

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CURT G. JOA, INC.,
Petitioner,

v.

FAMECCANICA.DATA S.P.A.,
Patent Owner.

Case IPR2016-00906
Patent 6,994,761 B2

Before JO-ANNE M. KOKOSKI, KRISTINA M. KALAN, and
JENNIFER MEYER CHAGNON, *Administrative Patent Judges*.

CHAGNON, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed herein, we determine that Petitioner has not shown, by a preponderance of the evidence, that claims 1–19 of U.S. Patent 6,994,761 B2 (Ex. 1001, “the ’761 patent”) are unpatentable.

A. Procedural History

Curt G. Joa, Inc. (“Petitioner”) filed a Petition for *inter partes* review of claims 1–19 (“the challenged claims”) of the ’761 patent. Paper 1 (“Pet.”). Petitioner provided a Declaration of Robert E. Andrews¹ (Ex. 1003) to support its positions. Fameccanica.Data S.p.A. (“Patent Owner”) filed a Preliminary Response. Paper 14.

Pursuant to 35 U.S.C. § 314(a), on October 14, 2016, we instituted *inter partes* review to determine whether claims 1–7, 9–16, and 19 are unpatentable under 35 U.S.C. § 102(b) as anticipated by Coslett²; and whether claims 1–19 are unpatentable under 35 U.S.C. § 102(b) as

¹ Patent Owner argues that we should give Mr. Andrews’s testimony “little to no weight,” at least in part because Mr. Andrews is employed as Vice President of Petitioner and, as such, “his opinions are obviously subject to profound bias due to his lack of independence.” *See* PO Resp. 16–21. We have considered Patent Owner’s arguments in this regard, and have given Mr. Andrews’s testimony appropriate weight in rendering this Final Written Decision. As discussed in detail in our analysis, even ignoring any potential bias on the part of Mr. Andrews, we find Mr. Blevins’s testimony to be more persuasive.

² EP Publication 0 685 586 A2, published Dec. 6, 1995 (Ex. 1004).

anticipated by Kielpikowski.³ *See* Paper 16 (“Inst. Dec.”). Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 27, Paper 28 (redacted version) (“PO Resp.”))⁴, along with a Declaration of John Blevins (Ex. 2011) to support its positions. Petitioner filed a Reply (Paper 39 (“Pet. Reply”)) to the Patent Owner Response. An oral hearing was held on June 30, 2017. A transcript of the hearing is included in the record. Paper 72, Paper 73 (non-confidential version) (“Tr.”).

Also before us is Patent Owner’s Motion to Exclude (Paper 49, Paper 50 (redacted version), “Mot. Exclude”), Petitioner’s Opposition (Paper 69⁵), and Patent Owner’s Reply (Paper 53) thereto.

B. Related Proceedings

The parties do not identify any other proceedings related to the ’761 patent.

C. The ’761 Patent

The ’761 patent relates to a method of forming a “breathable, stretchable section of a disposable absorbent garment, such as a stretchable side panel or ear region” of “disposable diapers, training pants, adult incontinence garments and other pull-on garments.” Ex. 1001, 4:60–63, 5:24–27. The method of the ’761 patent results in a “stretchable section . . . which provides improved comfort and functionality, among other attributes.” *Id.* at 5:20–21.

³ U.S. Patent No. 4,842,596, issued June 27, 1989 (Ex. 1005).

⁴ All citations herein are to the non-confidential versions of documents.

⁵ Petitioner originally filed its Opposition as Paper 51, which has been expunged from the record. Paper 69 is a later-filed corrected version (*see* Paper 54, authorizing the corrected filing).

Figure 1 of the '761 patent is reproduced below.

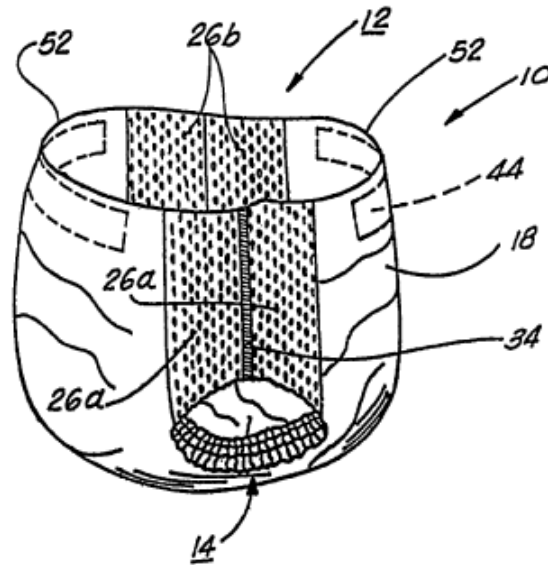
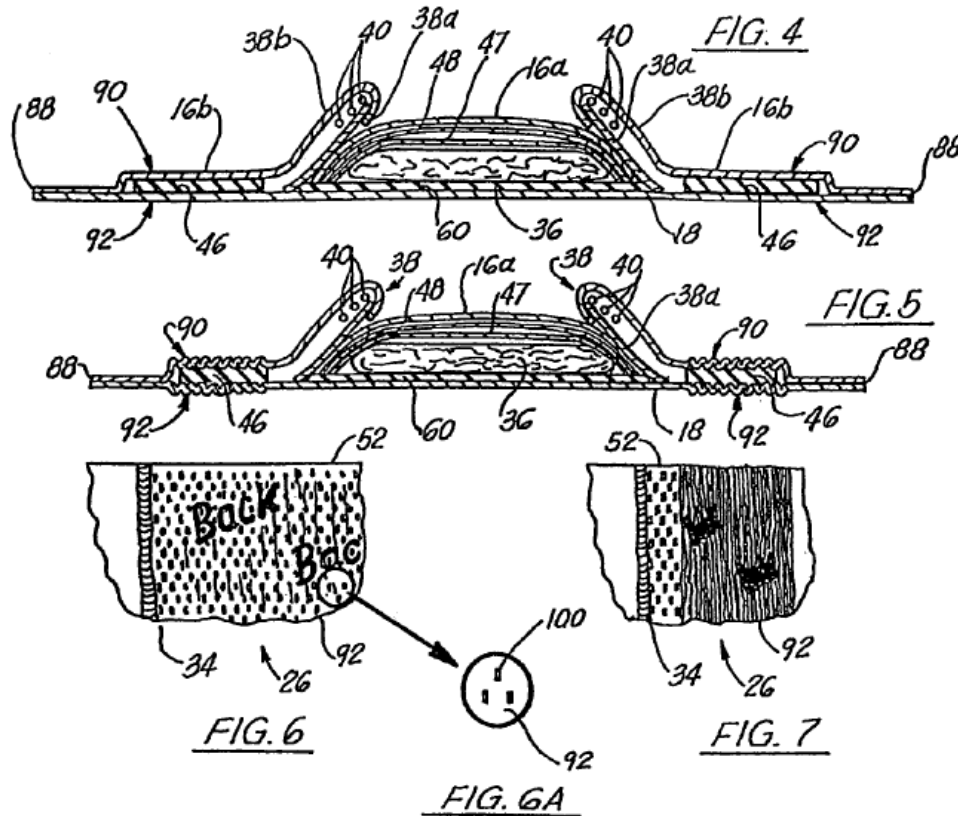


FIG. 1

Figure 1 is a perspective view of a disposable absorbent garment incorporating a breathable, stretchable section formed in accordance with an embodiment of the '761 patent. *Id.* at 5:35–38. During manufacturing of disposable absorbent garment 10, respective pairs of ear regions 26a, 26b are joined together to form side seams 34 and leg openings 14, as well as waist opening 12. *Id.* at 5:57–62, 6:48–54. Ear regions 26, when joined, form stretchable side waist regions of absorbent garment 10. *Id.* at 10:61–64.

These stretchable side waist regions may be formed by the claimed methods. Figures 4–7 of the '761 patent are reproduced below.



Figures 4 and 5 are cross sectional views of a disposable garment in accordance with the '761 patent, with ear regions 26 (not identified) in extended and relaxed configurations, respectively. *Id.* at 5:45–48. Figures 6 and 7 are bottom plan views of a portion of the side waist region of the garment of Figures 4 and 5, in extended and contracted configurations, respectively. *Id.* at 5:49–51, 5:52–53. Figure 6A is a close-up view of a portion of Figure 6 showing bond sites 100. *Id.* at 5:51.

As can be seen in the figures, topsheet 16 is bonded to backsheet 18 at localized bond sites 100. *Id.* at 12:46–48. Stretchable member 46 is positioned between topsheet 16 and backsheet 18. *Id.* at 12:48–50.

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