

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 54

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BORIS FISHKIN, SEIJI SATO and ROBERT B. LOWRENCE

Appeal No. 1999-0317
Application No. 08/312,487¹

ON BRIEF

Before McQUADE², NASE, and BAHR, Administrative Patent Judges.
NASE, Administrative Patent Judge.

ON REQUEST FOR REHEARING

¹ Application for patent filed September 26, 1994. According to the appellants, the application is a continuation of Application No. 07/972,659, filed November 6, 1992, now abandoned.

² Meister, Administrative Patent Judge, retired before this case was reached for rehearing. Legal support for substituting one Board member for another can be found in In re Bose Corp., 772 F.2d 866, 869, 227 USPQ 1, 4 (Fed. Cir. 1985).

This is in response to the appellants' request for rehearing^{3,4} of our decision mailed June 9, 1999, wherein we affirmed the examiner's rejection of claims 1 to 6, 11, 24 to 26, 30-35 and 38-43 under 35 U.S.C. § 102(e) as being anticipated by Bonora; affirmed the examiner's rejection of claims 7 to 10 under 35 U.S.C. § 103 as being unpatentable over Bonora; affirmed the examiner's rejection of claim 37 under 35 U.S.C. § 112, first paragraph; affirmed the examiner's rejection of claims 30 to 43 under 35 U.S.C. § 112, second paragraph; and reversed the examiner's rejection of claims 40 to 43 under 35 U.S.C. § 102(b) as being anticipated by Akins.

The appellants' request for rehearing (p. 1) states that "the Board erred in affirming the rejection of claims 1-11, 24-

³ Filed July 12, 1999.

⁴ Effective Dec. 1, 1997, 37 CFR § 1.197(b) was amended to change the term "reconsideration" to "rehearing." See the final rule notice published at 62 Fed. Reg. 53131, 53197 (Oct. 10, 1997), 1203 Off. Gaz. Pat. Office 63, 122 (Oct. 21, 1997)).

26, 30-35, and 38-43 based on *Bonora et al.*" The argument (pp. 1-2) raised by the appellant is that Bonora fails to

teach, show, or suggest the claimed method and apparatus for evacuating an interim volume between two chambers when moveable walls of both chambers are closed.

We have carefully considered the argument raised by the appellants in their request for rehearing, however, that argument does not persuade us that our decision was in error in any respect.

As pointed out on pages 7-9 of our decision, we agree with the examiner that claim 1 is anticipated by Bonora. Specifically, we found (decision, pp. 8-9) that method step (b) of claim 1 (i.e., removing contaminants from the interface volume through a passage isolated from the first and second chambers when the chamber walls are closed) was readable on Bonora since contaminants are removed from Bonora's region 100 (i.e., the interface volume) through a passage (Bonora's port 94 leading to exhausting sink 96) isolated from the container 18

(i.e., the first chamber) and the processing station 8 (i.e., the second chamber) when the box door 32 and the port door 28 and the port door cover 110 (i.e., the chamber walls) are closed.

The appellants' argument set forth in request for rehearing, which argument was previously set forth by the appellants in the brief (pp. 6-8) and the reply brief (pp. 2-3), remains unpersuasive since the argument is not commensurate in scope with claim 1. In that regard, claim 1 does not require the interface volume to be evacuated when the moveable walls of both chambers are closed as argued by the appellants. Claim 1 only requires that contaminants are removed from the interface volume through a passage isolated from the first and second chambers when the chamber walls are closed, which limitation is met by Bonora.

In light of the foregoing, the appellants' request for rehearing is granted to the extent of reconsidering our

Appeal No. 95-3698
Application No. 08/006,717

Page 5

decision, but is denied with respect to making any change thereto.

No period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

REQUEST FOR REHEARING - DENIED

JOHN P. McQUADE)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
JEFFREY V. NASE)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
JENNIFER D. BAHR)	
Administrative Patent Judge)	

Appeal No. 95-3698
Application No. 08/006,717

Page 7

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ON REQUEST FOR REHEARING

APPEAL NO. 1999-0317 - JUDGE NASE
APPLICATION NO. 08/312,487

APJ NASE

APJ BAHR

APJ MCQUADE

DECISION: **DENIED**

Prepared By: Gloria Henderson

DRAFT TYPED: October 6, 1999

FINAL TYPED: