

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WOLFGANG RUF,
KONSTANTIN FENKL and HANS LOSER

Appeal No. 2005-1130
Application No. 10/072,876

HEARD: June 8, 2005

Before KIMLIN, OWENS, and JEFFREY T. SMITH, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from a rejection of claims 1-53, which are all of the pending claims.

THE INVENTION

The appellants claim a lamella of a headbox of a fibrous material web production machine, and claim a headbox including the lamella. Claim 1, which claims the lamella, is illustrative:

1. A lamella of a headbox through which at least one fibrous suspension flows, the headbox having a machine-width headbox nozzle with a nozzle length and an exit opening, and the headbox nozzle being delimited by an upper nozzle wall and a lower nozzle

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wall, said lamella, which is structured and arranged to be mounted within the headbox nozzle, comprising:

a lamella body having a downstream lamella end structured and arranged to be positioned downstream, relative to a suspension flow direction, of an opposite end of said lamella body; and

said downstream lamella end comprising a first surface, a portion coupled to an sloped relative to said first surface, and a second surface, located opposite said first surface, provided with a non-planar surface.

THE REFERENCES

Sanford	4,941,950	Jul. 17, 1990
Ruf et al. (Ruf)	5,645,689	Jul. 8, 1997

THE REJECTIONS

The claims stand rejected as follows: claims 1-3, 11, 15, 17-23, 31, 35, 37-42, 44 and 48-50 under 35 U.S.C. § 102(b) as anticipated by Ruf; claims 1-3, 15, 17-23, 31, 35, 37-42, 44 and 48-50 under 35 U.S.C. § 102(b) as anticipated by Sanford; claims 4-10, 13, 14, 16, 24-30, 33, 34, 36, 43 and 45-47 under 35 U.S.C. § 103 as obvious over Ruf or Sanford; and claims 12, 32, 46 and 51-53 under 35 U.S.C. § 103 as obvious over Ruf in view of Sanford.

OPINION

We affirm the rejections over Ruf and over Ruf in view of Sanford, and reverse the rejections over Sanford.

The appellants state that none of the claims stand or fall together (brief, page 5). The appellants, however, merely point out differences in what the claims cover (brief, pages 8-10, 12-13, 16, 19-21), which is not an argument as to why the claims are separately patentable. See 37 CFR § 1.192(c)(7)(1997). We therefore limit our discussion of the affirmed rejections to one claim, i.e., claim 1.

Ruf discloses, in figure 7, a lamella having a downstream end (8.7) comprising a first surface (horizontal upper surface portion), a portion coupled to and sloped relative to the first surface (sloped upper tip portion (9.7)), and a non-planar second surface, (i.e., the lower surface having a horizontal surface portion and an upwardly sloped tip portion (9.7)) located opposite the first surface (col. 4, lines 30-37).

The appellants argue that Ruf's horizontal and sloped portions of the upper and lower ends of the lamella are separate obliquely oriented planar surfaces, not a non-planar surface (brief, page 7; reply brief, pages 2-3).

During patent prosecution, claims are to be given their broadest reasonable interpretation consistent with the specification, as the claim language would have been read by one

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of ordinary skill in the art in view of the specification and prior art. See *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *In re Sneed*, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983).

The appellants do not point out, and we do not find, any disclosure in the specification which limits the term "non-planar" such that it excludes Ruf's upper and lower lamella ends having horizontal and sloped portions. Hence, we find the lamella claimed in the appellants' claim 1 to be anticipated by Ruf.

With respect to the rejection over Ruf in view of Sanford, the appellants argue that those references are not combinable because Ruf uses a straight line lamella tip to achieve high paper quality (col. 4, lines 16-30), whereas Sanford uses grooves from the upstream end to the downstream end to inhibit vortices which would cause streaking of the web (col. 3, lines 20-26) (brief, pages 14-16; reply brief, pages 4-5). One of ordinary skill in the art, however, considering the references together, would have recognized the tradeoff between the high paper quality obtained by Ruf's straight tip and the inhibition of vortices obtained by Sanford's grooves. Hence, the references in

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combination would have led one of ordinary skill in the art who desired the benefit in Ruf's lamella of Sanford's inhibition of vortices, at the expense of some loss of the high paper quality disclosed by Ruf, to place Sanford's grooves in Ruf's lamella.

Thus, we are not convinced of reversible error in the examiner's rejection over the combination of Ruf and Sanford.

As for the rejections over Sanford, the examiner argues that Sanford discloses, in figures 7-9, a lamella having downstream sloped portion 24D (answer, page 4). Portion 24D actually is at the upstream end of the lamella (col. 5, lines 61-62).

The examiner has not established that Sanford discloses, or would have fairly suggested, to one of ordinary skill in the art, a downstream lamella end having a first surface and a portion coupled to and sloped relative to the first surface as required by the appellants' independent claims 1 and 22, or a sloped surface obliquely oriented with respect to and coupled to a first surface as required by the appellants' independent claim 44. Hence, the examiner has not established a *prima facie* case of anticipation or obviousness of the appellants' claimed invention over Sanford.

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DECISION

The rejections of claims 1-3, 11, 15, 17-23, 31, 35, 37-42, 44 and 48-50 under 35 U.S.C. § 102(b) over Ruf, claims 4-10, 13, 14, 16, 24-30, 33, 34, 36, 43 and 45-47 under 35 U.S.C. § 103 over Ruf, and claims 12, 32, 46 and 51-53 under 35 U.S.C. § 103 over Ruf in view of Sanford, are affirmed. The rejections over Sanford of claims 1-3, 15, 17-23, 31, 35, 37-42, 44 and 48-50 under 35 U.S.C. § 102(b), and claims 4-10, 13, 14, 16, 24-30, 33, 34, 36, 43 and 45-47 under 35 U.S.C. § 103, are reversed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
TERRY J. OWENS)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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JEFFREY T. SMITH)	
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