

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte E. CHRIS HORNAMAN
AND
THOMAS S. JONES

Appeal No. 1997-0230
Application No. 08/416,668

ON BRIEF

Before PAK, OWENS, and WALTZ, *Administrative Patent Judges*.
OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the examiner's final rejection of claims 1-13, which are all of the claims in the application.

THE INVENTION

Appellants claim methods for applying a pressure sensitive

adhesive to a porous carpet underlayment pad by applying a liquid pressure sensitive adhesive to a release layer, drying the pressure sensitive adhesive to form a dried pressure sensitive adhesive film, and contacting this film with a carpet underlayment pad. Claims 1 and 8 are illustrative and read as follows:

1. A method for applying a pressure sensitive adhesive to a porous carpet underlayment pad comprising the steps of:
(a) applying a layer of a liquid pressure sensitive adhesive polymer composition to the release side of a release substrate;
(b) drying the pressure sensitive adhesive polymer-containing layer to form a dried pressure sensitive adhesive film on the release substrate; and
(c) contacting the dried pressure sensitive adhesive film to a surface of the carpet underlayment pad so that the release substrate forms an outer surface to the pressure sensitive adhesive film.

8. A method for applying a pressure sensitive adhesive to a porous carpet underlayment pad comprising:
(a) applying a layer of a pressure sensitive adhesive polymer aqueous emulsion or a pressure sensitive adhesive polymer organic solution to the release side of a first release substrate;
(b) drying the polymer-containing layer to form a dried pressure sensitive adhesive film on the first release substrate;
(c) applying a second release substrate to the dried adhesive film, so that the release side of the second release substrate is in contact with the adhesive, to form an encased

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adhesive film;

(d) removing one of the release substrates from the
encased adhesive film to expose a surface of
the pressure sensitive film; and

(e) contacting the exposed pressure sensitive
adhesive film to a surface of the carpet
underlayment pad so that the other release
substrate forms an outer surface to the
pressure sensitive adhesive film.

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THE REFERENCES

Bennett	2,191,704	Feb. 27, 1940
Yount	4,035,218	Jul. 12, 1977

THE REJECTIONS

The claims stand rejected under 35 U.S.C. § 103 as follows: claims 1-7 over appellants' admitted prior art in view of Yount, and claims 8-13 over appellants' admitted prior art in view of Yount and Bennett.

OPINION

We have carefully considered all of the arguments advanced by appellants and the examiner and agree with appellants that the aforementioned rejections are not well founded. Accordingly, we reverse these rejections.

Rejection of claims 1-7

The admitted prior art relied upon by the examiner (answer, page 3) is at page 1, line 14 to page 2, line 24 of appellants' specification, whereat appellants acknowledge that it was known in the art to apply a pressure sensitive adhesive (PSA) to a carpet underlayment pad to prevent slippage between the carpet

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and the pad.

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Yount discloses a method for making releasable laminates by coating a water-dispersed PSA onto either a web of paper face stock or a web of release paper, joining the two webs together with the adhesive therebetween while the adhesive is still wet, and then drying the laminate (col. 1, line 66 - col. 2, line 5; col. 3, lines 60-61). Yount joins the webs together before the adhesive is dried to minimize wrinkling which would result from drying the paper face stock and release paper under different drying conditions (col. 2, lines 36-43). Also, Yount controls the moisture level of the dried laminate to minimize wrinkling of the laminate (col. 2, lines 28-43).

Appellants argue that Yount would not have fairly suggested, to one of ordinary skill in the art, drying the adhesive and then contacting the dried adhesive with the paper face stock because doing so would be expected to cause wrinkling (brief, page 3). Also, appellants argue that Yount would not have led such a person to apply the method to porous carpet underlayment pads (brief, pages 4-5).

Regarding appellants' argument that Yount would not have led one of ordinary skill in the art to dry the adhesive and

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then join it to the paper (brief, page 3), the examiner argues that such a method is described in Yount's discussion of the prior art (answer, page 5). In that discussion, Yount teaches that the prior art method causes wrinkling (col. 1, lines 14-36).

Even if Yount would have led one of ordinary skill in the art who was not concerned with wrinkling to dry the adhesive and then contact the adhesive with the paper stock, the examiner has not provided a convincing explanation as to why Yount would have led such a person to use the prior art method disclosed therein to apply PSA to a porous carpet underlayment pad. The examiner's argument is that Yount is not limited to paper stock (answer, page 6). The portions of Yount which the examiner relies upon in support of this argument are column 1, lines 8-10 and 34-36, and column 4, lines 62-67. The relied-upon portion in column 1 refers to paper stock and items such as tags, stickers and labels. There does not appear to be a suggestion of applying the method to a porous carpet underlayment pad. The portion in column 4 states that the invention is not limited to the precise method described in Yount's specification and that changes may be made without departing from the scope of the

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invention defined by the claims. Yount's claims, however, are limited to applying PSA to paper stock.

For the above reasons, we conclude that the examiner has not carried the burden of establishing a *prima facie* case of obviousness of the method recited in claim 1 or claims 2-7 which depend, directly or indirectly, therefrom. Consequently, we reverse the rejection of these claims.

Rejection of claims 8-13

Bennett discloses applying a covering strip to a PSA layer which has been applied to a release layer (page 2, right col., lines 8-10).¹ After the covering layer is removed, the PSA is contacted with a second surface such as paper, cardboard, metal, glass or paint, and the release layer is removed so that the PSA can be stuck by pressure to a third surface while remaining adhered to the second surface (page 1, left col., line 55 - right col., line 20; page 2, left col., lines 38-45).

The deficiencies in Yount discussed above with respect to

¹ The PSA applied to the release layer by Bennett is an ever-tacky gum rather than a polymer aqueous emulsion or a polymer organic solution as required by appellants' claim 8.

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claim 1 also apply to claim 8, and the examiner does not explain how Bennett remedies the deficiencies. Accordingly, we reverse the rejection of claim 8 and claims 9-13 which depend, directly or indirectly, therefrom.

DECISION

The rejections under 35 U.S.C. § 103 of claims 1-7 over appellants' admitted prior art in view of Yount, and claims 8-13 over appellants' admitted prior art in view of Yount and Bennett, are reversed.

REVERSED

CHUNG K. PAK)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
TERRY J. OWENS)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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THOMAS A. WALTZ)	
Administrative Patent Judge)	

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Patent Assistant
Air Products and Chemicals, Inc.
7201 Hamilton Blvd.
Allentown, PA 18195-1501