Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT A. YAPEL, APARNA V. BHAVE, TIMOTHY J. EDMAN, BERNARD A. SCHELLER, LAWRENCE B. WALLACE and JERRY L. WARREN

Appeal No. 2002-0931
Application No. 09/037,625

ON BRIEF

Before KIMLIN, OWENS and POTEATE, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-13 and 15-25, all of the claims remaining in the present application.

Claim 1 is illustrative:

> 1. A web coating apparatus for continuously coating a coating fluid over a splice on a moving web, comprising:

> a coating die comprising a coating gap with the moving web in a coating position and comprising a splice coating gap in a splice coating position, the coating gap being adjustable between the coating position and the splice coating position during continuous coating of the coating fluid;
>
> a web guide positioned to guide the moving web in a first direction past the coating die such that a coating bead of the coating fluid can be formed in the coating gap;
>
> a vacuum system positioned to generate a reduced pressure condition along a lower surface of the coating die, the vacuum system comprising a vacuum gap with the moving web in the coating position and comprising a splice clearance gap in the splice coating position, the vacuum gap being adjustable independent of the coating gap between the coating position and the splice coating position during continuous coating of the coating fluid;
>
> a detector for signaling an increase in web thickness; and
>
> a controller functionally connected to the detector adapted to automatically and independently adjust the coating gap of the coating die and the vacuum gap of the vacuum system from the coating position to their respective splice coating positions in response to an increase in web thickness in excess of a predetermined magnitude while maintaining a stable coating bead.

The examiner relies upon the following references as evidence of obviousness:

Finnicum et al. (Finnicum)	5,154,951	Oct. 13, 1992
Umemura et al. (JP '074)	JP 58-88074	May 26, 1983
Bassa (DE '345)	DE 33 09 345	Sep. 30, 1984

Appellants' claimed invention is directed to an apparatus for coating a fluid over a splice on a moving web. The apparatus comprises a coating die which delivers the coating fluid across a coating gap onto the moving web. The apparatus also comprises a vacuum system which generates a reduced pressure along the lower surface of the coating die, which system includes a vacuum gap with the moving web in the coating position. The apparatus also includes a controller for adjusting the coating gap and the vacuum gap in order to accommodate a splice on the web during the continuous coating of the fluid.

Appealed claims 1-13 and 15-25 stand rejected under 35 U.S.C. § 103 as being unpatentable over JP '074 in view Finnicum and DE '345.

Upon careful consideration of the opposing arguments presented on appeal, we find ourselves in agreement with appellants that the examiner has not established a prima facie case of obviousness for the claimed apparatus. Accordingly, we will not sustain the examiner's rejection.

The examiner appreciates that JP '074, while disclosing an apparatus for coating a fluid on a moving web wherein the coating gap is adjustable during the coating operation, provides no

disclosure of a vacuum system of the type claimed. As a result, the examiner relies upon the combined teachings of Finnicum and DE '345. Finnicum, however, fails to disclose any adjustment in the vacuum gap between the vacuum system and the moving web. Rather, Finnicum discloses regulating the speed of the motor which generates the vacuum such that the pressure differential across the coating bead can be increased in response to a splice on the coating web. Accordingly, the combined teachings of JP '074 and Finnicum would not have resulted in the claimed system which includes the vacuum gap being adjustable during the continuous coating of the fluid.

The examiner's further reliance on DE '345 does not remedy the deficiency in the combined teachings of JP '074 and Finnicum. In relevant part, DE '345 discloses that "[s]ince the [vacuum] housing can be adjusted independently from the pouring device on a planetary path concentric to the casting roll, the gap initially set between the housing and the casting roll can remain and thereby a defined mode of operation can be sustained even after an adjustment" (page 4 of English translation, third paragraph, emphasis added). Hence, it can be seen that DE '345

is directed to maintaining a gap that is initially set between a vacuum housing and the roll upon which the web moves. While DE '345 also discloses that "[t]he support 32 can be adjusted by means of adjustment supports 35 and 36 in the direction of arrow 37 radially to the casting roll 1 so that the width of the gap 30 can be adjusted" (page 6 of translation, penultimate paragraph), we agree with appellants that the reference provides no teaching of detecting an increase in the web thickness, and adjusting the vacuum gap in response to the detection during the continuous operation.

We recognized and appreciate the logic the rationale set forth at pages 12-14 of the examiner's answer. We concur with appellants however, that the examiner's reasoning is essentially an explanation of how JP '074 could, and perhaps, should be modified in order to accommodate splices in the web that is being coated. It is well settled, however, that this is not the proper standard for evaluating the obviousness of a claimed invention under 35 U.S.C. § 103. While we find a certain appeal in the examiner's analysis, we simply find no teaching or suggestion in the applied references for automatically controlling and

adjusting both the coating gap and the vacuum gap during the continuous coating of the web.

In conclusion, based on the foregoing, we are constrained to reverse the examiner's rejection.

REVERSED

EDWARD C. KIMLIN Administrative Patent Judge	)	
TERRY J. OWENS Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
LINDA R. POTEATE Administrative Patent Judge	)	

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WILLIAM K. WEIMER
IMATION CORPORATION
LEGAL AFFAIRS
P.O. BOX 64898
ST. PAUL, MN 55164-0898