

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TED Y. TSAI

Appeal No. 95-0578
Application 07/843,834¹

HEARD: September 18, 1997

Before JOHN D. SMITH, WARREN and WALTZ, *Administrative Patent Judges*.

WARREN, *Administrative Patent Judge*.

Decision on Appeal

This is an appeal under 35 U.S.C. ' 134 from the decision of the examiner finally rejecting claims 1 through 5.

The claimed method is an improvement in the delignification of digested chemical cellulosic pulps wherein following digestion, the pulp is washed with water which is essentially free of dioxins or dioxin precursors in the amount of between about 2 and about 4 tons per ton of pulp to establish a consistency of the pulp at between about 15% and about 40%, and then subjected to the initial chlorination step which utilizes gaseous chlorine dioxide, gaseous chlorine or a mixture thereof.

The references relied on by the examiner are:

¹ Application for patent filed February 28, 1992.

Tsai 4,959,124 Sep. 25, 1990

Ronnie G. Hise & Harold L. Hintz, "The Effect of Brownstock Washing On the Formation of Chlorinated Dioxins and Furans During Bleaching," *Tappi Journal*, January 1990, 185-90.

J. K. Perkins, "Pulp & Paper Technology: Gas Phase Bleaching," *CEP*, June 1976, 51-4.

Appellant has relied on the following references of record in his brief:

Andersson 4,595,456 Jun. 17, 1986

"Swedes Investigate Dioxin," *Paper Technology*, December/January 1989, 36.

The examiner has rejected claims 1 and 2 on appeal under 35 U.S.C. ' 103 as being unpatentable over Perkins in view of Hise for the reasons set forth in the Office action of June 24, 1992. The examiner has rejected claims 3 through 5 on appeal under 35 U.S.C. ' 103 as being unpatentable over Perkins in view of Hise as applied to appealed claim 1 further in view of Tsai for the reasons set forth in the Office action of June 24, 1992. We reverse.

Rather than reiterate the respective positions advanced by the examiner and appellant, we refer to the examiner's answer and to appellant's brief for a complete exposition thereof.

Opinion

We have carefully reviewed the record on this appeal, including the examiner's evidence of and argument for obviousness and appellant's countervailing evidence of and argument for nonobviousness, and based thereon find ourselves in agreement with appellant that the examiner has failed to carry his burden of establishing a *prima facie* case of obviousness over the applied references. It is well settled that the examiner may satisfy this burden by showing some objective teachings or suggestions in the prior art taken as a whole or that knowledge generally available to one of ordinary skill in the art would have led that person to combine the relevant teachings of the

references in the proposed manner to arrive at the claimed invention without recourse to the teachings in appellant's disclosure. See generally *In re Fine*, 837 F.2d 1071, 1074-1076, 5 USPQ2d 1596, 1598-1600 (Fed. Cir. 1988); *In re Dow Chemical*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1531-32 (Fed. Cir. 1988).

On the record before us we find no direction to use wash water which is essentially free of dioxins or dioxin precursors in the amount of between about 2 and about 4 tons per ton of pulp to establish a consistency of the pulp at between about 15% and about 40% as specified in appealed claim 1 except for the disclosure in appellant's specification.

The examiner's decision is reversed.

Reversed

JOHN D. SMITH)	
Administrative Patent Judge)	
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)	
CHARLES F. WARREN)	BOARD OF PATENT

Appeal No. 95-0578
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Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
THOMAS A. WALTZ)	
Administrative Patent Judge)	

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