

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GUNTHER WORF, MICHAEL SAALMANN,
SVEIN SUNDE and TOM THORMODSEN

Appeal No. 2002-2277
Application No. 09/297,527

ON BRIEF

Before KIMLIN, PAK and WALTZ, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-8, 10, 11 and 15. Claims 9, 12 and 13, the other claims remaining in the present application, have been objected to by the examiner as being dependent on the rejected claims. Claim 1 is illustrative:¹

¹ Claim 1 is incorrectly reproduced in appellants' brief. Claim 1 of record appears in appellants' Amendment C, filed September 8, 2000 (Paper No. 8).

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1. A longline comprising at least one polyamide monofil with at least one stopper secured on the polyamide monofil surface, wherein said stopper consists essentially of a thermoplastic elastomer having a Shore D hardness of at least 50.

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

Keller	4,428,143	Jan. 31, 1984
Sunline (JP '010)	JP 40111010	Jan. 16, 1992
(Japanese Patent Publication)		

Appellants' claimed invention is directed to a longline comprising a polyamide monofil with a stopper secured thereon. The stopper consists essentially of a thermoplastic elastomer having a Shore D hardness of at least 50. According to appellants, "[l]onglines are used to produce angling lines, fish lines and continuous lines for catching fish" (page 2 of principal brief, third paragraph). Also, we are told that "[t]he improvement over the prior art embodied in the instant claims is that the hollow bodies (also known as stoppers), which are generally used to limit the mobility of rotors or clips to which hook lines and hooks are attached, have better adhesion to the filament than prior art constructions" (page 2 of principal brief, last paragraph).

Appealed claims 1-8, 10, 11 and 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Keller in view of JP '010.

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We have thoroughly reviewed the respective positions advanced by appellants and the examiner. In so doing, we find that the examiner has failed to establish a prima facie case of obviousness for the claimed subject matter. Accordingly, we will not sustain the examiner's rejection.

Keller, the primary reference, discloses a longline having nylon stoppers, and the examiner has accepted appellants' evidence that there is a difference between the nylon stoppers of Keller, a thermoplastic polymer, and the claimed stopper made from a thermoplastic elastomer. The examiner reasons, however, that since thermoplastic elastomers are well known materials and are found in the *Polymer Technology Dictionary* (page 4 of Answer, first paragraph), it would have been obvious for one of ordinary skill in the art to employ a thermoplastic elastomer to make the stopper of Keller.

We cannot subscribe to the examiner's reasoning. More is required for a finding of obviousness under § 103 than evidence that a particular material, claimed for a specific purpose, was known in the art. There must be some teaching or suggestion in the art that would have motivated one of ordinary skill in the art to substitute the claimed thermoplastic elastomer for the nylon stopper of Keller. This, however, has not been established

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by the examiner on this record. Accordingly, we must conclude that the examiner has not made out a prima facie case of obviousness for the claimed subject matter. In addition, we are not satisfied that the examiner has satisfied his burden of analyzing the specification evidence of unexpected results relied upon by appellants.

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

REVERSED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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)	
CHUNG K. PAK)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
THOMAS A. WALTZ)	
Administrative Patent Judge)	

ECK:clm

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