

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

This opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SEP 27 1996

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SAMUEL M. BOSZOR

Appeal No. 95-1697
Application No. 07/955,959¹

ON BRIEF

Before CALVERT, COHEN and STAAB, *Administrative Patent Judges*.

CALVERT, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 6 to 10, all the claims remaining in the application. Claim 6, the only independent claim on appeal, reads:

¹ Application for patent filed October 02, 1992.

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6. A method of curing a lay-up of a composite article in an autoclave, said method comprising:

positioning said lay-up onto tooling, said tooling supporting said lay-up on a first surface thereof;

coating a second surface of the lay-up with a releasing material;

applying a coat of silicone rubber to releasing material on said second surface;

curing said silicone rubber into a flexible sheet on the releasing material on said second surface, thereby creating an impression of the second surface in the sheet;

sealing all edges of the sheet to the tooling, said tooling and said sheet thereby forming an envelope about the lay-up, said tooling, sheet and lay-up comprising an assembly;

evacuating any gases from within the envelope to provide a vacuum therein; and, placing said assembly into said autoclave and subjecting said lay-up to a pressure and temperature at which the lay-up cures.

The references relied on in the final rejection are:

Olsen	4,421,581	Dec. 20, 1983
Callis et al. (Callis)	4,822,436	Apr. 18, 1989

The claims on appeal stand finally rejected under 35 U.S.C.

§ 103 on the following grounds:

1. Claims 6 to 9, unpatentable over Callis;
2. Claim 10, unpatentable over Callis in view of Olsen.

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The bases of the rejections, and the arguments of appellant and of the examiner relative thereto, are fully set forth in the final rejection, the appeal brief, and the examiner's answer, and it is unnecessary to repeat them extensively here.

With regard to claim 6, the question of patentability over the Callis patent turns on the issues of whether it would have been obvious to one of ordinary skill in the art (1) to coat the surface of Callis' laminates (col. 6, line 4) with a releasing material, and (2) to cure Callis' silicone rubber 116 when in place on the laminates (lay-up), rather than beforehand. As to (1), the examiner asserts that such step would have been obvious from Callis' disclosure at col. 10, lines 57-58; as to (2), the examiner acknowledges that Callis discloses curing the silicone rubber sheet before it is applied to the lay-up (laminates), but takes the position that it would have been obvious "to perform the instant curing step at any time in a process such as Callis in the expectation of a similar result" (final rejection, p. 3).

Before discussing the merits of the rejection, we note that the examiner states on page 3 of the final rejection that "the

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claimed procedure is not seen as reciting a specified order of method steps," and on page 5 of the answer that "Callis [sic: Callis'] procedure discloses multiple curing steps, only one of which is necessary to read on the instant claims." The examiner does not explain how either of these statements is pertinent to the rejection, nor is their pertinence evident to us. If the examiner intended to say that claim 6 does not require that the step of curing the silicone rubber follow the three previously-recited steps of positioning the lay-up, coating the second surface of the lay-up with releasing material, and applying a coat of silicone rubber to the releasing material,² we disagree, because the curing step recites that the silicone rubber is cured "into a flexible sheet on the releasing material on said second surface," which could only be done if the three preceding steps had already been performed.

First considering issue (2), we do not consider the examiner's position to be well taken. There is no evidence or

² We note that in line 6 of claim 6, "the" or "said" apparently should be inserted between "to" and "releasing."

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suggestion in the record that it is simply a matter of choice whether the silicone rubber coat is cured before or after it is positioned on the lay-up; to the contrary, in fact, the Callis patent discloses not only curing the silicone rubber bag 116 prior to placing it on the lay-up (laminates), but also that it should be cured by a specific two-stage process in which it is first cured in an autoclave and then stabilized by being "postcured" in an oven for an extended period of time at ambient pressure and a temperature "significantly higher than any temperature at which the bag will be subjected to during autoclaving of a component part with the bag" (col. 2, lines 46-56; col. 3, lines 14-20 and 44-51). This postcure stabilization step is described as yielding bags which are "particularly advantageous" (col. 3, lines 54-58). In view of this disclosure, we do not consider that one of ordinary skill would derive from Callis any indication that the bag 116 need not be cured until after it is placed on the lay-up. Moreover, even if such in-place curing was considered, it is not apparent how the bag, once in place, could be subjected to the two-stage curing taught

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by Callis. We therefore consider that any suggestion of modifying the Callis process to cure the bag 116 after it was placed on the lay-up would be derived not from the reference but from appellant's own disclosure, and thus would be based on impermissible hindsight. In re Deminski, 796 F.2d 436, 443, 230 USPQ 313, 316 (Fed. Cir. 1986). The Olsen patent, cited against claim 10, does not supply the deficiencies noted above.

In view of our holding with regard to issue (2), it is unnecessary to consider issue (1). The rejections of claims 6 to 10 will not be sustained.

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CONCLUSION

The examiner's decision to reject claims 6 to 10 under 35 U.S.C.
§ 103 is reversed.

REVERSED



IAN A. CALVERT)
Administrative Patent Judge)



IRWIN CHARLES COHEN)
Administrative Patent Judge)

) BOARD OF PATENT
) APPEALS AND
) INTERFERENCES
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LAWRENCE J. STAAB)
Administrative Patent Judge)

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