

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* RALF BURGER, WERNER LANGE, GERHARD VEH,  
SAMUEL SCHABEL and GEOFFREY G. DUFFY

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Appeal 2009-004196  
Application 10/419,868  
Technology Center 3600

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Decided: October 27, 2009

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Before WILLIAM F. PATE III, STEVEN D.A. McCARTHY  
and STEFAN STAICOVICI, *Administrative Patent Judges*.

McCARTHY, *Administrative Patent Judge*.

DECISION ON APPEAL

1 STATEMENT OF THE CASE

2 The Appellants appeal under 35 U.S.C. § 134 (2002) from the  
3 Examiner's decision finally rejecting claims 1-14 and 19-37 under 35 U.S.C.  
4 § 102(b) (2002) as being anticipated by Chupka (US 4,885,090, issued Dec.

1 5, 1989); and finally rejecting claims 1-37 under § 102(b) as being  
2 anticipated by Shearer (US 6,165,323, issued Dec. 26, 2000). An oral  
3 hearing was held on October 6, 2009. We have jurisdiction under 35 U.S.C.  
4 § 6(b) (2002).

5 We sustain the rejections of claims 1-8, 11-14, 23, 25-33 and 36 under  
6 § 102(b) as being anticipated by Shearer. We do not sustain the rejections of  
7 claims 1-14 and 19-37 under § 102(b) as being anticipated by Chupka or the  
8 rejections of claims 9, 10, 15-22, 24, 34, 35 and 37 under § 102(b) as being  
9 anticipated by Shearer.

10 Claims 1 and 23 are the sole independent claims on appeal. Claim 1  
11 recites:

12 1. A process for wet screening fibrous  
13 suspensions with a screen having a plurality of  
14 screen openings, the process comprising:

15 guiding a portion of the fibrous suspension  
16 passing through the plurality of screen openings,  
17 which are formed as long holes having inlet widths  
18 of between 1 and 8 mm, as accepted stock; and

19 guiding a portion of the fibrous suspension  
20 not passing through the long holes separately from  
21 the accepted stock as rejected material.

22 Claim 23 claims an apparatus for wet screening fibrous suspensions  
23 including at least one screen formed with a plurality of elongated holes such  
24 that the width of the elongated holes is between 1 and 8 mm at a fibrous  
25 suspension inlet.

ISSUES

1  
2           The Examiner finds that Chupka discloses the use of a screen plate  
3 having slots with widths as narrow as 0.002" (0.05 mm) up to 0.35" (8.9  
4 mm) or more, a range of widths which encompasses the Appellants' recited  
5 range.<sup>1</sup> (*See* Ans. 3, citing Chupka, col. 7, ll. 3-7). Even under a more  
6 restrictive reading, whereby the Examiner finds that Chupka discloses the  
7 use of a screen plate having slots formed with a range of slot widths such as  
8 0.002" (0.05 mm) or less up to 0.035" (0.89 mm) or more, the Examiner  
9 finds that Chupka anticipates the subject matter of independent claims 1 and  
10 23. The Appellants contend that Chupka's disclosure of slots having widths  
11 as narrow as 0.002" up to 0.35" or more is an obvious typographical error;  
12 that Chupka is at least ambiguous as to the upper limit of the slot width  
13 (App. Br. 10-13 and 16; Reply Br. 2-3); and that Chupka fails to anticipate  
14 independent claims 1 and 23 under either reading of Chupka (Reply Br. 2-7).

15           The Examiner finds that Shearer discloses guiding a portion of a  
16 fibrous suspension passing through the plurality of screen openings, and  
17 guiding a portion of the fibrous suspension not passing through the long  
18 holes separately from the accepted stock as rejected material. (Ans. 7). The  
19 Appellants contend that Shearer discloses an extraction screen for use in a  
20 continuous digester to separate chemically treated wood chips from a  
21 chemical liquid rather than a screen for wet screening a fibrous suspension  
22 (App. Br. 25 and 29; Reply Br. 7); that one of ordinary skill in the art would  
23 not use the term "fibrous suspension" ordinarily to refer to the cellulosic  
24 fibrous material slurry contacting the pressure side of a screen in a digester

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<sup>1</sup>           The double-prime symbol, " ", is used here, as in Chupka, as an abbreviation for inches.

1 (App. Br. 26); that Shearer fails to disclose guiding any material other than a  
2 liquid through the holes of Shearer's screen (App. Br. 26 and 29; Reply Br.  
3 8); and that Shearer does not describe removing any portion of the material  
4 being screened as rejects (App. Br. 26 and 30; Reply Br. 9).

5 The Appellants argue dependent claims 2-8, 12-14, 25 and 27-36  
6 separately, contending that Shearer "fails to positively disclose the recited  
7 *hole dimensions, arrangements, and orientations* set forth" in those claims.  
8 (App. Br. 31). The Appellants also argue claims 9, 10 and 24 separately,  
9 contending that Shearer fails to disclose a scraper. (App. Br. 32). The  
10 Appellants also argue claims 11, 12, 26 and 27 separately, contending that  
11 Shearer fails to disclose a cylindrical basket. (*Id.*) The Appellants argue  
12 claim 19 separately, contending that Shearer fails to disclose guiding a  
13 portion of a fibrous suspension comprising slushed recovered paper. (App.  
14 Br. 33). The Appellants also argue claims 20-22 and 37 separately,  
15 contending that Shearer fails to disclose a pressurized screen. (*Id.*) Finally,  
16 the Appellants argue claims 15-18 separately, contending that Shearer fails  
17 to disclose guiding a portion of a processed fibrous suspension, that is, a  
18 suspension having the consistency or screenable contaminants content  
19 recited in those claims. (*Id.*) The Appellants do not explain why the  
20 Examiner's findings that Shearer discloses these features are erroneous.

21 This appeal turns on ten issues:

22 Have the Appellants shown that the Examiner erred in  
23 finding that Chupka discloses either a screen formed with a  
24 plurality of elongated holes such that the width of the elongated  
25 holes is between 1 and 8 mm at a fibrous suspension inlet, or a  
26 step of guiding a portion of a fibrous suspension passing

1 through a plurality of screen openings, which are formed as  
2 long holes having inlet widths of between 1 and 8 mm, as  
3 accepted stock?

4 Have the Appellants shown that the Examiner erred in  
5 finding that Shearer discloses guiding a portion of a fibrous  
6 suspension passing through the plurality of screen openings,  
7 and guiding a portion of the fibrous suspension not passing  
8 through the long holes separately from the accepted stock as  
9 rejected material?

10 Have the Appellants shown that the Examiner erred in  
11 finding that Shearer discloses the hole dimensions and  
12 arrangements recited in claims 2-8, 30-33 and 36?

13 Have the Appellants shown that the Examiner erred in  
14 finding that Shearer discloses the ratios of hole length to hole  
15 width recited in claims 34 and 35?

16 Have the Appellants shown that the Examiner erred in  
17 finding that Shearer discloses moving a scraper past a screen as  
18 recited in claims 9 and 10 or a scraper as recited in claims 24  
19 and 25?

20 Have the Appellants shown that the Examiner erred in  
21 finding that Shearer discloses a screen formed as a cylindrical  
22 screen basket as recited in claims 11-14 and 26-29 as well as  
23 the hole orientations recited in claims 12-14 and 27-29?

24 Have the Appellants shown that the Examiner erred in  
25 finding that Shearer discloses guiding a portion of a fibrous

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