

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 10

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JERRY RUSSELL

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Appeal No. 97-4209  
Application No. 08/532,507<sup>1</sup>

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ON BRIEF

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Before MEISTER, McQUADE and CRAWFORD, Administrative Patent Judges.

CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

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<sup>1</sup> Application for patent filed September 22, 1995. According to appellant, this application is a division of Application No. 08/251,024, filed May 31, 1994, now U.S. Patent No. 5,486,133, issued January 23, 1996.

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This is a decision on an appeal from the examiner's final rejection of claims 20, 21, 29, and 30 which are all the claims pending in the application. Claims 1 through 19 and 22 through 28 have been canceled. Appellant's claimed subject matter is a grinding wheel. Claim 20 is exemplary of the subject matter on appeal and recites:

20. Grinding wheel construction for cutting teeth into a belt blank to produce a timing belt, said wheel construction comprising:

a wheel (58) having an axis of rotation (F) and an abrasive peripheral grinding surface (100) of predetermined width;

and characterized by said grinding surface (100) having a concave profile across said width and a plurality of radially projecting grinding ribs (106) extending circumferentially about the periphery of said grinding surface (106) and spaced laterally across the width of said grinding surface (100).

#### THE REFERENCES

The examiner has relied on the following references:

Miller	2,144,987	Jan. 24, 1939
Quintilio	5,373,666	Dec. 20, 1994
		(filed Mar. 22, 1993)

#### THE REJECTIONS

Claims 20, 21, 29 and 30 stand rejected under 35 U.S.C. § 103 as being unpatentable over Miller in view Quintilio.

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Rather than reiterate the entire arguments of the appellant's and examiner in support of their respective positions, reference is made to the appellant's Brief (Paper No. 8), the Final Rejection (Paper No. 6) and the Examiner's Answer (Paper No. 9) for the full exposition thereof.

#### OPINION

In reaching our conclusions on the issues raised in this appeal, we have carefully considered appellant's specification and claims, the applied references, and the respective viewpoints advanced by the appellant and the examiner. As a consequence of our review, we have made the determinations which follow.

The examiner found that Miller disclosed the subject matter of independent claims 20, 29 and 30 except that Miller did not disclose a concave profile across the width of the grinding wheel. The examiner relies on Quintilio for teaching a grinding wheel having a concave grinding profile across the width. Quintilio discloses a grinding wheel for the machine working of marble and granite. The profile of the grinding wheel is concave. The examiner concluded:

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[T]o modify the shape of the profile of the grinding wheel of Miller by having various shaped profiles such as a concave grinding surface as taught by Quintilio would have been obvious at the time applicant's invention was made to a person of ordinary skill in the art in order to accommodate and grind workpieces having a rounded shape. [Final Rejection (Paper No. 6) at page 3].

We do not agree. In order for the examiner to set forth a prima facie case of obviousness, she must establish why one having ordinary skill in the art would have been led to the claimed invention by the reasonable teachings or suggestions found in the prior art or by reasonable inferences to the artisan contained in such teachings or suggestions. See In re Sernaker, 702 F.2d 989, 994, 217 USPQ 1, 5 (Fed. Cir. 1983). We find no suggestion or motivation for the combination advanced by the examiner. Miller discloses a grinding wheel for grinding serrated blades for use in cutter heads. The cutter blades that are produced by the Miller method have serrations that are perfectly true and accurate, are free from distortion and scaling, and fit perfectly the serrations of the body with which they interfit as is depicted in Figures 4 and 7 (column 1, lines 6-8; column 2, lines 3-8). Quintilio, on the other hand, discloses a grinding wheel for machining

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marble and granite. Aside from sharing the disclosure of a grinding wheel, the grinding wheels and materials that are ground by the grinding wheels of Miller and Quintilio have little in common. In our view, the only suggestion for combining such disparate structures in the manner proposed by the examiner stems from hindsight knowledge derived from appellant's own disclosure. Therefore, we will not sustain the examiner's rejection of claims 20, 21, 29

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and 30 under 35 U.S.C. § 103 as being unpatentable over Miller  
in view Quintilio.

The decision of the examiner is reversed.

REVERSED

JAMES M. MEISTER	)	
Administrative Patent Judge	)	
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	)	
JOHN P. McQUADE	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
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	)	
MURRIEL E. CRAWFORD	)	
Administrative Patent Judge	)	

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