

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(2) is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DONALD O. HANSON

\_\_\_\_\_  
Appeal No. 94-0452  
Application 07/663,515<sup>1</sup>

\_\_\_\_\_  
ON BRIEF  
\_\_\_\_\_

**MAILED**

**JAN 31 1996**

**PAT.&T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Before MEROS, LYDDANE, and FRANKFORT, Administrative Patent Judges.

MEROS, Administrative Patent Judge.

DECISION ON APPEAL

This appeal is from the examiner's rejection of claims 11-15, all of the claims pending in the application.

The rejected claims are directed to an apparatus for recovering polymer solids from a polymerization liquid effluent extracted from a polymerization reactor, which apparatus is described in claim 11 reproduced below.

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<sup>1</sup> Application for patent filed March 4, 1991.



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Initially, we note that, as acknowledged by the examiner, the here claimed apparatus is used for a different purpose than that for which the apparatus disclosed by Gloriod is used. The claimed apparatus is used for recovering polymer solids from a liquid slurry effluent coming from a polymerization reactor as recited in the preamble of independent claims 11 and 15, whereas, Gloriod's apparatus is used for eliminating low molecular weight polymers from recirculating gases wherein the solid polymer product is first removed from the effluent coming from the polymerization reactor. The introductory language of the instant claims indicating that the claimed apparatus is for recovering polymer solids from the polymer slurry coming from the polymerization reactor is, in our view and contrary to that of the examiner, an essential feature of the claimed apparatus which cannot be ignored in determining its patentability over the prior art. Cf. In re Napoli, 302 F.2d 768, 133 USPQ 556 (CCPA 1962); In re Bulloch, 604 F.2d 1362, 203 USPQ 171 (CCPA 1979); In re Stencil, 828 F.2d 751, 4 USPQ2d 1071 (Fed. Cir. 1987). The examiner has not shown that the apparatus disclosed by Gloriod can reasonably be considered as apparatus for recovering polymer solids from a liquid slurry thereof obtained from a polymerization reactor wherein said slurry is passed directly to a cyclonic flash vessel having an extended solids reservoir, which cyclonic flash vessel vaporizes the liquid component of the

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slurry and causes the separated polymer solids to settle into said extended solids reservoir.

Specifically, we cannot agree with the examiner that Gloriod's apparatus comprises the following components of the claimed apparatus: (1) the cyclonic "flash" vessel for vaporizing the liquid component of the polymer solids slurry obtained from the polymerization reactor; (2) the extended solids reservoir wherein the separated polymer solids settle from the cyclonic flash vessel; and (3) the means for passing the polymer solids from the extended solids reservoir to a second flash vessel wherein any residual diluent is vaporized.

The examiner's positions that Gloriod's "standard cyclone" and "heated cyclone" function as the "flash vessel" components of the claimed apparatus and that either Gloriod's "vesicle" or the "process lines which carry solid particles into and out of the cyclones" meets the "extended solids reservoir" component of the claimed apparatus lack a cogent convincing explanation and, moreover, appear to be based on conjecture and speculation. Cf. In re Mott, 557 F.2d 266, 194 USPQ 305 (CCPA 1977); In re Oelrich, 666 F.2d 578, 212 USPQ 323 (CCPA 1981); In re Donaldson, 16 F.2d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994). For essentially the same reasons, we cannot agree with the examiner that "the process line connecting 2 and 3 to 7" shown in Fig. 2 of Gloriod meets the means for passing polymer solids from the

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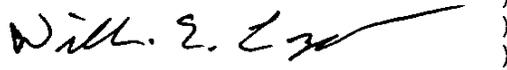
extended solids reservoir to the second flash vessel recited as a component of the claimed apparatus.

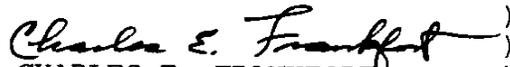
Thus, it is clear that the examiner has failed to meet his burden of establishing prima facie obviousness of the claimed subject matter as a whole. Accordingly, the § 103 rejection of claims 11-15 cannot stand.

The decision of the examiner rejecting claims 11-15 under 35 U.S.C. § 103 is reversed.

REVERSED

  
EDWARD J. MEROS )  
Administrative Patent Judge)

  
WILLIAM E. LYDDANE )  
Administrative Patent Judge)

  
CHARLES E. FRANKFORT )  
Administrative Patent Judge)

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