TAB 13

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
07/922,918	07/31/92	MC CULLOCH J	2626-1

RHODES, COATS & BENNETT
P.O. BOX 2974
GREENSBORO, NC 27402

11M1/0930

EINSMANN, EXAMINER	
ART UNIT	PAPER NUMBER
1105	13

DATE MAILED: 09/30/94

NOTICE OF ABANDONMENT

This application is abandoned in view of:

1. ☐ Applicant's failure to respond to the Office letter, mailed _____ .
2. ☒ Applicant's letter of express abandonment which is in compliance with 37 C.F.R. 1.138.
3. ☐ Applicant's failure to timely file the response received _____ within the period set in the Office letter.
4. ☐ Applicant's failure to pay the required issue fee within the statutory period of 3 months from the mailing date of _____ of the Notice of Allowance.
   - ☐ The issue fee was received on _____ .
   - ☐ The issue fee has not been received in Allowed Files Branch as of _____ .

   In accordance with 35 U.S.C. 151, and under the provisions of 37 C.F.R. 1.316(b), applicant(s) may petition the Commissioner to accept the delayed payment of the issue fee if the delay in payment was unavoidable. The petition must be accompanied by the issue fee, unless it has been previously submitted, in the amount specified by 37 C.F.R. 1.17 (l), and a verified showing as to the causes of the delay.

   If applicant(s) never received the Notice of Allowance, a petition for a new Notice of Allowance and withdrawal of the holding of abandonment may be appropriate in view of Delgar Inc. v. Schuyler, 172 U.S.P.Q. 513.
5. ☐ Applicant's failure to timely correct the drawings and/or submit new or substitute formal drawings by _____ as required in the last Office action.
   - ☐ The corrected and/or substitute drawings were received on _____ .
6. ☐ The reason(s) below.

Paul Einsmann
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 115

PTO-1432 (REV. 5-83)

PATENT APPLICATION FEE DETERMINATION RECORD

Effective December 16, 1991

Application or Docket Number: 922918

CLAIMS AS FILED - PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY RATE	SMALL ENTITY FEE	OR	OTHER THAN SMALL ENTITY RATE	OTHER THAN SMALL ENTITY FEE
BASIC FEE				$ 345.00	OR		~~$ 690.00~~
TOTAL CLAIMS	25 minus 20 =	* 5	x $10=	50	OR	x $20 =	~~100~~
INDEPENDENT CLAIMS	4 minus 3 =	* 1	x 36 =	36	OR	x 72 =	~~72~~
MULTIPLE DEPENDENT CLAIM PRESENT			+ 110 =		OR	+ 220 =	
			TOTAL	431	OR	TOTAL	~~862~~

* If the difference in column 1 is less then zero, enter "0" in column 2

CLAIMS AS AMENDED - PART II

AMENDMENT A

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				

SMALL ENTITY RATE	SMALL ENTITY ADDITIONAL FEE	OR	OTHER THAN SMALL ENTITY RATE	OTHER THAN SMALL ENTITY ADDITIONAL FEE
x $10=		OR	x $20 =	
x 36 =		OR	x 72=	
+ 110 =		OR	+ 220 =	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

AMENDMENT B

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				

RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
x $10 =		OR	x $20 =	
x 36 =		OR	x 72 =	
+ 110 =		OR	+ 220 =	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

AMENDMENT C

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				

RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
x $10 =		OR	x $20 =	
x 36 =		OR	x 72 =	
+ 110 =		OR	+ 220 =	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Form PTO-875
(Rev. 12-91)

*U.S. Government Printing Office: 1992 — 308-890

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

IFC-02319

Case 3:02-cv-01267-AVC Document 180-10 Filed 07/31/2006 Page 4 of 15

PTO 1130 (REV 11/91)

U.S. DEPARTMENT OF COMMERCE– PATENT & TRADEMARK OFFICE

PACE DATA ENTRY CODING SHEET

1ST EXAMINER N Thuy Tran DATE 8/12/92

2ND EXAMINER M.E. Wilcox DATE 10-15-92

APPLICATION NUMBER	TYPE APPL	FILING DATE MONTH	DAY	YEAR	SPECIAL HANDLING	GROUP ART UNIT	CLASS	SHEETS OF DRAWING
07/922918	1	07	31	92	0	1508	418	002

TOTAL CLAIMS	INDEPENDENT CLAIMS	SMALL ENTITY?	FILING FEE	FOREIGN LICENSE	ATTORNEY DOCKET NUMBER
025	004	2	496	Y	2626-3

CONTINUITY DATA

CONTINUITY CODE	STATUS CODE	PARENT APPPLICATION SERIAL NUMBER	PARENT PATENT NUMBER	PARENT FILING DATE MONTH	DAY	YEAR
		00000				

PCT/FOREIGN APPLICATION DATA

FOREIGN PRIORITY CLAIMED	COUNTRY CODE	PCT/FOREIGN APPLICATION SERIAL NUMBER	FOREIGN FILING DATE MONTH	DAY	YEAR
N					

IFC-02320

TAB 14

PATENT APPLICATION SERIAL NO. 08/293749

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

060 MS 09/01/94 08293749 1 201 355.00 CK

PTO-1556
(5/87)

BAR CODE LABEL

U.S. PATENT APPLICATION

SERIAL NUMBER	FILING DATE	CLASS	GROUP ART UNIT
08/293,749	08/22/94	008	1105

APPLICANT

JAMES R. MC CULLOCH, PROVIDENCE, RI.

CONTINUING DATA********
VERIFIED THIS APPLN IS A CON OF 07/922,918 07/31/92

FOREIGN/PCT APPLICATIONS********
VERIFIED

FOREIGN FILING LICENSE GRANTED 09/26/94 ***** SMALL ENTITY *****

STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS	FILING FEE RECEIVED	ATTORNEY DOCKET NO.
RI	2	1	1	$355.00	

ADDRESS

RHODES COATS & BENNETT
P O BOX 2974
GREENSBORO NC 27402

TITLE

TRANSFER PRINTING FLOCKED FABRIC

This is to certify that annexed hereto is a true copy from the records of the United States Patent and Trademark Office of the application which is identified above.

By authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

Date Certifying Officer



3: — 201 A/F

08/293749

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BOX FWC
Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

RULE 1.62 CONTINUATION APPLICATION

This is a request under 37 C.F.R. 1.62 for filing a continuation application of pending prior **Application Serial No. 07/922,918, filed July 31, 1992 of applicant James R. McCulloch for Transfer Printing Flocked Fabric.** The prior application is pending before Examiner M. Einsmann in Art Unit 1105.

Pursuant to 37 C.F.R. 1.62, it is requested that this application utilize the file wrapper and contents of said prior application to constitute this continuation application, but that a new application serial number be assigned.

The filing fee is calculated as follows for a Small Entity:

		Rate		Fee
Total Claims in Excess of 20	=	0x $11	=	$00
Independent Claims in Excess of 3	=	0x $37	=	$00
Basic Fee	=			$355.00
Extension Fee	=			$55.00
Total Filing Fee	=			$410.00

A check for $410.00 for the total filing fee is attached. However, if there is any discrepancy in the above calculated

fees, applicant hereby requests the Commissioner to charge any additional fees due to our Deposit Account No. 18-1164.

Amend the specification by inserting before the first line the following statement: --This application is a continuation of Application Serial No. 07/922,918 filed July 31, 1992.--

The power of attorney in the prior application is to: Rhodes Coats & Bennett comprising C. Robert Rhodes, Reg. No. 24,200, Edward W. Rilee, Reg. No. 31,869, Howard A. MacCord,Jr., Reg. No. 28,639, Larry L. Coats, Reg. No., 25,620, and David E. Bennett, Reg. No. 32,194.

The power appears in the original papers in the prior application Serial No. 07/922,918. Address all future communications to:

Rhodes, Coats & Bennett
P. O. Box 2974
Greensboro, North Carolina 27402

A verified statement that this is a filing by small entity was filed in the parent application Serial No. 07/922,918, which parent application was filed on July 31, 1992, and the status is still proper and its benefit under 37 C.F.R. 1.28(a) is hereby claimed.

Please direct all telephone calls to the undersigned attorney at (910) 273-4422.

Respectfully submitted,

Howard A. MacCord, Jr.
Reg. No. 28,639

Date: August 18, 1994
File No. 2626-4

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER of PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20231, on Aug 18 1994
(Date of Deposit)

Howard A. MacCord
Name of Applicant, Assignee or Registered Representative

Signature

8-18-94
Date of Signature

TAB 17

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/293,749	08/22/94	MC CULLOCH	

EXAMINER	
EINSMANN, M	
ART UNIT	PAPER NUMBER
1105	17

RHODES COATS & BENNETT
P O BOX 2974
GREENSBORO NC 27402

11M1/1221

Supplemental

DATE MAILED: 12/21/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made fina

A shortened statutory period for response to this action is set to expire 3 month(s), _____ ~~days~~ from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice of Draftsman's Patent Drawing Review, PTO-948
3. ☒ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474..
6. ☐ _____.

Part II SUMMARY OF ACTION

1. ☒ Claims 1-10, 12-13, 15-20 are pending in the application
   Of the above, claims _____ are withdrawn from consideration.
2. ☒ Claims 11, 14, 21-25 have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-10, 12-13, 15-20 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____. has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____ ; filed on _____.
13. ☐ Since this application apppears to be 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.
14. ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev. 2/93)

IFC-02338

The action of 12/9/94 is vacated as an action unrelated to this application was inadvertently sent to applicant.

1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 1-10, 12, 13, 15-20 are rejected under 35 U.S.C. § 103 as being unpatentable over Rejto or Masaki in view of Smith et al.

The references are applied as in the previous two rejection in the parent. Applicants arguments are not persuasive. In rebutting this rejection in his response, applicant also rebutted the patent to Katz which was discussed with applicant's attorney in the interview of December 1, 1993, which patent was entered into the file as part of the European search report.

Applicant states in summary that he acknowledges that pigmented adhesive has been used in the prior art for bonding

flocked material. He states that the prior art fails to recognize that transfer printing of disperse dyes onto flocked fabrics in which the fibers are adhered with a dark adhesive would produce a product with deep, dark shades and less grin-through and crocking.

Applicant further states that Smith et al provides an adhesive composition with so little blue pigment as to impart no color to that adhesive or cement.

Examiner sees no novelty in adding a particular color pigment to a composition when adding any color is know. Applicant states in his specification that improvements by using the dark pigment include less grin-through and crocking. Yet applicant has shown no comparative evidence that such is the case. Examiner has studied the samples that applicant has submitted. ~~Examiner has studied the samples that applicant has submitted~~. Examiner fails to see any appreciable difference between the samples submitted. Were the samples with the dark adhesive backing made using the exact same process conditions except for the pigment in the adhesive. If this is the case, they do not represent a comparison between this invention and the prior art. When the adhesive is pigmented, the known process of screen printing can be carried out under different temperature and pressure conditions. Those conditions are critical to applicant's invention and as such should be claimed as an

integral part of the process. Applicant has not submitted any examples or comparative examples in his specification or in declaration form to substantiate or even illustrate the claimed superiority of his product over the products of the prior art. Applicant has provided no test data as to the decreased grin-through or crocking.

3. Claims 1-10, 12, 13, 15-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms "dark" and "deep dark" are still indefinite.

The patent to Orton, 4,427,414 is included because of its discussion of the matching of backing color to face color and the problem of "grinning through".

Any inquiry concerning this communication should be directed to Margaret Einsmann at telephone number (703) 308-3826.

Margaret Einsmann
patent examiner
1105

Einsmann/mmm
December 21, 1994