

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 22

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Ex parte TED V. KUCK

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Appeal No. 2003-2075  
Application No. 09/908,073

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ON BRIEF

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

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-28, which are all of the claims pending in this application.

BACKGROUND

The appellant's invention relates to a method for cutting and boning a fowl to create a meat cut which includes the scapula bone and its associated muscles

(specification, page 2). Appellant refers to the resulting meat cut as a “turkey rib” cut.

A copy of the claims under appeal is set forth in the appendix to the appellant’s brief.

The examiner relied upon the following prior art references in rejecting the appealed claims:

Sheehy et al. (Sheehy)	6,221,405	Apr. 24, 2001 (filed May 11, 1999)
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Denton et al. (Denton), “Broiler Chicken Deboning,” Texas Agricultural Extension Service, June 1988.

The following rejections are before us for review.

Claims 1-7, 9-15, 17-23, 27 and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Denton.

Claims 8, 16 and 24-26 stand rejected under 35 U.S.C. § 103 as being unpatentable over Denton in view of Sheehy.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the answer (Paper No. 14) for the examiner's complete reasoning in support of the rejections and to the brief (Paper No. 13) for the appellant’s arguments thereagainst.

#### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the

respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

Each of appellant's independent claims 1, 10 and 18 recites a method for forming a meat cut from a carcass of a fowl comprising the step of removing and/or separating the scapula bone and muscles adhering to the scapula bone from the carcass of the fowl. The examiner has rejected claims 1, 10 and 18, as well as claims 2-7, 9, 11-15, 17, 19-23, 27 and 28 depending therefrom, as being anticipated by Denton. Our understanding of Denton's deboning method is consistent with appellant's explanation on page 6 of the brief. Specifically, Denton discloses a method wherein the shoulder blade (scapula) is removed from the breast of the chicken while leaving the muscles associated with the shoulder blade with the breast muscle. We reach this conclusion based on our reading of the descriptions associated with photos 26-29.

On the basis of the foregoing, it is apparent that Denton does not disclose a method for forming a meat cut comprising the step of removing or separating the scapula bone and muscles adhering to the scapula bone from the carcass of the fowl and therefore does not anticipate the subject matter of independent claims 1, 10 and 18 or the claims depending therefrom. Thus, we cannot sustain the examiner's rejection of claims 1-7, 9-15, 17-23, 27 and 28 as being anticipated by Denton.

Sheehy, relied upon by the examiner for a teaching of bonding meat cuts together, does nothing to cure the above-noted deficiency of Denton. It follows that we

cannot sustain the rejection of claims 8, 16 and 24-26 as being unpatentable over Denton in view of Sheehy.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-28 is reversed.

REVERSED

JOHN P. MCQUADE	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
JEFFREY V. NASE	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
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	)	
JENNIFER D. BAHR	)	
Administrative Patent Judge	)	

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