

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 42

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte STERLING CHAYKIN

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Appeal No. 95-4689  
Application No. 08/062,494<sup>1</sup>

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ON BRIEF

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Before WINTERS and WILLIAM F. SMITH, Administrative Patent Judges, and MCKELVEY, Senior Administrative Patent Judge.

WINTERS, Administrative Patent Judge.

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<sup>1</sup> Application for patent filed May 13, 1993. According to appellant, this application is a continuation of Application No. 07/984,285, filed December 1, 1992; which is a continuation of Application No. 07/865,810, filed April 7, 1992; which is a con-tinuation of Application No. 07/574,653, filed August 29, 1990; all abandoned.

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DECISION ON APPEAL

This appeal was taken from the examiner's decision finally rejecting claims 1 through 8 and 11 through 22, which are all of the claims remaining in the application.

Claim 1, which is illustrative of the subject matter on appeal, reads as follows:

1. A method for reducing or eliminating a malodorous effect on breath from eating a vegetable selected from the group consisting of garlic, onion, and radish, said method comprising the steps of eating at least one of said vegetables and ingesting active dry yeast, wherein said ingested active yeast has been selected for survival under acidic conditions or has been enteric coated and said ingested active yeast is in an effective dosage to significantly reduce or eliminate said malodorous effect.

In rejecting the appealed claims, the examiner does not rely on any prior art references.

The issue presented for review is whether the examiner erred in rejecting claims 1 through 8 and 11 through 22 under 35 U.S.C. § 112, first paragraph, as based on a non-enabling disclosure.

On consideration of the record, including appellant's Revised Brief on Appeal (Paper No. 36) and the Examiner's

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Answer (Paper No. 37), it is ORDERED that this rejection is  
reversed.

REVERSED

	SHERMAN D. WINTERS	)	
	Administrative Patent Judge	)	
		)	
		)	
		)	
		)	
		)	
	WILLIAM F. SMITH	)	BOARD OF
PATENT	Administrative Patent Judge	)	APPEALS AND
		)	INTERFERENCES
		)	
		)	
		)	
	FRED E. McKELVEY	)	
	Senior, Administrative Patent Judge	)	

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