

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FURQAN Z. SHAIKH, GREGORY H. SMITH,
MICHAEL R. RIGLEY, CRAIG E. BURCH, MARTIN A. BROGLEY,
ROBERT F. NOVAK, ROBERT W. GRENKOWITZ and GERALD A. GRAB

Appeal No. 96-2127
Application 08/158,054¹

ON BRIEF

Before THOMAS, KRASS and FLEMING, Administrative Patent Judges.
THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed November 26, 1993.

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Appellants have appealed to the Board from the examiner's final rejection of claims 1 to 5 and 7 to 11, the examiner having allowed claims 6 and 12 to 17.

Representative claim 1 is reproduced below:

1. A method of rapidly producing a contoured part, comprising:

(a) designing a computer graphic model of said part;

(b) sectioning said graphic model into graphic members which are at least one of blocks and slab, said sectioning being sized to facilitate carving of two or more sides of each member;

(c) independently carving a solid member for each of the graphic members, said solid member being proportional to and enveloping such graphic member, said carving being carried out by accessing two or more sides of such solid member to at least essentially duplicate the corresponding graphic member; and

(d) securing said carved solid members together to replicate said graphic model as a usable unitary part.

The following reference is relied on by the examiner:

Christensen et al. (Christensen) 4,736,306 Apr. 5, 1988

Claims 1, 3 to 5 and 7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Christensen. The remaining claims on appeal, claims 2, and 8 to 11, stand rejected under 35 U.S.C. § 103 as being obvious over Christensen alone.

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Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and the answer for the respective details thereof.

OPINION

For all the reasons expressed by the examiner in the answer, as best expressed in the responsive arguments portion of the answer beginning at page 4, and for the additional reasons presented here, we will sustain that prior art rejections of all claims on appeal. Significantly, there is no reply brief of record to dispute the examiner's views expressed in the responsive arguments portion of the answer.

The four clauses (a) to (d) of independent claim 1 on appeal correspond directly with the Figure 1 flowchart-like sequence of appellants disclosed methodology. Page 5, lines 13 through 15 of appellants' specification indicate that the method of this figure comprises four steps, the first three of which are carried out within or under the control of the programmed computer. Without explicitly arguing such, appellants' position in the brief

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appears to automatically assume, for example, that the carving step of clause (c) is performed as a physical operation. It does not appear to be so in the reference relied upon by the examiner, yet the breadth of the recitation in claim 1 can be interpreted either as a physical step or a step performed in an automated part modeling operation. Indeed, such is consistent with appellants' description of Fig. 1 as just noted at page 5 of the specification. Much of the same can be said of step (d) of

securing. It appears that appellants' disclosed invention involves the physical securing of the carved solid members together, yet the claim does not require such a physical securing operation and the reference relied upon and part of the reasoning of the examiner does not appear to require a physical securing operation. Thus, when all is said and done, many of the positions articulated by appellants in the brief are not persuasive.

We will not repeat the examiner's responsive arguments position which appear to directly address many of the arguments raised by appellants in the arguments portion of the brief. On the one hand, appellants appear to admit at the bottom of page 3

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of the brief that Christensen does suggest the use of sectioning planes that are parallel with respect to each other, but continue to argue that with respect to claim 5 this reference fails to show the use of solid members that are generally uniform in thickness. If they are generally parallel with respect to each other as admitted with respect to claim 4, they would be generally uniform in thickness to the extent recited. The showings beginning at Fig. 10 as well indicate the parallel nature of the subsections in Christensen as well as their general uniform thickness.

As to appellants' discussion in the paragraph bridging pages 3 and 4 of the brief, there is little relevance of the objects of the present invention as argued directly reflected in the subject matter of the claims on appeal. In any event, patents utilized as references are not limited to what patentees regard as their own inventions or to the problems with which they are concerned. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983). In the context of the rejection of the claims under 35 U.S.C. § 102, no claim listed by the examiner relates to reassembling by bonding as argued at the top of page 4 of the brief. Claim 8 does recite a feature of adhesive bonding, but

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that is encompassed within the rejection under 35 U.S.C. § 103. We are satisfied that the examiner's correlation of the features in the responsive arguments portion of the answer satisfies the principal argument presented by appellants with respect to the § 102 rejection that Christensen does section a graphic model to facilitate carving, and independently carve a solid member for each graphic member and secure the carved members together to create a unitary part as argued at the middle of page 4 of the brief.

As to the rejection under 35 U.S.C. § 103, appellants' initial remarks, beginning at the bottom of page 4, do not directly relate to the features of dependent claims 2 and 8 to 11. Indeed, the statement that the appellants traverse the rejection of these claims for the same reasons recited above in connection with the § 102 rejection is misplaced for the same reasons expressed earlier. While on the one hand, appellants admit that Christensen suggests the use of one or more vertical and horizontal planes in the computer sectioning as it applies to dependent claim 11 on appeal, appellants also take the position

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that this claim is patentable for the reasons expressed earlier in the § 102 analysis with respect to claim 1. Such an argumentative approach is clearly not persuasive.

As to the features recited in dependent claims 8 to 10 on appeal, in addition to the position set forth by the examiner in the answer, we add that appellants' own disclosure takes the position and inherently presumes that the features recited in these claims are well known in the art anyway. In re Fox, 471 F.2d 1405, 1406-07, 176 USPQ 340, 341 (CCPA 1973). Christensen also contains extensive discussions with respect to the use of a "process plan" such as element 18 in Fig. 1b as a part of the

overall control manufacturing process in step 26 at the bottom of Fig. 2, both of which have been outlined by the examiner in the answer. The clear suggestibility to the artisan that in the context of this portion of Christensen, physical process steps would have been taught or suggested that were well known in the manufacturing arts anyway would have been readily apparent to the artisan. Obviously, to this same artisan, the choice and use of the well known manufacturing processes chosen would have been dependent upon the nature of the part and the result of the

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cleaving operations as well as the rebirthing teachings within Christensen itself.

In view of the foregoing, the decision of the examiner rejecting claims 1, 3 to 5 and 7 under 35 U.S.C. § 102, as well as the decision to reject claims 2 and 8 to 11 under 35 U.S.C. § 103 are both sustained. As such, the decision of the examiner rejecting claims 1 to 5 and 7 to 11 on the basis of prior art within 35 U.S.C. §§ 102 and 103, is affirmed.

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

AFFIRMED

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JAMES D. THOMAS
Administrative Patent Judge

ERROL A. KRASS
Administrative Patent Judge

MICHAEL R. FLEMING
Administrative Patent Judge

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