

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. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS PERNER and GUNTER ELZER

Appeal No. 1997-4300
Application No. 08/518,719

ON BRIEF

Before McKELVEY, KRATZ and PAWLIKOWSKI, **Administrative Patent Judges**.

PAWLIKOWSKI, **Administrative Patent Judge**.

MEMORANDUM OPINION AND ORDER

Decision on appeal under 35 U.S.C. § 134

Order

The decision of the examiner finally rejection claims 2 and 4 under 35 U.S.C. § 102 as being anticipated by Miller or Tzschope, and finally rejecting claim 3 under 35 U.S.C. §

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102(b) as being anticipated by Miller or Tzschope or Noel, is
reversed.

Memorandum Opinion

The examiner has not shown that each of Miller (U.S. Patent No. 4,130,527) or Tzschope (U.S. Patent No. 4,077,135) discloses a connector which connects a polymerization reactor, a cooling device, and a vacuum unit to one another, as required by appellants' claim 4. The examiner also has not shown that each of Miller or Tzschope discloses a tube that connects the connector to the vacuum unit at a point between the polymerization reactor and the cooling device, as also required by appellant's claim 4. The examiner presented a position regarding claims 2 and 3. Since claims 2 and 3 depend upon independent claim 4, and in view of the fact the examiner has failed to present a proper anticipation rejection with respect to claim 4, the merits of the examiner's position need not be

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discussed. Moreover, the reference of Noel (U.S. Patent No. 4,197,399), studied in detail, does not cure the deficiencies of the other applied art discussed above.

REVERSED

FRED E. McKELVEY)	
Administrative Patent Judge)	
)	
)	BOARD OF PATENT
)	
PETER F. KRATZ)	APPEAL AND
Administrative Patent Judge)	
)	INTERFERENCES
)	
)	
BEVERLY A. PAWLIKOWSKI)	
Administrative Patent Judge)	

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