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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/486,059	08/14/2019	Delony L. Langer-Anderson	79280US005	2291
32692	7590	02/21/2023	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY			YANG, TSUNG TAI	
PO BOX 33427			ART UNIT	PAPER NUMBER
ST. PAUL, MN 55133-3427			3781	
			NOTIFICATION DATE	DELIVERY MODE
			02/21/2023	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 16/486,059	Applicant(s) Langer-Anderson et al.	
	Examiner Tsung Tai "Ted" Yang	Art Unit 3781	AIA (FITF) Status Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2022.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

- 5) ☒ Claim(s) 1,3,6-8,10-11,13-14,16-18,20,22,25,28-30 and 34 is/are pending in the application.
5a) Of the above claim(s) 6-7,10,13,18,28-29 and 34 is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1,3,8,11,14,16-17,20,22,25 and 30 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 14 August 2019 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) ☐ All b) ☐ Some** c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date _____
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 4) ☐ Other: _____

DETAILED ACTION

Notice of Pre-AIA or AIA Status

1. The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Status of Claims

2. Claims 6-7,10,13,18,28-29 and 34 are previously withdrawn from consideration. Claim 2 has been canceled. Claims 3, 14, 16, 20, 23, and 30 have been amended. Thus, claims 1,3,8,11,14,16-17,20,22,25 and 30 are currently under consideration.

Response to Arguments

3. Applicant's arguments filed 24 January 2023 have been fully considered but they are not persuasive.

4. The argument on pg. 9 of Applicant Remarks that "Claim 1 is not anticipated by Benetti because there is no express or inherent disclosure of "a bandage or dressing composition" in Benetti" is not persuasive. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the intended use of the contents of the claimed dispenser as "a bandage or dressing" does not result in a structural difference between the claimed dispenser and Benetti's dispenser. Therefore, the express or inherent disclosure of "a

bandage or dressing composition” is not required for Benetti to anticipate Claim 1 under 35 U.S.C. § 102(a)(1).

5. The argument on pg. 10 of Applicant Remarks that “the caulks and glues in Benetti have no relevance to the wound dressing applications of the present invention” is not persuasive. Benetti discloses “Devices and methods for reliably and reusably creating an airtight seal on a tapered nozzle attached to a container of air-curable material” (see Abstract). Specifically, Benetti’s disclosure is used to dispense any “air-curable material.” Caulks and glues are referenced in Benetti as examples of “air-curable material.” Furthermore, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the intended use of the contents of the claimed dispenser as “a bandage or dressing” does not result in a structural difference between the claimed dispenser and Benetti’s dispenser. Therefore, the express or inherent disclosure of “a bandage or dressing composition” is not required for Benetti to render claims 8, 11, 14, 16-17, 20, 22, and 30 unpatentable under 35 U.S.C. § 103.

6. The argument on pg. 10 of Applicant Remarks that “there is again nothing in either Benetti or Hardy that would lead one of ordinary skill to use the dispenser of Benetti to dispense the composition of Hardy” is not persuasive. As mentioned above, Benetti’s disclosure is used to dispense any “air-curable material” including caulks and **glues**. Hardy teaches “a polymer **adhesive** material” with the claimed viscosity. The examiner recognizes that obviousness may be established by combining or modifying

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the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, it would have been obvious to one of ordinary skill in the art prior to the effective filing date of the claimed invention to modify Benetti's device such that the "air-curable material" has a viscosity of greater than 20,000 Centipoise (cps) when measured at 23°C using a Brookfield LVT viscometer, as taught by Hardy, for the purpose of achieving "a limited sag distance when placed on a vertical surface" ([0026]).

Claim Rejections - 35 USC § 102

7. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a)(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention.

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