

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPHER D. BARTLETT,
MICHAEL LAYCOCK
and PETER B. LEADBEATER

Appeal No. 1998-2416
Application 08/586,807

HEARD: February 8, 2001

Before MCQUADE, NASE, and GONZALES, Administrative Patent Judges.

MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Christopher D. Bartlett et al. appeal from the final rejection of claims 3, 4, 6, 7, 9 through 12, 15, 16, 21, 22 and 26.¹ Claims 23 through 25 and 27 through 35, the only other claims pending in the application, stand allowed.

¹ Appealed claims 6 and 7 have been amended subsequent to final rejection.

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THE INVENTION

The invention relates to a machine tool enclosure designed to facilitate a controlled machining environment. A copy of the appealed claims appears in the appendix to the appellants' brief (Paper No. 11).

THE PRIOR ART

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

Todd et al. (Todd) 1939	2,182,952	Dec. 12,
Zimmermann 1943	2,330,168	Sep. 21,
Roberts et al. (Roberts) 1959	2,907,200	Oct. 6,

THE REJECTIONS

Claims 3, 4, 6, 7, 9 through 12, 15, 16, 21, 22 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Todd in view of Zimmermann.

Claims 15 and 16 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Todd in view of Zimmermann and Roberts.

Attention is directed to the appellants' brief (Paper No. 11) and to the examiner's final rejection and answer (Paper

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Nos. 7 and 12) for the respective positions of the appellants and the examiner with regard to the merits of these rejections.

DISCUSSION

I. Claim 16

On page 8 in their brief, the appellants request that claim 16 be deleted from the appeal because it is a duplicate of allowed claim 30. In accordance with this request, the appeal as to claim 16 is hereby dismissed.

II. Claims 3, 4, 6, 7, 21 and 22

Todd, the examiner's primary reference, discloses a buffing and polishing system that utilizes refrigerated air to (1) prevent or limit the temperature rise incident to the buffing operation and (2) cool the articles being buffed below room temperature so that normally soft articles are sufficiently hardened to permit buffing (see page 1, column 1, lines 29 through 42). As shown in Figure 1, the system generally includes a drier/humidifier unit 26 and a refrigerator unit 23 for pre-conditioning the air, and a buff

assembly 10 which receives the pre-conditioned air via pipe 16. Todd describes the Figure 7 embodiment relied on by the examiner² as follows:

In Figure 7, the air or gas pipe 16 leads into a hood 40 provided with a hinged cover 41 The hood 40 encloses the buff unit 42 The lower part of the hood 40 extends a suitable distance along the direction of travel of a conveyor 43 to form the extensions 44 and 45 which have swing or drop doors 46, 47. This construction provides a precooling space 48 into which the work pieces 49 are carried by the conveyor 43 on their way to passage through the buffing operation. Pre-conditioned air or other gas may be delivered locally or directly into this cooling space 48 by way of the pipe 16^a and withdrawn by way of the pipe 16^b. It will be obvious that the drop doors 46, 47 open and close automatically as the work pieces pass through. Since the space 48 may be substantially closed off from the outside air, by suitable design of the walls, this construction provides an approximately closed work chamber and may advantageously be employed where it is desired to subject the work piece to special gases other than normal atmospheric air [page 2, column 1, line 68, through column 2, line 17].

Independent claim 21 recites a machining location for machining workpieces comprising, inter alia, a machine tool and an enclosure. The claim further requires the enclosure to be "mounted and supported to be separate from an[d]

² Todd's Figure 7 embodiment is the one most relevant to the subject matter on appeal.

independent of said machine tool and so that vibrations are not transmitted from said enclosure to said machine tool." As conceded by the examiner (see page 3 in the final rejection), Todd's enclosure (hood 40) and machine tool (buff unit 42) do not respond to this limitation.

Zimmermann discloses a gear hobbing machine constructed to eliminate heat-induced imprecisions in the tooth cutting operation. To this end, the machine proper (i.e., the gear cutters, the gear blank support, etc.) is environmentally isolated from heat-generating components associated therewith (e.g., speed change mechanisms, clutches, gears, drive motors, coolant pumps, etc.) and the general atmosphere by an air-conditioned insulated enclosure and by the use of precooled lubricating and cooling fluids.

In proposing to combine Todd and Zimmermann, the examiner states that

[i]t would have been obvious . . . to utilize the enclosure . . . and environmental fluid temperature control means of Zimmermann with the apparatus of Todd et al., since such a modification would have prevented too rapid or sudden changes in the temperature or atmospheric conditions surrounding the machining environment.

In regards to the reduction of vibration between the enclosure and machine tool, it is notoriously well known in the art that a system

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utilizing an enclosure which is mounted and supported to be separate from, and independent of, said machine tool will inherently reduce vibrations ordinarily transmitted from said enclosure to said tool during normal machining operations [final rejection, pages 3 and 4].

The claim limitation at issue, however, requires the enclosure to be mounted and supported to be separate from and independent of the machine tool so that vibrations are "not transmitted" (as opposed to being merely reduced) from the enclosure to the machine tool. Zimmermann provides no indication that the enclosure and machine tool disclosed therein are related such that vibrations are not transmitted from the enclosure to the tool. Hence, Zimmermann does not overcome the above noted deficiency of Todd with respect to the subject matter recited in claim 21.

Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 21, or of claims 3, 4, 6, 7 and 22 which depend therefrom, as being unpatentable over Todd in view of Zimmermann.

III. Claim 15

Independent claim 15 recites a machine tool enclosure comprising, inter alia, a plurality of housing shells

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sealingly joined together. Claim 15 also requires at least one of the housing shells to include "workpiece support means on which workpieces can be located prior to being machined to permit the workpieces to become conditioned by exposure to the environment within the enclosure for a predetermined period of time." Implicitly acknowledging that Todd does not respond to this limitation, the examiner submits (see page 6 in the answer) that Zimmermann discloses an enclosure shell including workpiece support means in Figure 1 and at page 6, column 1, lines 8 through 30. The only workpiece support means shown and described, respectively, in these portions of the reference is rotatable work table 6. Work table 6, however, ostensibly is not

part of any enclosure shell. Thus, the examiner's conclusion that the combined teachings of Todd and Zimmermann would have rendered obvious the subject matter recited in claim 15 rests on an unsupported, and seemingly inaccurate, finding of fact. Furthermore, this flaw finds no cure in Roberts' disclosure of a measuring device having a transparent top or window 11.

Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 15 as being unpatentable over Todd in view of Zimmermann, or the additional 35 U.S.C. § 103(a) rejection of claim 15 as being unpatentable over Todd in view of Zimmermann and Roberts.

IV. Claims 9 through 12 and 26

Independent claim 26 reads as follows:

26. A method of preparing a workpiece to be machined, comprising:

- (a) providing a machine tool;
- (b) providing an enclosure about said machine tool to enclose said machine tool within a predetermined space;
- (c) providing a predetermined machining environment within said predetermined space; and
- (d) storing one or more workpieces within said predetermined space for a predetermined period of time prior to subjecting such workpieces to being machined by said machine tool;
- (e) said predetermined period of time being sufficient to customize the workpieces to said predetermined machining environment.

The appellants' position (see pages 13 and 14 in the brief) that this claim patentably defines over Todd and Zimmermann, taken singly or in combination, is not persuasive because Todd discloses each and every element of the claim.

More particularly, and notwithstanding the appellants' arguments to the contrary which are unpersuasive because they are not commensurate with the relatively broad scope of claim

26, Todd discloses a method of preparing a workpiece (work piece 49) to be machined, comprising the steps of:

(a) providing a machine tool (buff unit 42);

(b) providing an enclosure (hood 40) about said machine tool to enclose said machine tool within a predetermined space;

(c) providing a predetermined machining environment within said predetermined space (page 2, column 2, lines 2 through 17);

(d) storing one or more work pieces within said predetermined space for a predetermined period of time prior to subjecting such workpieces to being machined by said machine tool (page 2, column 1, line 73, through column 2, line 17);

(e) said predetermined period of time being sufficient to customize the workpieces to said predetermined machining environment (page 2, column 1, line 73, through column 2, line 17).

Thus, the subject matter recited in claim 26 lacks novelty. Inasmuch as lack of novelty is the ultimate or epitome of obviousness (In re Fracalossi, 681 F.2d 792, 794,

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215 USPQ 569, 571 (CCPA 1982)), we shall sustain the standing
35 U.S.C. § 103(a) rejection of claim 26 as being
unpatentable over Todd in view of Zimmermann.

We also shall sustain the standing 35 U.S.C. § 103(a)
rejection of claims 9 through 12, which depend from claim 26,
as being unpatentable over Todd in view of Zimmermann since
the appellants have not argued such with any reasonable
specificity, thereby allowing these claims to stand or fall
with their parent claim (see In re Nielson, 816 F.2d 1567,
1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987)).

V. Additional matter for the examiner's consideration

Upon return of the application to the technology center,
the examiner should reassess the patentability of the claims
pending in this application considering that at least the
broader claim
limitations relating to the machine tool enclosure are
probably readable on a common factory building or room which
presumably would house an operational machine tool. Taking
claim 21 as an example, it is quite conventional to mount
machine tools on vibration isolators as evidenced by U.S.
Patent Nos. 5,052,510,

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4,690,960 and 4,320,580 (copies attached).³ A machine tool so mounted within a factory building or room would appear to meet the limitations of this claim.

³ A relevant field of search for such machine tools would include Class 173, subclass 162.1, Class 248, subclass 560+, and Class 267, subclass 136+.

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SUMMARY

The appeal as to claim 16 is dismissed, and the decision of the examiner to reject claims 3, 4, 6, 7, 9 through 12, 15, 21, 22 and 26 is affirmed with respect to claims 9 through 12 and 26 and reversed with respect to claims 3, 4, 6, 7, 15, 21 and 22.

AFFIRMED-IN-PART

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Administrative Patent Judge)	
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