

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(2) is not binding precedent of the Board.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. 27

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 BLUEMLE

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Appeal No. 95-3922  
Application No. 08/123,587<sup>1</sup>

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HEARD: January 15, 1998

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Before JOHN D. SMITH, GARRIS and OWENS, Administrative Patent Judges.

JOHN D. SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal pursuant to 35 U.S.C. § 134 from the final rejection of claims 23-26 and 28-41. Claim 22 is allowed and claim 27 has been objected to.

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<sup>1</sup> Application for patent filed September 17, 1993. According to appellant, the application is a continuation of Application 07/705,034, filed May 20, 1991.

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The subject matter on appeal relates to an apparatus and method for splicing a tail end of a web coming from an emptying web supply roller to the leading end of a new web coming from a full web supply roller. The claimed apparatus comprises, *inter alia*, two carriers mounted on journal shafts tiltable independent of each other, two web holding and press-on heads each mounted to its independently tiltable carrier, and separate linear drives for separately stepping each of the holding and press-on heads on its respective carrier with linear stepwise strokes crossing a plane of symmetry defined in part by two guide rollers. See Figure 2 of the application.

Claim 23 is representative. A copy of the claim appears in an attached APPENDIX.

The references on record relied upon by the examiner are:

Heitmann (Heitmann) 8, 1977	4,010,911	Mar.
Bianchetto et al. (Bianchetto) 1984	4,455,190	Jun. 19,
Martin 1985	4,519,858	May 28,
Wommer (Wommer) 1988	4,722,489	Feb. 2,
Shigeta (Shigeta) 1991	4,984,750	Jan. 15,

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Claims 23-26 and 29-41 stand rejected for obviousness (35 U.S.C. § 103) over Heitmann in view of Wommer, Shigeta, and Bianchetto. Claim 28 stands rejected under the same section of the statute and the same references above further in view of Martin.

We reverse.

As evidence of obviousness of the claimed subject matter on appeal, the examiner principally relies on Heitmann which describes an apparatus for joining ends of webs together. After pointing out the similarities between Heitmann's apparatus and the claimed apparatus (generally see the Answer at page 3), the examiner acknowledges that Heitmann fails to meet the terms of the claim to the apparatus in a number of particulars. Thus, the examiner states at page 4, the Answer that:

Although the journal shafts of Heitmann are located within the gap between the guide rollers, it would have been a mechanical design choice to laterally separate them such that they were situated outside of the gap between the guide rollers [emphasis added].

In appellant's Specification at page 4, line 21 through page 5, line 8 it is indicated that the press-on heads of

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appellant's apparatus are mounted on journal axes which are in turn mounted with a spacing from the guide rollers and outside the space between the guide rollers. Further according to the specification, this type of mounting of the press-on heads with the specific position and arrangement of the journal axes of the heads "makes it possible to altogether avoid the slides<sup>2</sup> for the mounting of the guide rollers and to also avoid a movement stroke in combination with a tilting motion" of the press-on heads. Accordingly, the specific position and arrangement of the claimed journals and guide rollers solve a known problem in the art. Compare In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975) wherein the court indicated that the rationale of "obvious matter of design choice" applies when a modification is made which "solves no stated problem". Further, as appellant has argued in the brief at page 24, this modification of Heitmann's apparatus would defeat Heitmann's goal of compactness of apparatus elements. Accordingly, we do not agree that the examiner has a valid basis for asserting that it would have been an obvious matter

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<sup>2</sup> Appellant is apparently referring to an element of Bianchetto's apparatus. See the specification at page 2.

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of mechanical "design choice" to situate the journal shafts of Heitmann outside of the gap defined by the guide rollers.

Even if we agreed with the examiner's obvious design choice arguments made in the record herein, there is a more fundamental reason why the rejection of the appealed claims cannot be sustained. In this regard, Heitmann not only fails to describe an apparatus for carrying out linear stepwise strokes crossing a plane of symmetry to adhesively bond and cut webs to form a splice as claimed, but in fact, Heitmann discloses and contemplates a web holding and press-on means which operates in synchronism. See column 8, lines 31-33 of the reference. Thus, even if one of ordinary skill in the art would have been led to make the examiner's numerous proposed modifications of the Heitmann apparatus in light of the relied upon "secondary references", one would not arrive at an apparatus as claimed, having the capability of providing separate stepwise strokes of holding and press-on heads for crossing a plane of symmetry. As appellant persuasively argues in his brief at page 39, the synchronism expressly required by Heitmann for the operation of the press-on heads

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may not be ignored when combining the disclosures of the references.

The decision of the examiner is reversed.

REVERSED

JOHN D. SMITH	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
BRADLEY R. GARRIS	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
TERRY J. OWENS	)	
Administrative Patent Judge	)	

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APPENDIX

Claim 23. An apparatus for joining ends of material webs to each other to form a splice by an adhesive, comprising a machine frame, at least two guide rollers (13, 14) rotatably mounted to said machine frame in fixed positions symmetrically relative to a plane of symmetry (2a) passing through a gap (27) between said two guide rollers, two journal shafts (12) mounted in said machine frame on opposite sides of said guide rollers (13, 14) and on opposite sides of said plane of symmetry (2a), two carriers (11) mounted on said journal shafts (12) tiltable independent of each other, two web holding and press-on heads (5, 6) each mounted to its independently tiltable carrier, separate linear drives (10) for separately stepping each of said holding and press-on heads on its respective carrier (11) with linear stepwise strokes crossing said plane of symmetry, said journal shafts permitting tilting each of said carriers (11) and its holding and press-on head into an out of the way position for access to both holding and press-on heads (5, 6), said two journal shafts (12) being arranged symmetrically relative to said plane of symmetry (2a) and with a spacing from each other so that in an operative nontilted position said holding and press-on heads (5, 6) face each other directly across said plane of symmetry (2a) with a minimal spacing between each other sufficient for permitting a tilting movement and for reducing said stepwise strokes to a minimum, a suction source cooperating with said holding and press-on heads for holding a web end in place, said linear drives (10) being adapted for separately and linearly moving said holding and press-on heads (5, 6) on its respective tiltable carrier (11) with different forward and backward stepwise strokes crossing said plane of symmetry (2a) toward each other for applying pressure to a splice being formed and away from each other for moving said holding and press-on heads (5, 6) out of contact with a web for a web release, and, a cutting knife (16) comprising a single blade (15) operatively mounted for operation in said plane of symmetry (2a), each of said holding and press-on

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heads comprising a counterholder (25) so positioned on the respective holder and press-on head that said counterholder is in said plane of symmetry (2a) for cooperation with said single blade (15) when the respective holding and press-on head crosses said plane of symmetry (2a), said apparatus further comprising a web brake (18, 19) for individually and temporarily stopping each of said material webs during a joining operation.

***Leticia***

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APJ JOHN D. SMITH

APJ OWENS

APJ GARRIS

DECISION: REVERSED  
Send Reference(s): Yes No  
or Translation (s)  
Panel Change: Yes No  
Index Sheet-2901 Rejection(s): 103

Prepared: February 11, 2000

Draft    Final

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PALM / ACTS 2 / BOOK  
DISK (FOIA) / REPORT