

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER G. SCHULTZ and MARK A. GALLOP

Appeal No. 94-1643
Application 07/805,502¹

ON BRIEF

Before RONALD H. SMITH, GRON and ELLIS, **Administrative Patent Judges**.

ELLIS, **Administrative Patent Judge**.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 3, which are all the claims pending in the application.

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

¹ Application for patent filed December 9, 1991.

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1. A method for performing a stereospecific reduction reaction of an "-ketoamide to an "-hydroxyamide, said method comprising:

(a) contacting in a reaction mixture the following species:

(i) said "-ketoamide,

(ii) a reducing agent, and

(iii) monoclonal antibody raised against a hapten comprising an analog of said "-ketoamide in which the "-carbonyl group of said "-ketoamide is replaced by a phosphonate moiety, said monoclonal antibody having been screened on the basis of its catalytic activity toward said reduction reaction and

(b) recovering said "-hydroxyamide from said reaction mixture.

The examiner does not rely on any prior art in rejecting all the claims under § 112, first paragraph, as being based on a nonenabling disclosure. Answer, p. 4. In addition, the examiner urges that the hybridoma cell line used to produce monoclonal antibody A5 must be deposited in order for the specification to fully comply with the requirements of the first paragraph of § 112.

Having carefully considered the entire record which includes the appellants' main Brief (Paper No. 16) and Reply Brief (Paper No. 18) and the examiner's Answer (Paper No. 17), we find ourselves in full agreement with the appellants' position. Accordingly, we **reverse** the examiner's rejection.

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We find that the facts of this case are squarely on all fours with *In re Wands*, 858 F.2d 731, 8 USPQ 1400 (Fed. Cir. 1988). In light of the cogent arguments in the appellants' briefs and the highly relevant case law, we see no need to burden the record with further commentary.

The decision of the examiner is reversed

REVERSED

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RONALD H. SMITH)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
TEDDY S. GRON)	
Administrative Patent Judge)	APPEALS AND
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)	INTERFERENCES
)	
JOAN ELLIS)	
Administrative Patent Judge)	

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