

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte HENRY DENNIS ANSTEY,  
KENNETH CRAIG PHILLIPS  
and JEAN VIAUD

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Appeal No. 2002-1945  
Application 09/452,072

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ON BRIEF

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

DECISION ON APPEAL

Henry Dennis Anstey et al. appeal from the final rejection of claim 8. Claims 1 through 7 stand allowed. Claim 9, the only other claim pending in the application, stands objected to as depending from rejected claim 8.

THE INVENTION

The invention relates to a mechanism for feeding a web of net material into a crop baling machine to wrap the cylindrical bales produced thereby. Claim 8 reads as follows:



DISCUSSION

As correctly pointed out by the examiner (see page 3 in the answer), the admitted prior art net wrap material feeding mechanism meets all of the limitations in claim 8 except for the one requiring the wrap material stripper to be "in the form of a row of bristles." According to the appellants' specification (see pages 8 and 9), the bristles serve the dual purpose of (1) acting as a stripper to prevent the wrap material from wrapping around the adjacent feed roll and (2) entangling and holding the free end of the wrap material so that it advantageously folds back upon itself at the start of the next wrapping cycle. The examiner's reliance on Anthony to supply the acknowledged deficiency in the admitted prior art is not well taken.

Anthony discloses a lint cleaner for removing leaf particles, notes, grass, and bark from harvested cotton fiber. The embodiment 10 shown in Figures 1 through 4 comprises compression rollers 14, 16, 18, 20, a feed roller 22 and a feed plate 24 for feeding fibers of lint cotton 25 onto a saw cylinder 26, a grid assembly 28 cooperating with the saw cylinder for cleaning the cotton, and a doffing brush cylinder 30 having a plurality of bristles 30a for removing the cleaned cotton from the saw cylinder.

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In the examiner's view, "it would have been obvious to one having ordinary skill in the art at [the] time of the invention to provide a brush made of bristle as taught by Anthony in the APA [admitted prior art] net wrap material feeding mechanism to strip net material" (answer, page 3). The Anthony cotton lint cleaner, however, has little, if any, practical relevance to the admitted prior art net wrap feeding mechanism, and the doffing cylinder 30 with its bristles 30a would seem to be structurally and functionally incompatible with the admitted prior art mechanism. Moreover, nothing in Anthony's disclosure of the doffing cylinder and bristles contemplates the dual purpose served by the appellants' wrap material stripper bristles. In this light, and given their disparate natures, it is evident that the only suggestion for selectively combining the admitted prior art net wrap feeding mechanism and the Anthony cotton lint cleaner in the manner proposed by the examiner stems from hindsight knowledge impermissibly derived from the appellants' disclosure.

Therefore, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 8 as being unpatentable over the admitted prior art in view of Anthony.

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SUMMARY

The decision of the examiner to reject claim 8 under 35  
U.S.C. § 103(a) is reversed.

REVERSED

IRWIN CHARLES COHEN	)	
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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