

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(2) is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL LENNARD WATSON

Appeal No. 2000-0563
Application No. 08/813,965

ON BRIEF

Before COHEN, McQUADE and JENNIFER D. BAHR, Administrative
Patent Judges

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Paul Lennard Watson appeals from the final rejection of
claims 14 through 21, all of the claims pending in the
application. We reverse.

THE INVENTION

The invention relates to a safety guard for preventing
the insertion of fingers into the gap formed between the

pivoted side

of a door and the adjacent door jamb when the door is open. The safety guard has an adjustable shape to fit doors having various configurations and pivot axes. Claim 14 is illustrative and reads as follows:

14. A pivoted door assembly comprising:

a door frame including a door jamb;

a pivotally mounted door having a stile with opposite parallel sides adjacent to the door jamb with a gap between the stile and the door jamb; and

a safety device fitted to at least one side of the stile, the safety device comprising a rigid elongate finger guard adapted to be fitted to a side of the stile adjacent to the door jamb and parallel to a vertical door edge, and serving to sweep the gap between the door jamb and the adjacent stile as the door is pivoted, the finger guard being shaped substantially to fill the gap between the door jamb and the stile when the door is in its fully opened position, and the finger guard incorporating adjustment means for enabling the cross-sectional shape of the guard to be varied by choice of alternative settings of the adjustment means.

THE PRIOR ART

The references relied upon by the examiner as evidence of obviousness are:

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Ulatowski et al. (Ulatowski) 27, 1976	3,934,371	Jan.
Haglund 1995	5,383,739	Jan. 24,

THE REJECTION

Claims 14 through 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ulatowski in view of Haglund.

Attention is directed to the appellant's main and reply briefs (Paper Nos. 10 and 12) and to the examiner's answer (Paper No. 11) for the respective positions of the appellant and the examiner with regard to the merits of this rejection.

DISCUSSION

Ulatowski, the examiner's primary reference, discloses a pivoted door assembly comprising a door frame having a door jamb 14, a pivotally mounted door 10 having a stile 18, and a safety device which includes rigid elongate finger guard members 20 fitted to the sides of the stile adjacent the door jamb to fill the gap between the stile and the jamb when the

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door is open.

The Ulatowski door assembly meets all of the limitations in claim 14 except for the one requiring the finger guard to incorporate "adjustment means for enabling the cross-sectional shape of the guard to be varied by choice of alternative settings of the adjustment means." Ulatowski, whose finger guard members

20 have a set cross-sectional shape, does not disclose such adjustment means. The examiner's reliance on Haglund to overcome this deficiency is unsound.

Haglund discloses a coupling post for joining articulated fence segments at a desired angle. The post consists of a stationary part 18 and a rotating part 20 which can be adjusted relative to one another to present fence attachment surfaces at various desired angles (see Figures 2 through 4).

In proposing to combine Ulatowski and Haglund to reject the appealed claims, the examiner has concluded that "[i]t would have been obvious to one having ordinary skill in the art, at the time of appellant's invention, to provide

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Ulatowski et al with a variable cross sectional shaped connector as taught by Haglund for the purpose of varying the cross sectional shape of the finger guard" (answer, pages 3 and 4). The combined teachings of Ulatowski and Haglund, however, lack any suggestion for this combination. Ulatowski does not disclose a finger guard adjustment means or give any indication that such might be useful or advantageous. Although Haglund does disclose a structural element having adjustment means of the sort recited in claim 14,

the element in question is a fence post and the purpose of the adjustment means, to permit fence segments to be joined at various angles, has no reasonable pertinence to Ulatowski's finger guard. Thus, even if the Haglund reference is analogous art (the appellant argues that it is not), the only suggestion for combining it with Ulatowski in the manner proposed by the examiner stems from hindsight knowledge impermissibly derived from the appellant's own disclosure.

Hence, the combined teachings of Ulatowski and Haglund do not justify a conclusion that the differences between the

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subject matter recited in claim 14 and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 14, or of claims 15 through 21 which depend therefrom, as being unpatentable over Ulatowski in view of Haglund.

SUMMARY

The decision of the examiner to reject claims 14 through 21 is reversed.

REVERSED

IRWIN CHARLES COHEN)
Administrative Patent Judge))
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