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17/048,380	10/16/2020	Ignatius A. Kadoma	80615US006	9173
32692	7590	03/06/2024	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY			ZHANG, MICHAEL N	
PO BOX 33427			ART UNIT	PAPER NUMBER
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* IGNATIUS A. KADOMA, JEFFREY A. CHAMBERS,  
MICHAEL D. ROMANO, and MARIE E. VANDERLAAN

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Appeal 2023-000855  
Application 17/048,380  
Technology Center 1700

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Before DONNA M. PRAISS, CHRISTOPHER C. KENNEDY, and  
MERRELL C. CASHION, JR., *Administrative Patent Judges*.

KENNEDY, *Administrative Patent Judge*.

DECISION ON APPEAL

The Appellant<sup>1</sup> appeals under 35 U.S.C. § 134(a) the Examiner's decision rejecting claims 1–15. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> “Appellant” refers to “applicant” as defined in 37 C.F.R. § 1.42. The Appellant identifies the real parties in interest as 3M Company and 3M Innovative Properties Company. Appeal Br. 2. The Assignment Recordation records reflect that 3M Innovative Properties Company has assigned the application to SOLVENTUM INTELLECTUAL PROPERTIES COMPANY. Appellant is reminded of its obligation to update its real party in interest information within 20 days of any change during the appeal. *See* 37 C.F.R. § 41.8(a).

## BACKGROUND

The subject matter on appeal relates to biodegradable layered composites said to be useful, e.g., for controlling weed growth and moisture in agricultural applications. *E.g.*, Spec. ¶¶ 1, 2; Claim 1. Claim 1 is reproduced below from page 6 (Claims Appendix) of the Appeal Brief (emphasis added to key disputed limitation) (formatting added):

1. A biodegradable layered composite comprising:
  - a first nonwoven biodegradable layer having a first and second major surface, the first nonwoven biodegradable layer comprising:
    - biodegradable polymeric melt-blown fibers, and
    - a plurality of particles enmeshed in the biodegradable polymeric melt-blown fibers*; and
    - a biodegradable polymer film on at least a portion of the first major surface of the first nonwoven biodegradable layer.

## REJECTIONS ON APPEAL

No.	Claims Rejected	35 U.S.C. §	References
1	1–7, 15	103	Wong <sup>2</sup>
2	2, 11–14	103	Wong, Merrill <sup>3</sup>
3	8	103	Wong, Labbé <sup>4</sup>
4	9	103	Wong, Ehret <sup>5</sup>
5	10	103	Wong, Spittle <sup>6</sup>

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<sup>2</sup> US 2015/0337094 A1, published Nov. 26, 2015.

<sup>3</sup> US 3,080,681, issued Mar. 12, 1963.

<sup>4</sup> US 6,401,390 B1, issued June 11, 2002.

<sup>5</sup> US 5,783,504, issued July 21, 1998.

<sup>6</sup> US 6,360,478 B1, issued Mar. 26, 2002.

## ANALYSIS

The Appellant argues the claims as a group. We select claim 1 as representative, and the remaining claims will stand or fall with claim 1.

After review of the cited evidence in the appeal record and the opposing positions of the Appellant and the Examiner, we determine that the Appellant has not identified reversible error in the Examiner's rejections. Accordingly, we affirm the rejections for reasons set forth below, in the Final Action dated April 1, 2022, and in the Examiner's Answer dated August 19, 2022.

There does not appear to be any dispute that, in Wong, filler particles such as calcium carbonate are integrated *into* polymeric melt-blown fibers; i.e., the particles are embedded in and on the surfaces of the fibers, not merely surrounded by, held in place, and/or entangled by the fibers. *See generally* Final Act.; Appeal Br.; Ans. The sole issue on appeal is whether particles that are embedded in and on the surfaces of the fibers, and surrounded by the other fibers of the fabric, fall within the broadest reasonable construction, consistent with the Specification, of the claim 1 limitation, “particles *enmeshed* in the biodegradable polymeric melt-blown fibers.”

We determine that they do, and therefore we affirm the Examiner's rejection. As the Examiner explains, Ans. 3–4, the Specification defines the term “enmeshed” as encompassing “particles that are dispersed and physically held *in* the fibers of a nonwoven biodegradable layer.” Spec. ¶ 6 (emphasis added). The Specification states that “[t]he particles become enmeshed in a melt-blow fibrous matrix as the fibers contact the particles.” Spec. ¶ 17. The definition in ¶ 6 does not define “enmeshed” as requiring

the particles to merely be surrounded by or entangled by the fibers but not embedded in the fibers; on the contrary, it defines the term “enmeshed” as encompassing particles that are “held *in* the fibers,” which is consistent with ¶ 17’s reference to the particles “contact[ing]” the melt-blown fibrous matrix. *See id.*

There is no dispute that the particles in Wong are held in the fibers, and that those particles in turn are surrounded by and entangled with other fibers in the fabric. Given the disclosures in the Specification noted above, which the Appellant does not acknowledge or address, the Appellant fails to identify reversible error in the Examiner’s determination that Wong’s particles fall within the broadest reasonable construction, consistent with the Specification, of the disputed term. *See In re ICON Health & Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007) (“[T]he PTO must give claims their broadest reasonable construction consistent with the specification.”); *cf. In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989) (“[D]uring patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.”).

We affirm the Examiner’s rejection.

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