

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 CLAUDE GEORGET

Appeal No. 2005-2681
Application 10/156,328

ON BRIEF

Before WARREN, OWENS and KRATZ, *Administrative Patent Judges*.

WARREN, *Administrative Patent Judge*.

Decision on Appeal and Opinion

We have carefully considered the record in this appeal under 35 U.S.C. § 134, and based on our review, find that we cannot sustain the grounds of rejection advanced on appeal: appealed claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by Naaktgeboren et al. (Naaktgeboren); and appealed claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Naaktgeboren in view of Glass et al. (Glass).^{1,2} Answer, pages 3-5.

We refer to the answer and to the brief for a complete exposition of the positions advanced by the examiner and appellant.

The dispositive issue in this appeal is whether Naaktgeboren discloses to one skilled in

¹ Claims 1, 2 and 7 are all of the claims in the application. See the appendix to the brief.

² The examiner does not state which prior Office action contains the grounds of rejection. We find the grounds of rejection set forth in the final action mailed June 15, 2004.

the art in **Figs. 1-3** thereof, as explained at col. 3, l. 51, to col. 4, l. 4, particularly col. 3, ll. 56-60, and col. 4, l. 54, to col. 5, l. 3, that “twine brake 70 is . . . [located] between the separating arrangement 74,80 and the baling chamber 22, as required by claim 1” as framed by appellant (brief, page 3; original emphasis deleted).

The examiner submits that appellant’s

disclosure states, “the housing 12 includes sidewalls 18 between which a baling chamber 20 is formed for the forming of a cylindrical bale 16.” The boundarys [*sic*] of the bailing [*sic*] chamber are therefore between the side walls of the housing and therefore the bailing chamber is located at either the front end or the rear of the bail [*sic*]. [Naaktgeboren] shows in figures 1-2, sidewalls, constituting a bailing chamber. Please see fig. 2, which clearly shows the twine brake (70) is located between the separating arrangement (74) and an upper portion of a bailing chamber. [Answer, pages 3-4.]

On this record, we cannot subscribe to the examiner’s position. We agree with the examiner that when appealed claim 1 is interpreted in light of the specification by one of ordinary skill in the art, *see, e.g., In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), the binding arm, separating arrangement and twine brake can be orientated in any position relative to the baling chamber as long as the relationship of these elements to each other and to the baling chamber are as stated in the claim. However, one skilled in the art finds teachings and inferences in a reference based on the disclosure of that reference, and does not use any aspect of the disclosure in the specification of an application to do so. In this respect, it is well settled that a reference stands for all of the specific teachings thereof as well as the inferences one of ordinary skill in this art would have reasonably been expected to draw therefrom, *see In re Fritch*, 972 F.2d 1260, 1264-65, 23 USPQ2d 1780, 1782-83 (Fed. Cir. 1992); *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968), presuming skill on the part of this person. *In re Sovish*, 769 F.2d 738, 743, 226 USPQ 771, 774 (Fed. Cir. 1985).

In the present case, Naaktgeboren discloses with respect to **FIG. 1** thereof, that “[w]ithin [bale forming] chamber **22**, the crop material at first curls freely under the combined action of the floor roll **20**, a chain conveyor **24** and a rotating stripper roll **26**, and packs loosely under its own weight until chamber **22** is filled” (col. 3, ll. 57-60). We find that one skilled in this art would recognize from the reference that the “bale forming chamber” is within the confines of

chain conveyor **24**, and that stop devices, that is, twine brakes, **70** are not between separating means **74,80** and the bale forming chamber **22**, but rather “[t]he twine separating arrangement 74,80 is located between a twine brake 70 and the baling chamber 22” as appellant argues (brief, page 3).

Accordingly, in the absence of a prima facie case of anticipation, we reverse the ground of rejection of appealed claims 1 and 2 under 35 U.S.C. § 102(b).

We find that the ground of rejection of appealed claim 7 under 35 U.S.C. § 103(a) is based on the same analysis and the examiner does not dispute appellant’s position that Glass does not suggest a different arrangement of the subject elements of Naaktgeboren (brief, page 4). Accordingly, we reverse this ground of rejection as well.

The examiner's decision is reversed.

Reversed

CHARLES F. WARREN
Administrative Patent Judge

TERRY J. OWENS
Administrative Patent Judge

PETER F. KRATZ
Administrative Patent Judge

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