

PATENT OWNER
EXHIBIT 2013



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/737,101 | 12/15/2003 | Lynn Brud | 20246 | 5505 |
| 23556 | 7590 | 02/14/2011 | EXAMINER | |
| KIMBERLY-CLARK WORLDWIDE, INC. Tara Pohlkotte 2300 Winchester Rd. NEENAH, WI 54956 | | | ZALUKAEVA, TATYANA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3761 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 02/14/2011 | PAPER |

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LYNN BRUD, MICHAEL FAULKES, and
EMILY TRAN

Appeal 2009-011707
Application 10/737,101
Technology Center 3700

Before WILLIAM F. PATE, III, MICHAEL W. O'NEILL, and
FRED A. SILVERBERG, *Administrative Patent Judges*.

O'NEILL, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Lynn Brud et al. (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-4, 6-18, 21, and 43-45 under 35 U.S.C. § 102(b) as anticipated by Rönnerberg (WO 98/53785, pub. Dec. 3, 1998), claim 5 under 35 U.S.C. § 103(a) as being unpatentable in view of Rönnerberg and Walker (GB 2 208 263 A, pub. Mar. 22, 1989), and claims 12, 13, 18-20, and 44-45 under 35 U.S.C. § 103(a) as being unpatentable in view of Rönnerberg.² Claims 22-42 have been withdrawn. We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

The Invention

The claims on appeal relate to an absorbent garment.

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. An absorbent garment, comprising:
 - a garment shell defining a longitudinal axis, a transverse axis, a first waist edge generally parallel to the transverse axis, a first waist region contiguous with the first waist edge, a second waist edge generally parallel to the transverse axis, and a second waist region contiguous with the second waist edge;
 - a first inner attachment member disposed at the first waist region, and a second inner attachment member disposed at the second waist region, each attachment member having a length dimension generally parallel to the longitudinal axis; and

² The rejection of claim 4 under 35 U.S.C. § 112, second paragraph, is not before us for review pursuant Appellants' statement acknowledging the improper antecedent basis for the term "article" and further stating that "there is not dispute to be resolved by the Board with respect to this claim" concerning this rejection. App. Br. 4.

an absorbent assembly adapted for refastenable attachment to the garment shell, the absorbent assembly having an inner surface adapted for contact with a wearer's body, an outer surface opposite the inner surface, a first end region in facing relationship with the first waist region of the garment shell, and a second end region in facing relationship with the second waist region of the garment shell,

wherein the absorbent assembly comprises a first fastening component disposed in the first end region, the first fastening component having a length dimension generally parallel to the longitudinal axis, and a second fastening component disposed in the second end region, the second fastening component having a length dimension generally parallel to the longitudinal axis, wherein the first fastening component is adapted for refastenable engagement to the first inner attachment member, and the second fastening component is adapted for refastenable engagement to the second inner attachment member,

wherein the length dimension of the first inner attachment member is greater than the length dimension of the first fastening component and the second attachment member.

OPINION

The Examiner's findings and analysis are insufficient to support the finding that Rönnerberg discloses that the length dimension of the first inner attachment member is greater than the length dimension of the second inner attachment member as called in claims 1, 43, and 44. The Examiner has arbitrarily selected in Rönnerberg, two portions 8, 9 of material 3 in order to satisfy the aforementioned claim limitation. Essentially, the Examiner has found that in Rönnerberg, one portion 9 compared to another portion 8, which are both part of one structure 3, discloses the claim limitation. Consistent

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.