

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 31

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JAMES RICHARD BELANGER  
and KEVIN LAUREN COTE

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Appeal No. 2002-0956  
Application 09/182,366

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ON BRIEF<sup>1</sup>

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Before STAAB, MCQUADE, and NASE, Administrative Patent Judges.  
MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

James Richard Belanger et al. appeal from the final rejection (Paper No. 16) of claims 1 through 4, 6 through 12, 14 and 15, all of the claims pending in the application.

THE INVENTION

The invention relates to "a cutting rubber assembly which requires low maintenance and which can be used in machines that

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<sup>1</sup> Although an oral hearing in this appeal was scheduled and confirmed for January 21, 2003 (see Paper No. 30), no appearance was entered by the appellants or their representative(s). Thus, the appeal has been decided on brief.

Appeal No. 2002-0956  
Application 09/182,366

cut webs of any sort" (specification, page 1). Representative claim 1 reads as follows:

1. Apparatus for cutting a web of material comprising:  
a knife cylinder having a circumference, the knife cylinder having at least one knife assembly located on the circumference;  
a supporting element located adjacent to the knife cylinder, a cutting region being formed between the supporting element and the knife cylinder,  
a transport belt having integrated cut rubber portions, the transport belt supported by the supporting element; and  
a cam for contacting cut signatures emerging from the cutting region, the cam being pivotably mounted to the knife cylinder.

THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

Mattison	1,817,037	Aug. 4, 1931
Spengler	3,859,879	Jan. 14, 1975
Heynhold	4,411,947	Oct. 25, 1983
Etzkorn German Patent Document <sup>2</sup>	DE 716,204	Dec. 11, 1941
Imai British Patent Document	2 024 081 A	Jan. 9, 1980

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<sup>2</sup> The appellants submitted an English language translation of this document on September 28, 2001 (Paper No. 19) and appended a copy to the reply brief (Paper No. 26). An additional translation prepared by the United States Patent and Trademark Office is also of record and is appended hereto.

Appeal No. 2002-0956  
Application 09/182,366

#### THE REJECTIONS

Claims 1 through 4, 6, 7, 9 through 12, 14 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Spengler in view of Mattison, the British reference and the German reference.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Spengler in view of Mattison, the British reference, the German reference and Heynhold.

Attention is directed to the appellants' main and reply briefs (Paper Nos. 23 and 26) and to the examiner's answer (Paper No. 24) for the respective positions of the appellants and the examiner with regard to the merits of these rejections.

#### DISCUSSION

Spengler, the examiner's primary reference, discloses a cutting apparatus of the sort used to cut blanks from webs of fabric. The embodiment illustrated in Figure 4, which the examiner focuses on, comprises a cutting roller 21 having a knife 22, a counter pressure endless band or belt 17 supported by guide rollers 14 and 15 and a center support roller 18, and feed-in and discharge conveyors. Spengler teaches that the counter pressure belt 17 "may be made of a suitable material, such as a plastic

Appeal No. 2002-0956  
Application 09/182,366

material or of a sheet or web of steel" (column 3, lines 56 and 57).

As conceded by the examiner (see page 4 in the answer), the Spengler apparatus does not respond to the limitations in appealed claim 1 requiring (1) a transport belt having "integrated cut rubber portions" and (2) "a cam for contacting cut signatures emerging from the cutting region, the cam being pivotably mounted to the knife cylinder." Spengler's transport belt (counter pressure belt 17) does not have such cut rubber portions and Spengler's apparatus does not include such a cam. The examiner's reliance on Mattison, the British reference and the German reference to cure these shortcomings is not well founded.

Mattison discloses an endless conveyor for a woodworking machine such as a sander. The conveyor consists of a pair of heavy endless chains composed of interconnected links 10 and cross bars 12, and a plurality of surface pads 13 removably secured to the chains. Each pad includes a heavy metal base 14 and a resilient rubber surface 15. The pads, which can be readily replaced if damaged, are arranged on the chains to form a tread-like pattern which minimizes undesirable lateral and

Appeal No. 2002-0956  
Application 09/182,366

longitudinal displacement of the workpiece disposed thereon (see page 1 lines 7 through 43).

The British reference discloses a rotary punching machine comprising an anvil cylinder 34 and a knife cylinder 35 having blades 37. The cylinders cooperate to punch portions from a sheet of corrugated board 31 (see Figure 9). The knife cylinder includes a knockout lever 42 for urging the scrap punched from the board away from the blades 37 (see page 3, line 129 et seq.).

The German reference discloses a metal cutting cylinder having a cutter blade 1 and a scraper blade 3, 3'. The scraper blade functions to wipe lubricating substances and metal particle debris from the forward surface of the cutter blade after each cutting operation.

In proposing to combine the foregoing references to reject claim 1, the examiner concludes that it would have been obvious at the time the invention was made to a person having ordinary skill in the art

to utilize a transport belt as taught by Mattison with the invention of Spengler for the purpose of allowing for the replacement of damaged cut rubber portions and decreasing maintenance and lowering costs as well as providing a surface that prevents inadvertent movement of the workpiece as the workpiece is [moved] relative to the tool [answer, page 4],

Appeal No. 2002-0956  
Application 09/182,366

and "[i]n view of [the British reference] and [the German reference] . . . to provide the modified device of Spengler with a pivotally mounted cam in order to ensure proper handling of a . . . web product" (answer, pages 4 and 5).

Even if Mattison is assumed to be analogous art (the appellants urge that it is not), however, there is nothing in the combined teachings of these references which would have suggested replacing the counter pressure belt 17 in Spengler's fabric cutting apparatus with the heavy duty woodworking belt disclosed by Mattison, or providing Spengler's fabric cutting roller 21 with a pivotally mounted cam in view of the British reference's corrugated board scrap knockout lever and the German reference's lubrication and metal particle debris scraper blade. The only suggestion for combining these disparate structures so as to arrive at the apparatus recited in claim 1 stems from hindsight knowledge impermissibly derived from the appellants' disclosure.

Hence, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 1, and dependent claims 2 through 4, 6, 7, 9 through 12, 14 and 15, as being unpatentable over Spengler in view of Mattison, the British reference and the German reference.

Since Heynhold does not overcome the above noted deficiencies in the examiner's reference evidence relative to the

Appeal No. 2002-0956  
Application 09/182,366

subject matter recited in parent claim 1, we also shall not sustain the standing 35 U.S.C. § 103(a) rejection of dependent claim 8 as being unpatentable over Spengler in view of Mattison, the British reference, the German reference and Heynhold.

SUMMARY

The decision of the examiner to reject claims 1 through 4, 6 through 12, 14 and 15 is reversed.

REVERSED

LAWRENCE J. STAAB	)	
Administrative Patent Judge	)	
	)	
	)	BOARD OF PATENT
	)	
	)	APPEALS AND
JOHN P. MCQUADE	)	
Administrative Patent Judge	)	INTERFERENCES
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	)	
JEFFREY V. NASE	)	
Administrative Patent Judge	)	

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Appeal No. 2002-0956  
Application 09/182,366

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