done.

In light of the foregoing, it is our determination that, even if the applied references were combined in the manner proposed by the examiner, the process resulting from this combination would not correspond to the process defined by appealed claim 1 when given its broadest reasonable interpretation consistent with the appellants' specification as it would be interpreted by one of ordinary skill in the art. We cannot sustain, therefore, the examiner's section 103

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rejection of the claims on appeal as being unpatentable over  
Cass in view of the Japanese reference.

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The decision of the examiner is reversed.

REVERSED

PATENT

Sherman D. Winters	)	
Administrative Patent Judge	)	
	)	
	)	
Edward C. Kimlin	)	BOARD OF
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
	)	
Bradley R. Garris	)	
Administrative Patent Judge	)	

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