

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. 36

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MARTIN WIKLUND

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Appeal No. 2000-2062  
Application No. 08/108,698

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HEARD: March 15, 2001

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Before CALVERT, ABRAMS, and GONZALES, Administrative Patent Judges.

CALVERT, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claim 17, the only claim remaining in the application.

Claim 17 is drawn to a method of sawing an essentially round log, and is reproduced in the appendix of appellant's

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brief.

The references applied in the final rejection are:<sup>1</sup>

Hainke (German patent)	497,432	May 8, 1930
Lahtinen (Finnish patent)	81,986	Sep. 28, 1990

Claim 17 stands finally rejected under 35 U.S.C. § 103(a) as unpatentable over Lahtinen in view of Hainke.

#### Background

On February 19, 1998, a panel of this Board issued a decision (Paper No. 41) in which the rejections of claims 5 to 7, 9 to 11, 15 and 16 were reversed, and, pursuant to 37 CFR § 1.196(b), new rejections of those claims under 35 U.S.C. § 103 were entered, including a rejection of claims 5 to 7, 9 to 11, 15 and 16 as unpatentable over Lahtinen in view of Hainke. In subsequent prosecution, appellant canceled claims 5 to 7, 9 to 11, 15 and 16, and added claims 17 to 24. After claims 17 to 24 were finally rejected (Paper No. 43), claim 17 was amended and claims 18 to 24 were canceled.

#### The Rejection

The relevant disclosures of Lahtinen and Hainke have

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<sup>1</sup>Translations of these references were forwarded to appellant on February 19, 1998.

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already been referred to in the prior Board decision and in the examiner's answer, and it is unnecessary to do so here. The basis of the rejection, as stated on pages 4 and 5 of the examiner's answer, is:

The essential difference between the claimed method and [Lahtinen] is that in [Lahtinen] a wire saw is used to cut the log, wherein a turning mechanism is used to support the log, and a circular portion is sawed from the center portion of the log for use as a column or for stock material in a veneer lathe. It would have been obvious to one having ordinary skill in the art as a matter of common sense to (1) eliminate the step in [Lahtinen] of sawing the central circular portion and its function (i.e., providing an elongated member of circular cross-section) if it were desired not to have either columns or veneer stock and (2) to extend the parallel cuts so as to completely divide the log into only "wood products" (i.e., boards) and triangular pieces. This is particularly the case, in view of the teaching of the [Hainke] in Fig. 1 of completely dividing a log by means of parallel cuts into only boards and triangular pieces (wherein it was obviously not desired to utilize the central portion of the log for other purposes, e.g., columns or veneer stock).

Further, the combination of [Lahtinen] in view of [Hainke] lacks the step of dividing each essentially diametrical and plane-parallel board into two plane-parallel boards with two transverse cuts while removing central juvenile wood therebetween. However, it is common knowledge that the grain structure in the juvenile central portion of the log is not consistent with that of the rest of the wood cut from the log, and it would have been obvious to one having ordinary skill in the art to try to maintain wood portions with similar or

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somewhat consistent grain structure by cutting the central portion out of each board section so that each portion will have similar characteristics including strength, resistance to its environment (e.g., environmental effects such as warpage), and aesthetic appearance. It is noted that the specific angles (i.e., 60 and 120 degrees) set forth as being formed on the edge surfaces of the plane-parallel boards would be inherent results of performing the process taught by the prior art.

#### OPINION

Although the rationale stated by the examiner in the first paragraph of the foregoing quotation is essentially the same as that expressed by the Board panel in the prior decision as the basis of the first new rejection under 37 CFR § 1.196(b), we conclude, after reviewing the arguments presented by appellant and by the examiner in the present appeal, that claim 17 is not unpatentable over the applied prior art. While we appreciate the position of the prior Board panel and the examiner, we find ourselves in agreement with the argument made in appellant's brief (page 9 et seq.) that elimination of wire saw cutting in a circular path would destroy the gist of the Lahtinen invention. Lahtinen mounts the log 1 on an axle 7, which allows the log to be rotated to positions where the six sets of parallel cuts 3 can be made by

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saws 2, and also allows sawing in the circumferential direction by wire saw 4. If the log of Lahtinen were first divided into two blocks by extending the first set of parallel cuts all the way through the log, as proposed in the rejection, it could no longer be mounted on the axle for rotation, and the above-noted advantages of Lahtinen's method would be lost. We therefore do not consider that one of ordinary skill would have been motivated by Hainke to modify the Lahtinen process as indicated in the examiner's answer, supra.

Accordingly, the rejection of claim 17 will not be sustained.

Conclusion

The examiner's decision to reject claim 17 is reversed.

REVERSED

IAN A. CALVERT )  
Administrative Patent Judge )  
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 ) BOARD OF PATENT  
NEAL E. ABRAMS )  
Administrative Patent Judge ) APPEALS AND

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) INTERFERENCES  
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JOHN F. GONZALES )  
Administrative Patent Judge )

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