

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

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DAVID W. REPETTO, CHARLES TRICOU and DAVID PRICE

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Appeal No. 2000-2054  
Application No. 08/661,593

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ON BRIEF

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Before ABRAMS, McQUADE, and NASE, Administrative Patent Judges.  
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claim 1, which is the only claim pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates to a frame for a game racquet, and more particularly, to a frame which is formed by filament winding (specification, p. 1). A copy of claim 1 is reproduced in the opinion section below.

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

Cecka	4,114,880	Sep. 19,
1978		

Viellard	EP 0 470 896 A2 <sup>1</sup>	Feb. 12, 1992
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Claim 1 stands rejected under 35 U.S.C. § 103 as being unpatentable over Viellard in view of Cecka.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the final rejection (Paper No. 17, mailed July 7, 1999) and the answer (Paper No. 20, mailed

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<sup>1</sup> In determining the teachings of Viellard, we will rely on the translation provided by the USPTO. A copy of the translation is attached for the appellants' convenience. We note that the translation has misspelled the inventor's last name.

March 13, 2000) for the examiner's complete reasoning in support of the rejection, and to the brief (Paper No. 19, filed January 4, 2000) and reply brief (Paper No. 21, filed May 15, 2000) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claim 1, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the examiner is insufficient to establish a prima facie case of obviousness with respect to the claim under appeal. Accordingly, we will not sustain the examiner's rejection of claim 1 under 35 U.S.C. § 103. Our reasoning for this determination follows.

In rejecting a claim under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d

1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

Claim 1 reads as follows:

An improved game racquet of a composite material comprising a frame, a triangular throat portion and a plurality of reinforcing pieces; wherein said frame is made of a tubular member of a predetermined length by a filament winding method, with said tubular member having the shape of a game racquet frame by bending, said tubular member comprising a plurality of helically-wound filaments and resin; wherein said triangular throat portion is made of a foam material wrapped with resin prepreg tape; wherein said reinforcing pieces have a predetermined size and a predetermined angle and are made of resin prepreg tape, said reinforcing pieces being used to reinforce a plurality of structurally deficient areas of said frame and said triangular throat portion; and wherein said frame formed by filament winding reinforced by said reinforcing pieces and said triangular throat portion reinforced by said reinforcing pieces are arranged in a molding tool in which an improved game racquet frame of a composite material is formed under heat and pressure.

In the rejection before us in this appeal, the examiner determined (final rejection, p. 2) that (1) Viellard discloses that it is known to make racket frames with a filament winding process, (2) Cecka discloses that it is known in the art to provide reinforcements on the throat portion of a racket, and

(3) it would have been obvious to one of ordinary skill in the art to have provided such reinforcements on a racket such as Viellard's to further strengthen it.

The appellants argue that the applied prior art does not suggest the claimed subject matter. We agree.

The claim under appeal recites a game racquet comprising, inter alia, (1) a frame made of a tubular member of a predetermined length by a filament winding method, (2) a triangular throat portion made of a foam material wrapped with resin prepreg tape, and (3) a plurality of reinforcing pieces made of resin prepreg tape. While the examiner may be correct that it would have been obvious to one of ordinary skill in the art to have provided reinforcements as taught by Cecka on Viellard's racket to strengthen it, the applied prior art does not teach or suggest a triangular throat portion of a racket made of a foam material wrapped with resin prepreg tape. Thus, the examiner has not presented evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the applied prior art to arrive at the claimed

invention. It follows that we cannot sustain the examiner's  
rejection of claim 1.

CONCLUSION

To summarize, the decision of the examiner to reject claim 1 under 35 U.S.C. § 103 is reversed.

REVERSED

NEAL E. ABRAMS	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
JOHN P. McQUADE	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
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JEFFREY V. NASE	)	
Administrative Patent Judge	)	

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