

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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte NEIL L. HOOPINGARNER and BARRY D. MATIN

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Appeal No. 1999-2461  
Application No. 08/818,695

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ON BRIEF

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Before COHEN, PATE, and McQUADE, Administrative Patent Judges.  
PATE, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 3 and 6, and the examiner's refusal to allow claim 4 as amended after final rejection. These claims are the only claims remaining in the application.

The claimed invention is directed to a method of making a prescored foam board. It consists of impressing a pattern of

Appeal No. 1999-2461  
Application No. 08/818,695

indentations into the foam. The indentations are in the form of three series of parallel lines angularly offset at 60E from one another. The claimed invention may be further understood with reference to the appealed claims appended to appellants' brief.

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

Dusina, Jr. et al. 26, 1960 (Dusina)	2,946,713	Jul.
Weisman 1966	3,244,571	Apr. 5,
Rohn 8, 1978	4,105,738	Aug.
Legg et al. 1991 (Legg)	5,066,531	Nov. 19,

REJECTION

Claims 1, 2, 4 and 6 stand rejected under 35 U.S.C. § 103 as unpatentable over Rohn.

Claim 3 stands rejected under 35 U.S.C. § 103 as unpatentable over Rohn in view of Weisman or Dusina and further in view of Legg. For the full details of the examiner's findings of fact and conclusions of law with respect to the above noted rejections, reference is made to

Appeal No. 1999-2461  
Application No. 08/818,695

pages 4 through 7 of the examiner's answer.

OPINION

We have carefully reviewed the rejections on appeal in light of the arguments of the appellants and the examiner. As a result of this review, we have reached the determination that the applied prior art does not establish the *prima facie* obviousness of the subject matter on appeal. Consequently, the rejections on appeal are reversed. Our reasons follow.

Turning to the patent of Rohn, we agree with the examiner that Rohn discloses changing the surface characteristics of a foam sheet by using a pattern of protrusions, grooves, indentations, etc., on a pair of primary rollers. Col. 4, lines 20 through 22. We further acknowledge, that the grid work used to emboss the foam may be diagonally disposed. See col. 4, line 27. Finally, we note Rohn's disclosure that the pattern of embossing may "be of any design to accomplish the desired amount of cell rupture."

That being said, we note that appellants provide the three series of indentations intersecting at angles of 60° in order to provide an exhaust path for vapors during curing of

Appeal No. 1999-2461  
Application No. 08/818,695

the panels. According to appellants, the disposition of the indentations at 60E allows venting no matter how the foam panels are cut and pieced together. Accordingly, it is clear that appellants' claimed arrangement of indentations solves a stated problem in the art of making composite panels. Therefore, we must hold that appellants' specifically claimed arrangement of indentations would not have been obvious as a matter of ordinary design.

We have further considered the other applied prior art and find therein no teaching or suggestion that would ameliorate the shortcomings of the § 103 rejection based on Rohn alone. Consequently, the examiner has not established a *prima facie* case of obviousness. All rejections on appeal are reversed.

REVERSED

IRWIN CHARLES COHEN )  
Administrative Patent Judge )  
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Appeal No. 1999-2461  
Application No. 08/818,695

	)	BOARD OF PATENT
WILLIAM F. PATE, III	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
JOHN P. MCQUADE	)	
Administrative Patent Judge	)	

WFP:lbg

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