

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte CLEMENS JOHANNES MARIA DE VROOME

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Appeal No. 2005-2417  
Application No. 09/999,660

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ON BRIEF

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Before FRANKFORT, McQUADE, and BAHR, Administrative Patent Judges.  
McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Clemens Johannes Maria de Vroome appeals from the examiner's rejection (mailed October 9, 2003) of claims 1, 3-31, 33 and 34, all of the claims pending in the application.

THE INVENTION

The invention relates to "a method and a device for cooling . . . a printed paper web" (specification, page 1). Representative claims 1 and 4 read as follows:

Claim I. A method of cooling a material web, which comprises:

moving the material web in a given direction over a cooling cylinder and at least one other cylinder disposed at a location selected from the group consisting of a location upline and a location downline from the cooling cylinder, as viewed in the given direction of the web path;

carrying out the step of moving of the material web with looping sections of the material web passing over the cylinders, the looping sections being connected for moving the material web along the looping sections at least approximately on a web path being meander-shaped, always curved or non-rectilinear; and

arranging the cylinders with respect to one another so as to exclude contact pressure with one another between respective two of the cylinders.

Claim 4. A device for cooling a material web comprising:

a cooling cylinder around which the material web movable on a web path is partly looped; and

another cylinder disposed at a location selected from the group consisting of downline from and upline from the cooling cylinder;

the material web having looping sections passing over said cylinders, the looping sections being connected for moving the material web along the looping sections at least approximately on a web path being meander-shaped, always curved or non-rectilinear.

#### THE PRIOR ART

The references relied on by the examiner as evidence of anticipation and obviousness are:

Tafel	4,920,881	May 01, 1990
Reichel	5,188,028	Feb. 23, 1993
Hahne	5,275,103	Jan. 04, 1994

#### THE REJECTIONS

Claims 4-31, 33 and 34 stand rejected under 35 U.S.C. § 112, first paragraph, as being based on a specification which fails to comply with the written description requirement of this section of the statute.

Claims 1, 3-5, 10, 15-20, 30, 31, 33 and 34 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hahne.

Claims 1, 3, 18, 22, 23, 26, 27, 31 and 34 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Reichel.

Claims 6-8 and 11-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hahne.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Hahne in view of Tafel.

Claims 24 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reichel.

Attention is directed to the brief (filed April 2, 2004) and answer (mailed June 16, 2004) for the respective positions of the appellant and examiner regarding the merits of these rejections.

## DISCUSSION

### I. Petitionable matter

The appellant (see pages 13-14 in the brief) raises as an issue on appeal the objection to the drawing set forth in the Office action from which the appeal was taken. Although the examiner (see page 3 in the answer) allows that the objection is related to the 35 U.S.C. § 112, first paragraph, rejection, and hence "may be appropriate for the Board to review" (answer, page 3), the stated basis for the objection under 37 CFR § 1.83(a) shows that it is not directly connected to the merits of the rejection. Hence, the drawing objection is properly reviewable by petition to the Director rather than appeal to this Board (see In re Hengehold, 440 F.2d 1395, 1403-1404, 169 USPQ 473, 479 (CCPA 1971)), and will not be further addressed in this decision.

II. The 35 U.S.C. § 112, first paragraph, rejection

According to the examiner (see pages 4 and 5 in the answer), the appellant's specification lacks written descriptive support for the recitation in independent claims 4, 18 and 30 that the material web looping sections passing over the cylinders are connected for moving the material web along the looping sections "at least approximately on a web path being meander-shaped, always curved or non-rectilinear," and for the further recitation in dependent claims 31, 33, and 34 that the web path has "substantially no straight line section."<sup>1</sup>

The test for determining compliance with the written description requirement of § 112, ¶ 1, is whether the disclosure of the application as originally filed reasonably conveys to the

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<sup>1</sup> Although independent claim 1 also recites that the looping sections are connected for moving the material web along the looping sections "at least approximately on a web path being meander-shaped, always curved or non-rectilinear," the examiner did not include it or dependent claim 3 in the rejection.

artisan that the inventor had possession at that time of the later claimed subject matter, rather than the presence or absence of literal support in the specification for the claim language.

In re Kaslow, 707 F.2d 1366, 1375, 217 USPQ 1089, 1096 (Fed. Cir. 1983). The content of the drawings may also be considered in determining compliance with the written description requirement.

Id.

The originally filed specification in this application states the following with respect to the looping sections of the material web:

- a) "the method includes moving the material web on an at least approximately always curved web path" (page 5);
- b) "the material web can be moved . . . on a substantially always curved path" (page 12);
- c) "continuous curving of the web path results from the looping sections of the material web" (page 12);
- d) "[r]ectilinearly extending routes between the cylinders, around which the material web is led, can hereby be prevented" (page 12);
- e) "a first, for example positive, curving passes continuously into a second, for example, negative curving,

without having a considerable rectilinearly running web section"  
(page 13);

f) "paper transfer results without an intermediate region"  
(page 16);

g) "the length of the intermediate section 14 of the material web between the second cooling cylinder 9 and the third cooling cylinder 13 is thereby reduced, as far as structurally possible, and is decreased to a minimum" (page 26);

h) "the web course of the material web 5 virtually always has a curve along the looping sections of the individual cooling cylinders" (page 27);

i) "the material web 5 is always in contact with the surface of one of the cooling cylinders . . . except at transition-points between the cooling cylinders, which are reduced to a minimum lengthwise" (page 27);

j) "[d]ue to the tight packing of the cooling cylinders 9, 13 and 15 and the offset arrangement, the first and second transition positions 45 and 467 have virtually no rectilinear and freely running web sections" (pages 32-33); and

k) "[t]he material web 5 . . . does not have or has only a very, very short rectilinear free or clear web guidance at the transition locations 45 and 46" (page 33).

These portions of the originally filed specification clearly provide the requisite written descriptive support for the claim limitations in question. Due to the presence of the modifiers "approximately" and/or "substantially," none of these limitations requires the stated material web movement to be strictly curved or non-rectilinear with no straight line sections. Hence, the examiner's position that the application as originally filed would not reasonably convey to the artisan that the appellant had possession at that time of the subject matter recited in claims 4-31 is unfounded.

Accordingly, we shall not sustain the standing 35 U.S.C. § 112, first paragraph, rejection of claims 4-31, 33 and 34.

III. The 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) rejections

Each of the examiner's prior art rejections rests on a finding (see pages 5-8 in the answer) that Hahne meets the limitations in independent claims 1, 4, 18 and 30 requiring the looping sections passing over the cylinders to be connected for moving the material web along the looping sections "at least

approximately on a web path being meander-shaped, always curved or non-rectilinear," or that Reichel meets the same limitations in independent claims 1 and 18. While both references disclose rotary offset-printing machines having a cooling cylinder arrangement located downstream of a dryer, neither goes into much detail as to the spatial relationships between the cooling cylinders. For purposes of treating the claim limitations at issue, the examiner simply points to the sole drawing in Hahne and Figure 1 in Reichel. These drawings, however, do not teach, and would not have suggested, a cylinder arrangement wherein material web looping sections passing over the cylinders are connected for moving the material web along the looping sections "at least approximately on a web path being meander-shaped, always curved or non-rectilinear." The examiner's determination to the contrary has no factual basis in the drawings or underlying specifications of the references. The examiner's application of Tafel in combination with Hahne does not cure this evidentiary deficiency.

Accordingly, we shall not sustain the standing 35 U.S.C. § 102(b) rejection of independent claims 1, 4, 18 and 30, and dependent claims 3, 5, 10, 15-17, 19, 20, 31, 33 and 34, as being

anticipated by Hahne, the standing 35 U.S.C. § 102(b) rejection of independent claims 1 and 18, and dependent claims 3, 22, 23, 26, 27, 31 and 34, as being anticipated by Reichel, the standing U.S.C. § 103(a) of dependent claims 6-8 and 11-14 as being unpatentable over Hahne, the standing U.S.C. § 103(a) of dependent claim 9 as being unpatentable over Hahne in view of Tafel, or the standing U.S.C. § 103(a) of dependent claims 24 and 25 as being unpatentable over Reichel.

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SUMMARY

The decision of the examiner to reject claims 1, 3-31,  
33 and 34 is reversed.

REVERSED

CHARLES E. FRANKFORT	)
Administrative Patent Judge	)
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	)
	)
JOHN P. McQUADE	) BOARD OF PATENT
Administrative Patent Judge	) APPEALS
	) AND
	) INTERFERENCES
	)
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	)
JENNIFER D. BAHR	)
Administrative Patent Judge	)

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**Comment [jvn1]:** Type or Paste Address

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