

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 34

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

Ex parte JOHNNY ARNAUD

---

Appeal No. 1997-0537  
Application 07/749,554

---

ON BRIEF

---

Before KIMLIN, WARREN and OWENS, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1, 3 and 7. Claim 2, the other claim remaining in the present application, has been allowed by the examiner (see page 1 of answer. Claim 1 is illustrative:

1. A system for the regeneration of contact media, comprising:

a treatment vessel having a plurality of vertically arranged chambers, each chamber having a fluid inlet and a fluid outlet, said

Appeal No. 1997-0537  
Application No. 07/749,554

fluid inlet being located at a position above said fluid outlet, said chambers for containing volumes of said contact media to be regenerated, said chambers defined by members adapted to retain a volume of said contact media within the chamber while allowing the downward flow of fluid through said contact media;

a fluid inlet for treatment fluid to direct said treatment fluid proximate the top of the uppermost chamber of said plurality of chambers; and

a transfer tank operatively coupled through at least one manifold to said chambers, said treatment tank and said manifold cooperatively arranged to allow the movement of said volumes of said resin from at least one of said chambers to said transfer tank, and the subsequent movement of resin from said transfer tank to a different of said chambers.

In the rejection of the appealed claim, the examiner relies upon the following references:

Mindler	3,298,950	Jan. 17, 1967
Cooper	3,547,810	Dec. 15, 1970

Appealed claims 1 and 7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Mindler. Claim 3 stands rejected under 35 U.S.C. § 103 as being unpatentable over Cooper in view of Mindler.

Upon careful consideration of the opposing arguments presented on appeal, we find ourselves in agreement with

appellant that the examiner's rejections are not sustainable.

We consider first the examiner's rejection of claims 1 and 7 under § 102 over Mindler. Although the apparatus of Mindler, unlike the claimed apparatus, discloses a fluid inlet that is located near the bottom of chamber 10 which is generally below the fluid outlet at flume 19, the examiner has somewhat imaginatively focused upon a portion of the chamber between cylinders 13 and 15, 33 and 35, and 53 and 55 to define three vertically arranged chambers which meet the claimed requirements of having a fluid inlet located above the fluid outlet wherein a volume of fluid has a downward flow. However, as accurately pointed out by appellant, this area of Mindler's mixing zone does not meet the claim requirement of a chamber "adapted to retain a volume of said contact media within the chamber while allowing the downward flow of fluid through the contact media" (claim 1, lines 5-7, emphasis added). The area between cylinders 15 and 16 of Mindler is not adapted to retain a volume of contact media but, rather, the system of Mindler provides for co-current flow of resin and water through the mixing zone and into the separating zone (column 5, lines 11 et seq). While the examiner states that



Appeal No. 1997-0537  
Application No. 07/749,554

	)	
	)	BOARD OF PATENT
CHARLES F. WARREN	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES
	)	
	)	
	)	
TERRY J. OWENS	)	
Administrative Patent Judge	)	

vsh

Appeal No. 1997-0537  
Application No. 07/749,554

Rodney K. Caldwell  
Arnold, White & Durkee  
750 Bering Drive  
Houston, TX 77057