

PC 2881

IN THE UNITED STATES PATENT OFFICE

In re application of

JONATHAN W. WHITE, JR.

Delaying of Granulation in
Chunk Comb Honey

Serial No. 351,059

Filed April 24, 1953

Before the Board of Appeals

Appeal No. 6479

REPLY BRIEF

Exception is taken to the examiner's statement in lines 6-9,
page 2 of his Answer that:

"It would seem immaterial and accordingly not of
patentable significance to a comb honey product
whether the comb honey is coated with a pectinate
film and immersed in liquid honey."

The examiner would perhaps be correct as long as the comb honey
remained in its original form and shape, as removed from the hive.
As removed from the hive the comb needs no protection since the
bees themselves have provided an extremely efficient protective
coating of wax. So protected the comb would need no immersion in
liquid honey or a further pectinate protective coating. However,
as soon as the original comb is cut to provide pieces small enough
to fit into a jar, liquid honey begins to flow because the bee-
provided protection has been destroyed.

As pointed out in the first paragraph on page 10 of appellant's
brief, it is not the comb which needs protection, but the liquid
portion of the package. As soon as the original comb is cut and the
honey begins to flow, the formation of seed crystals on the surface
of the comb causes the liquid bath to begin to crystallize. Thus,
the protection provided by the pectinate film is not for the piece

of comb in the jar, but rather for the liquid honey in which the comb is immersed.

As already discussed in appellant's principal brief, the present difficulties appear to stem from the rather broad and inaccurate language which the examiner uses to describe and refer to appellant's product. It is obvious that the examiner conceives of appellant's product in similar broad and inaccurate terms. Thus, on page 6 of the brief it was pointed out how the examiner misuses the term "product" and assigns to that word a significance totally foreign to the present invention. The same is true of the above-quoted portion of the Answer. The term "product" and "comb honey" cannot be dealt with in the abstract, but must be read in the light of their use in the specification and the art in general.

"Packaged chunk comb honey" has a special significance in those sections of the country where this product finds favor. It refers to pieces or chunks of honey comb packaged in jars of liquid honey. Complete combs, as they come from the hive, are notoriously too large to package in jars and must be broken into "chunks". The term "chunk", by definition, can refer only to a fragment. Therefore, the examiner's use of the term "product" and "comb honey" avoids meeting the issue presented by the language of the claims, each of which expressly recites chunks of honey.

Since whole combs do not need protection and since only fragmented combs are components of appellant's product, it is obvious that the examiner continues to apply his rejection to something which is not even the subject matter of the claimed invention. It is therefore submitted that the American Fruit Growers case and the

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Maryland Honey case are totally inapplicable.

It is further submitted that the examiner has presented no argument to refute any of the points raised in appellant's brief.

Reversal of the final rejection and allowance of claims 1-4 are therefore respectfully requested.

Respectfully submitted,

W. A. SEEGRIST

R. HOEFMAN

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MAR 27 1957
Washington, D. C.

cc: Adm. Serv., AIS
J. W. White, Jr. (to EURE) ✓
EURE