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**Datasheet for the decision
of 7 September 2017**

Case Number: T 1293/13 - 3.2.06

Application Number: 05734332.9

Publication Number: 1746909

IPC: A41D27/28, A41D13/002,
A41D13/005

Language of the proceedings: EN

Title of invention:

ARTICLE OF APPAREL UTILIZING ZONED VENTING AND/OR OTHER BODY
COOLING FEATURES OR METHODS

Patent Proprietor:

Nike International Ltd.

Opponent:

ADIDAS AG

Relevant legal provisions:

EPC Art. 83, 100(b), 123(3)

Keyword:

Sufficiency of disclosure - (no)
Amendments - broadening of claim (yes) - deletion of features
(yes)



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Case Number: T 1293/13 - 3.2.06

D E C I S I O N
of Technical Board of Appeal 3.2.06
of 7 September 2017

Appellant: Nike International Ltd.
(Patent Proprietor) One Bowerman Drive
Beaverton, OR 97005-6453 (US)

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Respondent: ADIDAS AG
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Prinzregentenplatz 7
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 4 April 2013
revoking European patent No. 1746909 pursuant to
Article 101(3)(b) EPC.**

Composition of the Board:

Chairman M. Harrison
Members: G. de Crignis
M.-B. Tardo-Dino
T. Rosenblatt
W. Ungler

Summary of Facts and Submissions

- I. European patent No. 1 746 909 was revoked by the opposition division which held that the grounds of opposition under Article 100(b) and (c) EPC were prejudicial to maintenance of the patent.
- II. The appellant (patent proprietor) filed an appeal against this decision and in its grounds of appeal, requested that the decision of the opposition division be set aside and the patent be maintained, as a main request, in the form as granted, or in the alternative based on one of auxiliary requests 1 to 20 submitted with the grounds of appeal or on the basis of one of auxiliary requests 21 to 26 corresponding to auxiliary requests 1 to 6 filed during the opposition proceedings. Remittal to the opposition division was requested for consideration of novelty and inventive step.
- III. In support of its appeal, the proprietor filed the following:
- S1 Declaration of John Scrivener (11 August 2013),
 - S2 Internet webpage: frazierinstrument.com/products/fap/fap.html,
 - S3 Internet webpage: Frazier company - Material Testing Services,
 - S4 Declaration of Kham Viengkham (8 May 2013),
- and further referred to the following documents which had already been filed (by the respondent) during the opposition proceedings:
- A9 ASTM D 737-96
 - A15 Declaration of John Scrivener (27 November 2012),

- A18 Test data (Textech FX3300 / Frazier 4000 Air Permeability Tester) of Adidas Athletic Shirts by Mr. Scrivener, 20 September 2012, and
A20 Declaration of John Scrivener (27 November 2012).

IV. Following the reply to the appeal by the respondent (opponent), the appellant filed further comments and also submitted the following pages originating from the website of Frazier Precision Instruments Company:
S5/1 <http://www.frazierinstrument.com/products/fap/fap-description.html>, pages 1 to 4,
S5/2 <http://www.frazierinstrument.com/products/fap/faq-html>, pages 1 to 5.

V. The Board summoned the parties to oral proceedings and in its communication dated 29 March 2017, the Board indicated that in its provisional opinion neither the main request nor any of the auxiliary requests appeared to be allowable.

VI. Oral proceedings were held before the Board on 7 September 2017.

The appellant requested that the decision under appeal be set aside and the patent be maintained as granted (main request), auxiliarily that the patent be maintained in amended form on the basis of one of auxiliary requests 1 to 20 filed with letter dated 14 August 2013 or on the basis of one of auxiliary requests 21 to 26 corresponding to auxiliary requests 1 to 6 filed with letter dated 1 October 2012.

The respondent requested that the appeal be dismissed.

VII. Claim 1 as granted (main request) reads as follows:
"A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm^2 (12 in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{ m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm^2 (12 in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to

proximate to a waist area of the garment structure, and a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least $168 \text{ m}^3/\text{min per m}^2$ ($550 \text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented zone is at least 77 cm^2 (12 in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to proximate to the waist area of the garment structure."

VIII. Claims 1 of auxiliary requests 1 to 26 are attached to the decision in the Annex.

IX. The arguments of the appellant relevant for the decision can be summarised as follows:

Claim 1 was directed to a garment and it was the characteristic of air permeability of the garment which was that which a skilled person had to be able to carry out. The characteristic was intrinsic to the garment, not to a machine for measuring it.

Frazier Low Pressure Air permeability Machines were widely used and represented standard equipment for testing air permeability. The skilled person would

understand the number '750' to be a serial number of the machine.

However, irrespective on which Frazier Low Pressure Air Permeability Machine was used, the test results would be the same within experimental limits. This was also confirmed by experts: Mr Scrivener, the president of Frazier Precision Instruments Co, Inc. confirmed this consistency of results and also that '750' was a serial number (A15, A20, S1). Also Mr. Viengkham declared that the test results for air permeability would be the same when following ASTM D737-96, regardless of what test machine would be used to conduct the test and pointed to the use of a calibration plate for the tests (S4).

Although ASTM D737-96 indicated that the test machine should be reported, there was no evidence that the test results would vary dependent on the test instrument being used. Quite the contrary; the opponent had provided A18 to show that for two different machines, (Textest FX3300 and Frazier 4000 Air Permeability Tester) - within measurement accuracy - the same results were obtained.

The credibility of the Frazier company was based on the reliability of its machines and the tests over time. It was sufficient that the '750'-machine existed at the priority date. The burden of proof for evidence that the results of this machine differed in some way to test results on other machines was that of the respondent. It was only speculation that this machine would provide different results or that it was not publicly available at any time. The determination of air permeability was independent of the specific machine in the same way as the determination of a metric dimension such as an area was independent of the

specific ruler. It was not necessary for example to define the colour of the ruler and in the same way it was not necessary to define the model or serial number of a Frazier FAP-LP machine.

All these arguments applied equally to claim 1 of auxiliary requests 3 to 8 and 21 to 26.

Claim 1 of auxiliary requests 1, 9 to 14 complied with the requirement of Article 123(3) EPC. The deletion of the number '750' did not have any effect on the characteristics and properties of the claimed garment.

This also applied for the subject-matter of claim 1 of auxiliary requests 2 and 15 to 20 which also complied with the requirement of Article 123(3) EPC. The deletion of the term 'using a Frazier Low Pressure Air permeability Machine 750' in claim 1 of each request did not have any effect on the characteristics and properties of the claimed garment. Neither the number of the machine nor the machine itself used to measure the air permeability of the garment would change this characteristic.

X. The arguments of the respondent relevant for the decision can be summarised as follows:

Claim 1 included the feature of using a "Frazier Low Pressure Air Permeability Machine 750". Accordingly the air permeability had to be measured by this machine alone. This machine not being available, the skilled person was not able to carry out the claimed invention. This applied irrespectively of whether the number '750' was a model number or a serial number.

The declarations of Mr. Scrivener and Mr. Viengkham concerned their individual personal knowledge. Their statements and assumptions were not linked to generally applicable knowledge. Additionally, the claimed ASTM standard method required the test instruments and conditions to be reported. The machine was in the possession of Nike Company when it was in its operating mode, so nobody else had ever had a chance to verify its specific characteristics. Thus, the burden of proof for evidence in this respect was on the patent proprietor. No documentation, let alone verifiable documentation, had been provided by the proprietor as regards the '750' machine.

The same arguments applied to claim 1 of auxiliary requests 3 to 8 and 21 to 26.

Concerning claim 1 of auxiliary requests 1 and 9 to 14 wherein the number '750' had been deleted, the protection the patent conferred had been extended (Article 123(3) EPC). Additionally, there was no disclosure in the originally filed application to use just any "Frazier Low Pressure Air Permeability Machine" contrary to Article 123(2) EPC.

The extension of protection applied *a fortiori* to claim 1 of auxiliary requests 2 and 15 to 20 wherein the expression "using a Frazier Low Pressure Air Permeability Machine 750" had been deleted completely contrary to Article 123(3) EPC.

Reasons for the Decision

1. *Sufficiency / Article 100(b) EPC / "Frazier Low Pressure Air Permeability Machine 750" / Main Request*
- 1.1 Claims 1 and 17 limit the determination of air permeability of the garment to a particular method ('measured according to ASTM D737-96') and to a particular machine ('Frazier Low Pressure Air Permeability Machine 750').
- 1.2 The machine 'Frazier Low Pressure Air Permeability Machine 750' no longer exists, such that this machine cannot be used for determination of the claimed values. Although it is the garment which has specific air permeabilities, each of these air permeabilities does not stand alone but together with the specific way the value is measured and by the specific machine which is to arrive at the measured value. The machine to be used for arriving at the values of air permeability is thus a clear limiting feature of the claim.
- 1.3 The appellant's main line of argument was that a skilled person, on reading these claims, would be aware of the fact that the number '750' was the serial number of a machine and thus essentially this number should and could be ignored. Any Frazier Low Pressure Air Permeability Machine (marketed as FAP-LP) would then be considered applicable by the skilled person to determine the claimed air permeabilities according to ASTM D737-96. All these machines would lead to essentially identical, reliable and reproducible results independent of the actual machine model used (conventional or computer controlled) or the serial number of the machine. In support of this argument it referred to A15, A20 and S1 to S5, as well as to A18.

- 1.3.1 In A15 and A20 (both bearing the date 27 November 2012), the declarant Mr. Scrivener, identifies himself as the President of Frazier precision Instrument Company, Inc., and states that test results obtained from 'a Frazier Low Pressure Air Permeability Machine 750' and from 'a Frazier 4000 Air Permeability Tester' would be identical (within the limits of measurement accuracy). He declares that this information is "to my knowledge". Additionally, he declares that according to his knowledge, 'the Frazier Low Pressure Air Permeability Machine 750' was sold and is no longer in existence (A15, item 3). These statements do not however provide evidence for comparable test results being generally obtainable by any available Frazier Low Pressure Air Permeability Machine but refer to the cited two machines, one of them not being available and no longer existent and concern the personal knowledge of Mr. Scrivener.
- 1.3.2 In declaration S1, Mr. Scrivener confirms the above statements and declares again "[t]o the best of my knowledge" that the Frazier Low Pressure Air Permeability Machines sold under model number FAP-LP would give the same test results as the Frazier Low Pressure Air Permeability Machine 750. So this is also a personal statement concerning a non-existent machine. The 'Frazier Low Pressure Air Permeability Machine 750' is stated to be "a particular Frazier Low Pressure Air Permeability Tester which has the serial number 750 and which was sold some time ago". It is also stated that this machine would be a FAP-LP model in the same way as the Frazier Low Pressure Air Permeability Testers that are still being sold. No verifiable data or evidence at all is provided in relation to this statement. Mr Scrivener was not offered as a witness.

- 1.3.3 In S4, Mr. Viengkham, identifying himself as a Materials Test Engineer in the Apparel Lab of Nike, Inc., likewise declares - on 8 May 2013 - that if the method of ASTM D737-96 were followed, the test results would be consistent irrespective of the individual test machine used to conduct the test. He also points to the use of a calibration plate which is used to verify whether a test machine is providing an accurate reading. No information is given in relation to the specifically claimed machine 'Frazier Low Pressure Air Permeability Machine 750', nor is any verifiable information provided which would support the statements, apart from referring to prescribed physical parameters of the test.
- 1.3.4 A18 gives test data for air permeability of two samples of an Adidas Athletic Shirt having black and red stripes. These samples were tested by Frazier Precision Instrument Company, Inc. (Mr. Scrivener) on a Frazier 4000 Air Permeability Tester S/N 5375. The test protocol of A18 accordingly meets the requirement given in ASTM D737-96 by indicating the machine on which the data were obtained. The standard deviation of the results could be acknowledged by the Board as lying within accepted standards (about 2.5 %) when using a Frazier 4000 Air Permeability Tester S/N 5375 and a TextestFX3300 machine (see grounds of appeal, page 6). However, any relation to data obtained by the claimed 'Frazier Low Pressure Air Permeability Machine 750' remains unknown in that no comparative data in this respect has been presented. Accordingly, all these test data cannot contribute to enlightening the skilled person on how to arrive at the claimed subject-matter, i.e. that data obtained using the specifically defined machine.

- 1.4 A20 was submitted by the respondent in the status of opponent during the opposition proceedings. It had been submitted with the intention of supporting the significance of the data provided for air permeability in relation to a novelty attack based on an alleged prior use due to the fact that no access to a 'Frazier Low Pressure Air Permeability Machine 750' could be gained. Accordingly, the appellant's view was that it should be accepted as providing evidence for consistent values, irrespective of the actual machine used, without further evidence. However, since the A20 statement of Mr. Scrivener does not provide any verifiable evidence (as already stated above in relation to A15), also A20 cannot support any consistency of data.
- 1.4.1 S2 is the internet publication of Frazier® Differential Pressure Air Permeability Measuring Instruments dated August 2013. It is thus information available well after the filing date of the application leading to the patent in question. Even taken at face value, various types of machines are merely indicated as test instruments. The publication is however not considered relevant for the case at issue since there is neither a reference to a machine type having a model or serial number '750', nor any unambiguously derivable comparison or information in this regard.
- 1.4.2 S3 is the internet publication of the Frazier Company stating that it offers Material Testing Services for air permeability. It is dated August 2013, again well after the relevant filing date. This publication is not relevant for the case at issue, since it also bears no evident relationship to a 'Frazier Low Pressure Air Permeability Machine 750'.

1.4.3 S5 was submitted at a late stage of the appeal proceedings. S5/1 are additional copies of the internet publication of the Frazier Precision Instrument Company dated 23 March 2015. The availability of different machines, calibration details and their compliance with the conditions set forth in various industry standards (e.g. ASTM-, ASA-, ISO-, Tappi-, DIN-, CAN- Edana- standards) is disclosed. S5/2 - having the same date - publishes frequently asked questions and gives some explanations. These internet copies do not provide any evidence in relation to the specific machine claimed, nor are they relevant in view of their publication date. Thus, while there is anyway no doubt about various standards being existent, the information given in S5 is anyway of no relevance concerning the defined 'Frazier Low Pressure Air Permeability Machine 750'.

1.5 The declarations and tests are made in 2012 and 2013. There is no link to their validity concerning the filing or priority date of the application leading to the patent in suit, in particular in that neither Mr. Scrivener nor Mr. Viengkham has claimed ever having had access to a 'Frazier Low Pressure Air Permeability Machine 750'. Likewise neither claims to have had the possibility of actually comparing test results of this machine with test results of any other machine. Both persons merely declare that - to the best of their knowledge - there would have been no measurable influence on the test results. However, in the perpetual absence of this machine, or any other relevant supportive evidence, the statements made by Mr Scrivener and Mr Viengkham remain theoretical considerations which cannot take into account the actual facts around the claimed machine. The consideration of the appellant that Mr. Scrivener - as

president of Frazier Precision Instrument Co, Inc., - as well as Mr. Viengkham - as employee of Nike, Inc. - were to be considered as technical experts or "skilled persons" - is not further relevant in that their personal declarations are not supported by any verifiable facts or evidence. Hence, there is no evidence whatsoever that the tested air permeability of a textile sample would necessarily be the same if the claimed test machine were used to conduct the test. Any details, history or data of the specific '750' machine are simply lacking.

- 1.6 Accordingly, irrespective of whether the number '750' is considered as a serial number (as Mr Scrivener declares in S1, item 3) or a model number, none of the declarations or publications provides any evidence for enabling the skilled person to carry out the invention in that the invention is defined in regard to only one machine, namely the claimed '750' machine.

- 1.7 The argument that, generally, the determination of air permeability would be independent of the specifically applied machine - in a way directly comparable to the determination of an area which uses a ruler, whereby the skilled person would not consider the use of different instruments/rulers to give different values - is not accepted. A metric length/area limitation concerns a feature where the application of another standard test method or variable test instrument is not involved. The metric scale is defined and is globally/ generally standardized in the International System of units (SI) and based on the definition of the metre being a specific length of the path travelled by light in a vacuum in a known time (1/299792458 seconds). When referring in a claim to a metric length/area range or value, there is no need to define a test method or an

instrument for the determination, let alone the colour or the material of the instrument or the year of its production such as proposed by the appellant, which all is of no relevance whatsoever with regard to the result. Contrary thereto, the determination of air permeability of the claimed fabric is dependent on not only a specifically defined test method (ASTM D737-96) but also the specifically defined machine used therefor.

- 1.8 The fact that the test method as well as the manufacturer of the machine imply the use of a calibration plate and that the credibility of the manufacturing company is based on reliable machines supplied over time is obviously taken into account. However, various test methods exist and the claimed test method as well as, in particular, the test equipment include the possibility of modifications. If, as purported by the appellant, the '750' was a serial number, no details of when this machine was available have been furnished. This is also considered as the reason for the requirement in the ASTM test method to indicate in the air permeability the test conditions and equipment, such as the pressure differential to be applied and the manufacturer and the model of the test machine (see e.g. point 12 in ASTM D737-96), as well as the use of a calibration means. No detailed information in this respect is to be found in the patent in suit. The noting of the stated data logically reflects variations in the test machine itself, its operating conditions and subsequently the obtained result. The appellant's argument that the corresponding information would be noted only for completeness or merely to resolve disputes is unsupported. Although section 5.1.1 of ASTM D737-96 does mention differences in reported test results this is related to the acceptance of

commercial shipments, whereas items 8.1 and 8.4 note reliance on the machines from different manufacturers and in item 12.2.5 and 12.2.6 requires the report to not only indicate the manufacturer and model of the test equipment but also any modification of the method or equipment. These requirements contradict the argument of the appellant that in a "real world situation" all manufacturers machines would give the same readings.

- 1.9 Since the specific machine having the number '750' is present in the wording of claims 1 and 17, this feature has to be taken into account; the meaning of the term cannot be regarded as irrelevant. Whether or not the definition of the specific machine number (or type) was unintentional or simply unnecessary as argued by the appellant, and whether or not the values obtained from the machine might, or might not be, the same as another Frazier LP machine are simply unknown. At least due to this unknown, the limiting feature of the claim cannot be ignored absent convincing evidence to the contrary, which in this case is lacking.
- 1.10 Accordingly, in consideration of the available facts and evidence the Board can only conclude that nothing is known about the specific construction in the claimed 'Frazier Low Pressure Air Permeability Machine 750'. Nor is the 'Frazier Low Pressure Air Permeability Machine 750' available to identify the air permeability as claimed in the claimed garment.
- 1.11 According to the statement of the appellant, Nike International Ltd. used to have this machine but it was donated to the University of Oregon (page 5/17 of the grounds of appeal). Mr. Scrivener stated (A15, item 3) on the other hand that according to his knowledge, this

machine was no longer in existence. From the submissions of the parties it is not even clear whether this machine was at any time publicly available and thus whether the skilled person ever had access to it. Thus there is no possibility for a skilled person to compare the data obtained from this machine with data from any other machine. Since no evidence concerning comparability of test results obtained with the claimed machine '750' with other machines is present, the skilled person simply cannot arrive at the claimed air permeability in the garment portions claimed.

1.12 The appellant's further argument that the burden of proof lies with the opponent/respondent's side to provide evidence that the claimed values for the air permeability from the '750' machine would indeed deviate from data for air permeability obtained by any commercially available Frazier Low Pressure Air Permeability Machine is not accepted. This would seem to be an impossible task. Although it may have been possible for the appellant itself to provide data of air permeability originating from this specific machine (possibly from an earlier date when the machine existed) with other machines (since it possibly could have had access to stored data of Nike International Ltd), the same cannot be said of the respondent. Likewise the Frazier Precision Instrument Co., Inc. has not provided any data or details of the '750'-machine which could have been used to provide evidence for comparability purposes.

1.13 Albeit arising from an objection of the examining division, it was the applicant's (now appellant) decision to include such a precisely worded definition of the testing machine into claims 1 and 17. Although the burden of proof lies with the opponent (now

respondent) in showing that a ground of opposition under Article 100(b) EPC may prejudice maintenance of the patent, it has fulfilled this burden by showing that the parameter values from the specific machine cannot be provided, a fact which as such is not disputed by the appellant. The opponent's burden of proof has thus been fulfilled and it is therefore for the appellant to show the contrary, namely (1) that some, and which particular ones of the Frazier machines had the same properties as the '750'-machine to measure the permeability according to the claim, and (2) that this was something that the skilled person would have sufficiently been aware of so that the skilled person would have directly and unambiguously deduced it from the application - which the Board finds it has not done.

1.14 The insertion of a feature defined as determinable by a specific machine which possibly was not - but certainly is no longer - publicly available, leads in this case to the invention not being disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art (Article 100(b)/83 EPC).

1.15 The main request is therefore not allowable.

2. *Auxiliary requests 3 to 8 and 21 to 26*

Claim 1 of auxiliary requests 3 to 8 and 21 to 26 also includes the feature "using a Frazier Low Pressure Air Permeability Machine 750" as in claim 1 of the main request. The auxiliary requests do not add anything to the claimed subject-matter that overcomes the objection of sufficiency based on this feature (nor was it argued that they did) so that these requests are also not

allowable under Article 83 EPC for the same reasons given above in respect to the main request. It may be noted that the appellant was informed of the Board's preliminary opinion on this matter in a communication and did not provide any argument in response.

3. *Auxiliary request 1*

3.1 Claim 1 as granted includes the feature of measuring the air permeability according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750. In claim 1 of auxiliary request 1, the identification of the machine as being a Frazier Low Pressure Air Permeability Machine '750' has been deleted.

3.2 It follows from the reasoning in item 1 *supra* that claim 1 as granted is restricted to a garment in which the air permeability is measured using this specific machine. Since claim 1 as amended no longer includes this restriction, and instead allows the air permeability to be measured according to other, undefined Frazier Low Pressure Air Permeability machines, it provides protection for subject-matter which was not included in claim 1 as granted and thereby extends the protection conferred by the patent in suit contrary to Article 123(3) EPC. It may be noted that the appellant was also informed of the Board's preliminary opinion on this matter in a communication and did not provide any argument in response.

3.3 In its grounds of appeal, the appellant argued that the characteristics and properties of the garment, which was claimed as such, had not changed by the amendment in auxiliary request 1 such that no contravention of Article 123(3) EPC occurred. However, the Board does not accept this since it is not the characteristics per

se which define the scope of protection, but the characteristics according to a measurement made by a specific machine. When removing the limitation to the specific type of machine used to perform the test, a limitation of the claim is removed.

4. *Auxiliary requests 9 to 14*

In claim 1 of auxiliary requests 9 to 14 the number '750' of the feature of the "Frazier Low Pressure Air Permeability Machine 750" is deleted as in claim 1 of auxiliary request 1. Since the subject-matter of claim 1 of auxiliary request 1 is not allowable because of the absence of this number and nothing is added to claim 1 by way of these auxiliary requests that overcomes the objection of extension of protection (Article 123(3) EPC) based on the deletion of this feature, these requests are also not allowable for the same reasons given above in respect of auxiliary request 1. It may be noted that the appellant was informed of the Board's preliminary opinion on this matter in a communication and did not provide any argument in response.

5. *Auxiliary request 2*

5.1 In claim 1 of auxiliary request 2 the entire feature of "using a Frazier Low Pressure Air Permeability Machine 750" for the determination of the air permeability has been deleted.

5.2 It follows from the reasoning in item 1 *supra* that claim 1 as granted is restricted to a garment in which the air permeability is measured using this particular machine. Since claim 1 no longer includes this restriction, it provides protection for subject-matter

not included in claim 1 as granted and thereby extends the protection conferred by the patent in suit contrary to Article 123(3) EPC. It may be noted that the appellant was informed of the Board's preliminary opinion on this matter in a communication and did not provide any argument in response.

5.3 Auxiliary request 2 is therefore also not allowable.

6. *Auxiliary requests 15 to 20*

In claim 1 of auxiliary requests 15 to 20, the feature "using a Frazier Low Pressure Air Permeability Machine 750" is deleted as in claim 1 of auxiliary request 2. Since the subject-matter of claim 1 of auxiliary request 2 is not allowable because of the absence of this feature and since nothing has been added to claim 1 of these auxiliary requests that overcomes the objection of extension of protection based on removal of this feature, these requests are also not allowable under Article 123(3) EPC for the same reasons given above in respect to the auxiliary request 2. It may be noted that the appellant was informed of the Board's preliminary opinion on this matter in relation to auxiliary requests 15 and 20 in a communication and did not provide any argument in response. As regards auxiliary requests 16 to 19, the appellant was given the opportunity in oral proceedings to add further arguments but did not do so.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



M. H. A. Patin

M. Harrison

Decision electronically authenticated

Annex:

FIRST AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

 a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine;

 a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

 a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist area of the garment structure; and

 a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the third vented zone

1

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14/08/2013

FIRST AUXILIARY REQUEST CLMS 05734332

is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to proximate to the waist area of the garment structure.

SECOND AUXILIARY REQUEST

CLMS

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist area of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, wherein the third vented zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented

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SECOND AUXILIARY REQUEST

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zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to proximate to the waist area of the garment structure.

THIRD AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

 a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

 a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body,

 a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure; and

 a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented

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 zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure.

FOURTH AUXILIARY REQUEST

CLMS

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 129 cm² (20 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented

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FOURTH AUXILIARY REQUEST

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zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure.

FIFTH AUXILIARY REQUEST

CLMS

05734332

Claims

1. A garment (400) fitting at least a portion of an upper torso of a wearer, comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 129 cm^2 (20 in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body, wherein at least a portion of the first vented zone is from 5 to 15 cm (2 to 6 inches) wide and extends at least 25 cm (10 inches) along a centre back portion of the garment structure;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm^2 (12 in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure, wherein at least a portion of the second vented zone is from 5 to 15 cm (2 to 6 inches) wide and extends at least 15 cm (6 inches) along a first side portion of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the

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FIFTH AUXILIARY REQUEST

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second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented zone is at least 77 cm^2 (12 in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure, wherein at least a portion of the third vented zone is from 5 to 15 cm (2 to 6 inches) wide and extends at least 15 cm (6 inches) along a second side portion of the garment structure.

SIXTH AUXILIARY REQUEST

CLMS

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from closely proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 129 cm² (20 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented

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SIXTH AUXILIARY REQUEST

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zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure.

SEVENTH AUXILIARY REQUEST

CLMS

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from closely proximate to a neck opening (102) to closely proximate to a waist opening (106) of the garment structure, is at least 129 cm^2 (20 in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm^2 (12 in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist opening of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented

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SEVENTH AUXILIARY REQUEST

CLMS

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zone is at least 77 cm^2 (12 in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist opening of the garment structure.

EIGHTH AUXILIARY REQUEST

CLMS

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from closely proximate to a neck opening (102) to closely proximate to a waist opening (106) of the garment structure, is at least 129cm^2 (20in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77cm^2 (12in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to closely proximate to a waist opening of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented

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EIGHTH AUXILIARY REQUEST

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zone is at least 77cm^2 (12in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to closely proximate to the waist opening of the garment structure.

NINTH AUXILIARY REQUEST

CLMS

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the third vented zone

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is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure.

TENTH AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

 a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine;

 a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 129 cm² (20 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

 a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure; and

 a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the third vented zone

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TENTH AUXILIARY REQUEST CLMS 05734332

is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure.

ELEVENTH AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400) fitting at least a portion of an upper torso of a wearer, comprising:

 a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine;

 a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 129 cm^2 (20 in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body, wherein at least a portion of the first vented zone is from 5 to 15 cm (2 to 6 inches) wide and extends at least 25 cm (10 inches) along a centre back portion of the garment structure;

 a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the second vented zone is at least 77 cm^2 (12 in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure, wherein at least a portion of the second vented zone is from 5 to 15 cm (2 to 6 inches) wide and extends at least 15 cm (6 inches) along a first side portion of the garment structure; and

 a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the

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ELEVENTH AUXILIARY REQUEST CLMS 05734332

second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the third vented zone is at least 77 cm^2 (12 in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure, wherein at least a portion of the third vented zone is from 5 to 15 cm (2 to 6 inches) wide and extends at least 15 cm (6 inches) along a second side portion of the garment structure.

TWELFTH AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

 a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine;

 a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, and wherein the first vented zone extends along a center back portion of the garment structure from closely proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 129 cm² (20 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

 a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure; and

 a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the third vented zone

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TWELFTH AUXILIARY REQUEST CLMS 05734332

is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure.

THIRTEENTH AUXILIARY REQUEST **CLMS**

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, and wherein the first vented zone extends along a center back portion of the garment structure from closely proximate to a neck opening (102) to closely proximate to a waist opening (106) of the garment structure, is at least 129cm^2 (20in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the second vented zone is at least 77cm^2 (12in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist opening of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the third vented zone

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is at least 77cm^2 (12in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist opening of the garment structure.

FOURTEENTH AUXILIARY REQUEST **CLMS**

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, and wherein the first vented zone extends along a center back portion of the garment structure from closely proximate to a neck opening (102) to closely proximate to a waist opening (106) of the garment structure, is at least 129 cm^2 (20 in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the second vented zone is at least 77 cm^2 (12 in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to closely proximate to a waist opening of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine, wherein the third vented zone

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is at least 77 cm^2 (12 in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to closely proximate to the waist opening of the garment structure.

FIFTEENTH AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, wherein the third vented zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented

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FIFTEENTH AUXILIARY REQUEST CLMS 05734332

zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure.

SIXTEENTH AUXILIARY REQUEST CLMS

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 129cm^2 (20in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96, wherein the second vented zone is at least 77cm^2 (12in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96, wherein the third vented zone is at least 77cm^2 (12in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented

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SIXTEENTH AUXILIARY REQUEST CLMS

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zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure.

SEVENTEENTH AUXILIARY REQUEST **CLMS**

05734332

Claims

1. A garment (400) fitting at least a portion of an upper torso of a wearer, comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 129 cm^2 (20 in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body, wherein at least a portion of the first vented zone is from 5 to 15 cm (2 to 6 inches) wide and extends at least 25 cm (10 inches) along a center back portion of the garment structure;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96, wherein the second vented zone is at least 77 cm^2 (12 in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure, wherein at least a portion of the second vented zone is from 5 to 15 cm (2 to 6 inches) wide and extends at least 15 cm (6 inches) along a first side portion of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air

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SEVENTEENTH AUXILIARY REQUEST **CLMS**

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permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96, wherein the third vented zone is at least 77 cm^2 (12 in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure, wherein at least a portion of the third vented zone is from 5 to 15 cm (2 to 6 inches) wide and extends at least 15 cm (6 inches) along a second side portion of the garment structure.

EIGHTEENTH AUXILIARY REQUEST **CLMS**

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, and wherein the first vented zone extends along a center back portion of the garment structure from closely proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 129 cm² (20 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to a waist area of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, wherein the third vented zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented

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EIGHTEENTH AUXILIARY REQUEST **CLMS**

05734332

zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist area of the garment structure.

NINETEENTH AUXILIARY REQUEST CLMS

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, and wherein the first vented zone extends along a center back portion of the garment structure from closely proximate to a neck opening (102) to closely proximate to a waist opening (106) of the garment structure, is at least 129 cm² (20 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist opening of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96, wherein the third vented zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented

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NINETEENTH AUXILIARY REQUEST CLMS

05734332

zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to the waist opening of the garment structure.

TWENTIETH AUXILIARY REQUEST

CLMS

05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96, and wherein the first vented zone extends along a center back portion of the garment structure from closely proximate to a neck opening (102) to closely proximate to a waist opening (106) of the garment structure, is at least 129cm^2 (20in^2) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96, wherein the second vented zone is at least 77cm^2 (12in^2) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to closely proximate to a waist opening of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least $168\text{m}^3/\text{min per m}^2$ ($550\text{ft}^3/\text{min per ft}^2$) measured according to ASTM D737-96, wherein the third vented zone is at least 77cm^2 (12in^2) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented

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TWENTIETH AUXILIARY REQUEST

CLMS

05734332

zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to closely proximate to the waist opening of the garment structure.

21st auxiliary request:

FIRST AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

 a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 168m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

 a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 168 m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

 a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 168 m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist area of the garment structure; and

 a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 168 m³/min per m² (550 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented

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 zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to proximate to the waist area of the garment structure, and

 wherein the first garment portion forms a majority of the garment structure.

22nd auxiliary request:

SECOND AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 137 m³/min per m² (450 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist area of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented

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SECOND AUXILIARY REQUEST CLMS 05734332

zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to proximate to the waist area of the garment structure, and

wherein the first garment portion forms a majority of the garment structure.

23rd auxiliary request:

THIRD AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

 a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 137 m³/min per m² (450 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

 a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

 a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist area of the garment structure; and

 a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented

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THIRD AUXILIARY REQUEST CLMS 05734332

 zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to proximate to the waist area of the garment structure, and

 wherein the first garment portion forms a majority of the garment structure, and wherein the first, second, and third vented zones are the only vented zones in the garment.

24th auxiliary request:

FOURTH AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

a first garment portion formed of a non-mesh fabric material, wherein the first garment portion has an air permeability of less than 137 m³/min per m² (450 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202) formed of a mesh material, wherein a material forming the first vented zone has an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) formed of a mesh material and separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist area of the garment structure; and

a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) formed of a mesh material and separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750,

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wherein the third vented zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to proximate to the waist area of the garment structure, and

wherein the first garment portion forms a majority of the garment structure.

25th auxiliary request:

FIFTH AUXILIARY REQUEST CLMS 05734332

Claims

1. A garment (400), comprising:

 a first garment portion formed of a fabric material, wherein the first garment portion has an air permeability of less than 137 m³/min per m² (450 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750;

 a second garment portion forming a garment structure with at least the first garment portion, wherein the second garment portion includes a first vented zone (202), wherein a material forming the first vented zone has an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, and wherein the first vented zone extends along a center back portion of the garment structure from proximate to a neck opening (102) to a waist area (106) of the garment structure, is at least 77 cm² (12 in²) and is provided at a first targeted location in the garment structure to cool the wearer's body;

 a third garment portion forming part of the garment structure, wherein the third garment portion includes a second vented zone (302) separate from the first vented zone, wherein the second vented zone is formed from a material having an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the second vented zone is at least 77 cm² (12 in²) and is provided at a second targeted location in the garment structure to cool the wearer's body, and wherein the second vented zone is at a first torso side of the garment structure and extends from proximate to a first armpit seam or a first arm opening (104) to proximate to a waist area of the garment structure; and

 a fourth garment portion forming part of the garment structure, wherein the fourth garment portion includes a third vented zone (304) separate from the first vented zone and the second vented zone, wherein the third vented zone is formed from a material having an air permeability of at least 244 m³/min per m² (800 ft³/min per ft²) measured according to ASTM D737-96 using a Frazier Low Pressure Air Permeability Machine 750, wherein the third vented

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 zone is at least 77 cm² (12 in²) and is provided at a third targeted location in the garment structure to cool the wearer's body, and wherein the third vented zone is at a second torso side of the garment structure and extends from proximate to a second armpit seam or a second arm opening to proximate to the waist area of the garment structure, and

 wherein the first garment portion forms a majority of the garment structure, and wherein the garment structure at least partially fits a lower torso of the wearer.

