

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

OWENS CORNING,
Petitioner,

v.

FAST FELT CORPORATION,
Patent Owner.

Case IPR2015-00650
Patent 8,137,757 B2

Before JO-ANNE M. KOKOSKI, KRISTINA M. KALAN, and
BRIAN P. MURPHY, *Administrative Patent Judges*.

KOKOSKI, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Owens Corning (“Petitioner”) filed a Petition (“Pet.”) to institute an *inter partes* review of claims 1, 2, 4, 6, and 7 of U.S. Patent No. 8,137,757 B2 (“the ’757 patent,” Ex. 1001). Paper 1. Fast Felt Corporation (“Patent Owner”) filed a Preliminary Response (“Prelim. Resp.”). Paper 7. We have jurisdiction under 35 U.S.C. § 314.

Upon consideration of the Petition and Preliminary Response and the evidence of record, we determine that Petitioner has established a reasonable likelihood of prevailing with respect to the unpatentability of claims 1, 2, 4, 6, and 7 of the ’757 patent. Accordingly, we institute an *inter partes* review of those claims.

A. *Related Proceedings*

The parties indicate that the ’757 patent is involved in a district court action, in which Petitioner is a party, captioned *Fast Felt Corp. v. Owens Corning*, Civ. A. No. 3:14-CV-00803-DAK (N.D. Ohio). Pet. 2; Paper 6, 2.

B. *The ’757 Patent*

The ’757 patent, titled “Print Methodology for Applying Polymer Materials to Roofing Materials to Form Nail Tabs or Reinforcing Strips,” is directed to a method for applying nail tabs to roofing and building cover materials. Ex. 1001, Abstract. According to the ’757 patent, the claimed print method is “a gravure, rotogravure, or gravure-like transfer printing (the ‘gravure process’) or offset printing, of an appropriately viscous and substantially polymeric material onto roofing material, or onto a continuous transfer material and then transferred, including utilizing a laminating process, onto the roofing material, in a continuous process.” *Id.* at 3:24–30. The ’757 patent describes the gravure process as employing a print cylinder

that “has etched or engraved cells of varying depth, width and shape and which cells can be varied to apply differing amounts of tab material as a means of controlling the pattern or other attributes of the resultant nail tab.”
Id. at 3:30–34.

Figure 1 of the '757 patent is reproduced below:

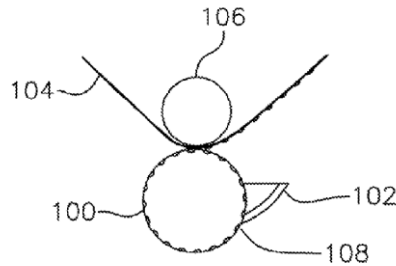


Fig. 1

Figure 1 is a schematic diagram of a print cylinder as described in the '757 patent. *Id.* at 4:65–67. Print cylinder 100 receives viscous tab material from print reservoir 102 into patterns etched on the face of print cylinder 100 and prints a pattern onto roofing material 104. *Id.* at 7:13–16. Doctor blade 108 removes excess tab material from print cylinder 100, such that tab material remains only in the engraved image area etched into print cylinder 100. *Id.* at 7:18–20. When print cylinder 100 makes contact with roofing material 104 and impression cylinder 106, the viscous tab material is deposited from print cylinder 100 onto roofing material 104. *Id.* at 7:24–27. Roofing material 104 “may be bonded with appropriate rows of nail tabs or continuous reinforcing strips, preferably substantially polymer materials,” and can include at least one contrasting color to roofing material 104 and “one or more additives to tailor the polymer material.” *Id.* at 7:32–40.

C. Illustrative Claims

Petitioner challenges claims 1, 2, 4, 6, and 7 of the '757 patent. Claims 1 and 7 are independent claims. Claims 2, 4, and 6 directly depend from claim 1, which is reproduced below, as is independent claim 7:

1. A method of making a roofing or building cover material, which comprises treating an extended length of substrate, comprising the steps of:

depositing tab material onto the surface of said roofing or building cover material at a plurality of nail tabs from a lamination roll, said tab material bonding to the surface of said roofing or building cover material by pressure between said roll and said surface.

Ex. 1001, 13:13–20.

7. A method of making a roofing or building cover material, comprising the steps of first depositing nail tab material at a plurality of locations on said roofing or building cover material, said nail tab material is substantially made of a polymeric material, and subsequently pressure adhering said nail tab material into nail tabs on said roofing or building cover material with a pressure roll.

Id. at 14:11–17.

D. The Prior Art

Petitioner refers to the following prior art references:

Hefele	U.S. 5,101,759	Apr. 7, 1992	Ex. 1004
Bayer	U.S. 5,597,618	Jan. 28, 1997	Ex. 1007
Lassiter	U.S. 6,451,409 B1	Sept. 17, 2002	Ex. 1003
Eaton	U.S. 6,875,710 B2	Apr. 5, 2005	Ex. 1005
Dagher	WO 01/62491 A1	Aug. 30, 2001	Ex. 1020

E. The Asserted Grounds of Unpatentability

Petitioner challenges the patentability of claims 1, 2, 4, 6, and 7 of the '757 patent based on the following grounds:

Reference(s)	Basis	Claim(s) Challenged
Lassiter and Hefele	§ 103(a)	1, 2, 4, 6, and 7
Lassiter and Bayer	§ 103(a)	1, 2, 4, and 6
Dagher	§ 102(b)	7
Lassiter and Eaton	§ 103(a)	1, 2, 4, 6, and 7

II. ANALYSIS

A. Claim Interpretation

We interpret claims of an unexpired patent using the “broadest reasonable construction in light of the specification of the patent in which [the claims] appear[.]” 37 C.F.R. § 42.100(b). For purposes of this Decision, based on the record before us, we determine that none of the claim terms requires an explicit construction.

B. Obviousness over Lassiter and Hefele

Petitioner contends that claims 1, 2, 4, 6, and 7 would have been obvious under 35 U.S.C. § 103(a) over the combination of Lassiter and Hefele. Pet. 19–34. Petitioner relies on a Declaration by Harvey R. Levenson (“the Levenson Declaration,” Ex. 1014). *Id.*

1. Overview of Lassiter

Lassiter is directed to roofing or other building materials, used as cover material prior to installing shingles or external siding, that incorporate “a plurality of integrally formed nail tabs.” Ex. 1003, 1:10–15.

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