

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 BRUCE A. HAATAJA

Appeal 2007-0213
Application 11/060,994
Technology Center 1700

Decided: December 14, 2006

Before EDWARD C. KIMLIN, BRADLEY R. GARRIS, and
LINDA M. GAUDETTE, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-5. Claim 1 is illustrative:

1. An article of manufacture formed from binder coated wood flakes, having a lopsided funnel shaped hole extending from one surface of said article to the other, said hole having one side portion extending approximately perpendicularly from said surface and an opposite portion side portion extending from said one surface at an angle of 20 degrees or more with respect to said perpendicular, whereby said hole has a generally elliptically shaped opening at said one surface and a generally circular shaped opening at said other surface.

The Examiner relies upon the following references in the rejection of the appealed claims:

Akerson	US 3,143,026	Aug. 4, 1964
Preston	US 6,569,540 B1	May 27, 2003

Appellant's claimed invention is directed to an article of manufacture, such as a molded wood strand product, having a lopsided funnel shaped hole extending from one surface to another surface of the article. The hole has a generally elliptically shaped opening at one surface and a generally circular shaped opening at the other surface.

Appealed claim 1 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Akerson. Claims 2-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Akerson in view of Preston.

Appellant has not set forth a separate substantive argument against the § 103 rejection of claims 2-5. Rather, Appellant relies solely upon the argument against the § 102 rejection of claim 1 upon which claims 2-5 depend (*see* page 5 of Br., last para.). Accordingly, we will limit our consideration to the Examiner's § 102 rejection of claim 1.

We have thoroughly reviewed each of Appellant's arguments for patentability. However, we are in full agreement with the Examiner that Akerson describes the subject matter of claim 1 within the meaning of § 102.

Accordingly, we will sustain the Examiner's rejection for essentially those reasons expressed in the Answer.

Appellant does not dispute the Examiner's factual determination that Akerson describes an article of manufacture formed from binder coated wood flakes having a lopsided funnel shaped hole extending from one surface, wherein the hole has one side portion extending approximately perpendicularly from said surface and an opposite portion side portion extending from said one surface at an angle of 20 degrees or more with respect to the perpendicular, as recited in claim 1. The sole argument advanced by Appellant is that Figure 1 of Akerson shows that "the tubular channels 15 do not extend through the body" and, therefore, Akerson "does not include a lopsided funnel-shaped hole extending from one surface of an article to another" (page 4 of Br., second para.). However, as accurately pointed out by the Examiner, Akerson expressly discloses that "[t]he aim is to provide a multiplicity of cavities each connected to at least one surface opening by a channel from the cavity to the opening" (col. 3, ll. 15-17, emphasis added). Accordingly, we find that the Examiner has reasonably interpreted the reference disclosure as fairly describing cavities which extend from one surface of the article to another surface of the article. Significantly, Appellant has not refuted the Examiner's interpretation of the reference disclosure, i.e., Appellant has not submitted a Reply Brief which addresses the pertinent disclosure of Akerson. We also note that Appellant has not rebutted the Examiner's reasonable conclusion that the tool depicted in Figure 5 of Akerson would produce a hole in accordance with the general configuration of the claimed hole.

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Concerning the § 103 rejection of claims 2-5, Appellant, as noted above, has not rebutted the Examiner's legal conclusion that "it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Akerson with wood flakes have [sic, having] an average length of from 1¼ to about 6 inches to about 2-3 inches, an average thickness of from about 0.015 to about 0.25 inch or 0.015–0.03 inch, and an average width of less than the average length of no greater than 3 inches, from about 0.25 to about 1 inch in order to facilitate proper alignment in oriented wood composites (col. 5, lines 59-60) as taught by Preston" (page 3 of Examiner's rejection of June 6, 2005).

In conclusion, based on the foregoing, the Examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(2006).

AFFIRMED

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