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23364	7590	02/28/2020	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314-1176			VAN SELL, NATHAN L	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* CHRISTOPHE MAESEN

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Appeal 2018-006692  
Application 14/390,200  
Technology Center 1700

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Before JAMES C. HOUSEL, MONTÉ T. SQUIRE, and  
BRIAN D. RANGE, *Administrative Patent Judges*.

RANGE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–10. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Christophe Maesen. Appeal Br. 3.

CLAIMED SUBJECT MATTER<sup>2</sup>

Appellant describes the invention as relating to a laminate panel with a substrate and décor provided on the substrate. Spec. 1:5–7. The panel could be used, for example, as a furniture panel, ceiling panel, floor panel, or the like. *Id.* at 1:9–17. The panel includes recesses “intended for the imitation of wood pores.” Appeal Br. 6. The Specification explains that the geometry of the recesses minimize light reflection and thus obtain a less synthetic look. Spec. 3:20–29; *see also* Reply Br. 6. Claim 1 is the only independent claim on appeal and is illustrative:

1. Laminate panel, wherein this panel consists at least of a substrate and a decor provided thereon, protected by means of a transparent synthetic material layer,
  - wherein the synthetic material layer is provided with a relief comprising elongate recesses
  - wherein said elongate recesses over the major part of their length have a cross-section which is provided with inclined lateral flanks,
  - wherein these lateral flanks both have a flange portion with an inclination of more than 60° and less than 90°, and
  - that the maximum depth over which said flank portions extend is larger than the maximum distance between the respective flank portions, measured in transverse direction and parallel to the plane of said panel.

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<sup>2</sup> In this Decision, we refer to the Final Office Action dated September 21, 2017 (“Final Act.”), the Appeal Brief filed January 12, 2018 (“Appeal Br.”), the Examiner’s Answer dated April 18, 2018 (“Ans.”), and the Reply Brief filed June 12, 2018 (“Reply Br.”).

Appeal Br. 12 (Claims App.) (formatting modified for readability).

### REJECTION

On appeal, the Examiner maintains the rejection of claims 1–10 under 35 U.S.C. § 103(a) as obvious over Decoene et al., US 2010/0112285 A1, published May 6, 2010 (“Decoene”).

### OPINION

We review the appealed rejection for error based upon the issues identified by Appellant and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential), (cited with approval in *In re Jung*, 637 F.3d 1356, 1365 (Fed. Cir. 2011) (“[I]t has long been the Board’s practice to require an applicant to identify the alleged error in the examiner’s rejections.”)). After considering the evidence presented in this Appeal and each of Appellant’s arguments, we are not persuaded that Appellant identifies reversible error. Thus, we affirm the Examiner’s rejection for the reasons expressed in the Final Office Action and the Answer. We add the following primarily for emphasis.

Appellant does not argue any dependent claims separately. *See* Appeal Br. 10. Therefore, consistent with 37 C.F.R. § 41.37(c)(1)(iv) (2013), we limit our discussion to claim 1, and all other claims on appeal stand or fall together with claim 1.

The Examiner finds that Decoene teaches a laminate with a wood substrate, décor layer with printed pattern, and a synthetic layer provided with relief comprising elongate recesses that have the form of wood pores. Ans. 3 (citing Decoene). The Examiner finds that Decoene does not

expressly teach the lateral flank geometry of recesses and recess depth as claim 1 recites. *Id.* at 4. The Examiner finds, however, that Decoene teaches that the structure of its recesses determines the degree of gloss of the laminate surface and teaches protrusions that coincide with wood pores and/or wood nerves. *Id.* at 4–5. The Examiner determines that it would have been obvious to adjust the shape and size of recesses “for the benefit of optimizing the difference in gloss degrees and realistic wood texture and appearance.” *Id.* at 5.

Appellant argues that optimizing gloss is not the same as reaching claim 1’s recited lateral flank geometry and depth. Appeal Br. 9–10. Appellant further argues that there is no evidence to support that it would have been obvious to experiment with flank orientation and depth to try to achieve low gloss. *Id.* at 10. In the Reply Brief, Appellant further argues that “Decoene only discloses a laminate having a structure of impressions for depicting wood pores and/or wood nerves and also to determine the gloss degree of the surface, but fails to disclose or suggest [the recess geometry recitations of claim 1].” Reply Br. 4. Appellant also argues that claim 1’s recited geometry is not an inherent characteristic that necessarily flows from the teachings of Decoene. *Id.* at 5.

Appellant’s arguments do not persuade us of reversible error. As the Examiner explains, Decoene teaches impressions (i.e., recesses) intended to emulate natural wood. Ans. 6–8 (citing, e.g., Decoene ¶¶ 27, 29, 37, 109, Figs. 12–13). The impressions will necessarily have some flange inclination angle and some depth. The only difference between Decoene’s express teachings and claim 1’s recitations is that claim 1 specifies a particular flange inclination angle and depth.

Decoene, however, suggests that the structure of the impressions may be modified to determine “the gloss degree of the surface of the laminate.” Decoene ¶ 29. The flange inclination and depth of an impression defines, in part, each impression’s structure. A person of skill in the art, therefore, would have known from Decoene to adjust the impressions’ structure (including inclination and depth) to reach optimal gloss and to generally reach a realistic wood texture and appearance. Ans. 6–8. Appellant, consistent with Decoene’s teachings, also reached the claim 1’s recited impression structure in order to control glossiness. Spec. 3:20–29. Courts have long held that “discovery of an optimum value of a result effective variable in a known process is ordinarily within the skill of the art.” *In re Boesch*, 617 F.2d 272, 276 (CCPA 1980); *In re Aller*, 220 F.2d 454, 456 (CCPA 1955) (“where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.”).

Because Appellant’s arguments do not identify reversible error, we sustain the Examiner’s rejection.

### CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–10	103	Decoene	1–10	

Appeal 2018-006692  
Application 14/390,200

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED