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

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte ELMER LAITINEN

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Appeal No. 2004-0920
Application No. 10/261,253

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ON BRIEF

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Before PAK, KRATZ and PAWLIKOWSKI, **Administrative Patent Judges**.
PAWLIKOWSKI, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-6.

Claim 1 is representative of the subject matter on appeal and is set forth below:

> 1. A wood burning furnace, comprising: (a) an enclosed combustion chamber including a top, a bottom, a back, a front and opposing side walls; (b) a secondary combustion air admission chamber including a top, a bottom, a back, a front and opposing side walls, the bottom wall of the secondary combustion air admission chamber being arched and perforated with more than two perforations, the bottom wall of the secondary combustion air admission chamber comprising the top wall of the combustion chamber.

The examiner relies upon the following art references as evidence of unpatentability:

Reintjes	3,236,508	Feb. 22, 1966
Starr	4,309,976	Jan. 12, 1982
Craver	4,672,946	Jun. 16, 1986

Claims 1-6 stand rejected under 35 U.S.C. § 103 as being unpatentable over Craver in view of Starr and Reintjes.

On page 3 of the brief, appellant states that the claims stand or fall together. We therefore consider claim 1 in this appeal. 37 CFR § 1.192(c)(7) and (8)(2003).

OPINION

For the reasons set forth in the answer and below, we affirm the rejection.

We refer to pages 3-5 of the answer regarding the examiner's position in this rejection. In the argument section of the brief, on page 3, appellant disagrees with the examiner's conclusion that when Craver is modified to include the cylindrical combustion chamber of Starr, the secondary air

chamber 200 would necessarily be modified to include an arched bottom wall surface mounted above the combustion chamber in the same way that chamber 13 of Starr is configured. Appellant argues that Craver's non-arched structure, shown, for example, in Figures 7 and 8 of Craver, could just as easily fit into a cylindrical combustion chamber, as into a rectangular combustion chamber, and therefore, it would not necessarily be modified to include an arched bottom wall surface.

Hence, the issue before us is whether it would have been obvious to employ a bottom wall of a secondary combustion air admission chamber being arched, in place of a straight bottom wall.

We find that Starr shows in Figure 2 that it is conventional in this art, when employing a cylindrical combustion chamber 11, that the bottom wall of a secondary chamber 13 can also be arched. In view of this teaching, we determine that one of ordinary skill in the art would have been led to employ either a straight bottom wall or an arched bottom wall for the secondary combustion chamber of the furnace described in Craver, with a reasonable expectation of success of forming a useful woodburning furnace. Appellant has not provided any factual data to show that an arched bottom wall will provide an unexpectedly superior result verses a straight bottom wall. Appellant has also not convinced us that such an incorporation would have an <u>un</u>reasonable expectation of success.

In summary, Starr shows that it is conventional in this art to utilize an arched bottom wall. Incorporation of such a configuration in Craver would thus have been obvious.

In view of the above, we affirm the rejection. We need not comment on the reference of Reintjes in making this determination.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

CHUNG K. PAK Administrative Patent Judge	)
PETER F. KRATZ Administrative Patent Judge	) BOARD OF PATENT APPEALS AND INTERFERENCES
BEVERLY A. PAWLIKOWSKI Administrative Patent Judge	)

BAP/sld

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