

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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 CLAYTON R. CARTER, JEREMY A. JENKINS,  
LAYNE W. FINLINSON and ROY A. HALES

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Appeal No. 2006-0975  
Application No. 10/079,792

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ON BRIEF

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Before CRAWFORD, BAHR and HORNER, Administrative Patent Judges.  
CRAWFORD, Administrative Patent Judge.

**DECISION ON APPEAL**

This is a decision on appeal from the examiner's final rejection of claims 1 to 4, which are all of the claims pending in this application.

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The appellants' invention relates to a slopeboard framework for use in a tractor (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

THE PRIOR ART

The prior art reference of record relied upon by the examiner in rejecting the appealed claims are:

Yoder et al. (Yoder) 4,079,791 Mar. 21, 1978

THE REJECTIONS

Claims 1 to 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yoder.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the answer (mailed August 19, 2005) and the final rejection (mailed May 27, 2004) for the examiner's complete reasoning in support of the rejections, and to the brief (filed May 24, 2005) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art reference, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

The examiner has rejected claims 1 to 4 under 35 U.S.C. §102(b). We initially note that to support a rejection of a claim under 35 U.S.C. § 102(b), it must be shown that each element of the claim is found, either expressly described or under principles of inherency, in a single prior art reference. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

In regard to the rejection, the examiner finds:

Yoder discloses a slopeboard (generally 1) useable on a tractor having a primary push blade 18, of the type having a moldboard 18 and a framework (generally 2). The framework having a solid steel (as shown in the cross hatchings of figure 2) member attached thereto with an integral inner pivotal mounting 3 and an outer pivotal mounting 10, both of which have an aperture formed therein (as seen in figure 1) [answer at page 3].

. . . "framework (**generally 2**)" is written as a general area numeral and is to also include members 3 &4. Further, the solid member as claimed can be seen in figure 2, area immediately above reference numeral 2 [final rejection at page 2].

We will not sustain this rejection. Claim 1 recites an improved slopeboard which includes:

. . . a solid member attached to the framework, said solid member having a first end, the inner pivotal mounting integrally formed as an aperture within the solid member near the first end, a second end, and the outer pivotal mounting integrally formed as an aperture within the solid member near the second end.

In the examiner's view, the elements 2, 3 and 4 form the framework and the solid member is the area immediately above the reference numeral 2. We assume that the examiner is referring to the cylinder mount 10 which is depicted above reference numeral 2 in Yoder's Figure 2. Cylinder mount 10 is attached to element 2 and has an aperture therein through which a pin 13 is disposed to pivotally mount the hydraulic means (col. 3, lines 33 to 41). This aperture may be considered to be formed at an outer end of the slopeboard. However, even assuming that examiner is correct that the elements 2, 3 and 4 form a framework and that cylinder mount 10 is a solid member, cylinder mount 10 does not include an aperture near an inner end.

As the cylinder mount 10 and associated hardware does not include two apertures, one at the outer end and one at the inner end, as required by claim 1, we will not sustain this rejection as it is directed to claim 1 and claim 2 dependent thereon.

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We will likewise not sustain this rejection as it is directed to claim 3 because claim 3 includes language similar to the language in claim 1, i.e. that the solid member has a first end with “the inner pivotal mounting integrally formed as an aperture within the solid member” and an “outer pivotal mounting integrally formed as an aperture within the solid member near the second end.”

The decision of the examiner is reversed.

REVERSED

MURRIEL E. CRAWFORD	)	
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
JENNIFER D. BAHR	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
LINDA E. HORNER	)	
Administrative Patent Judge	)	

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**Comment [jvn1]:** Type address

MEC/ki