

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TENNANT COMPANY,
Petitioner

v.

OXYGENATOR WATER TECHNOLOGIES, INC.,
Patent Owner

Case IPR2021-00625
Patent RE45,415 E

PETITIONER'S NOTICE OF APPEAL

Pursuant to 35 U.S.C. §§ 141(c) and 142 and 37 C.F.R. § 90.2(a), Tennant Company (“Petitioner”) hereby respectfully appeals to the United States Court of Appeals for the Federal Circuit from the Patent Trial and Appeal Board’s (“Board’s”) Final Written Decision in Case No. IPR2021-00625, entered on August 17, 2022 (Paper 53), as well as from all other underlying orders, decisions, rulings, and opinions that are adverse to Petitioner. This appeal is timely under 35 U.S.C. § 142, 37 C.F.R. § 90.3, Federal Rule of Appellate Procedure 15(a)(1), and Federal Circuit Rule 15(a)(1).

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), the issues in Petitioner’s appeal may include, but are not limited to:

- (1) the Board’s determination of the patentability of claims 13, 18-23 and 25 over Wikey (US Patent No. 3,891,535);
- (2) the Board’s determination of the patentability of claims 13, 18-23 and 25 over Wikey and AFD (M. Hargrove & M. Hargrove, *Aquariums for Dummies*, IDG Books Worldwide, Inc. (1999));
- (3) the Board’s determination of the patentability of claims 13, 18-23 and 25 over Wikey, AFD, and the general knowledge, experience, and common sense of a POSITA, as reflected in *Wendt* (H. Wendt & G. Kreysa, *Electrochemical Engineering: Science and Technology in Chemical and Other Industries*, Springer-Verlag Berlin Heidelberg,

81–127 (1999), Han (M. Han et al., Development of a New Method of Measuring Bubble Size, *Water Sci. and Tech.: Water Supply* Vol. 2 No. 2, 77–83 (2002)), Glembotsky (V. Glembotsky et al., Size of gas bubbles forming during electroflotation, *5 Elektronnaia Obrabotka Materialov* 66–68 (1973)) and Burns (S. Burns et al., Application of Digital Image Analysis for Size Distribution Measurement of Microbubbles, *Imaging Technologies: Techniques and Civil Engineering Applications* Engineering Foundation (1997));

- (4) the Board’s determination of the patentability of claims 26-27 over Wikey and Clark (US Patent No. 4,039,439);
- (5) the Board’s determination of the patentability of claims 26-27 over Wikey, Clark, and AFD;
- (6) the Board’s determination of the patentability of claims 26-27 over Wikey, Clark, AFD, and the general knowledge, experience, and common sense of a POSITA, as reflected in Wendt, Han, Glembotsky, and Burns;
- (7) the Board’s determination of the patentability of claims 13-14, 17-23 and 25 over Davies (US Patent No. 4,917,782);
- (8) the Board’s determination of the patentability of claims 13-14, 17-23 and 25 over Davies and Hough (US Patent No. 6,171,469 B1);

- (9) the Board's determination of the patentability of claims 13-14, 17-23 and 25 over Davies and Erickson (US Patent No. 5,324,398);
- (10) the Board's determination of the patentability of claims 13-14, 17-23 and 25 over Davies, Erickson, and Hough;
- (11) the Board's determination of the patentability of claims 13-14, 17-23 and 25 over Davies, Erickson, and the general knowledge, experience, and common sense of a POSITA, as reflected in Wendt, Han, Glembotsky, and Burns;
- (12) the Board's determination of the patentability of claims 13-14, 17-23 and 25 over Davies, Erickson, Hough, and the general knowledge, experience, and common sense of a POSITA, as reflected in Wendt, Han, Glembotsky, and Burns;
- (13) the Board's determination of the patentability of claim 24 over Davies and Schoeberl (US Patent No. 5,439,576);
- (14) the Board's determination of the patentability of claim 24 over Davies and Schoeberl, and Hough;
- (15) the Board's determination of the patentability of claim 24 over Davies, Erickson, and Schoeberl;
- (16) the Board's determination of the patentability of claim 24 over Davies, Erickson, Schoeberl, and Hough;

- (17) the Board's determination of the patentability of claim 24 over Davies, Erickson, Schoeberl, and the general knowledge, experience, and common sense of a POSITA, as reflected in Wendt, Han, Glembotsky, and Burns;
- (18) the Board's determination of the patentability of claim 24 over Davies, Erickson, Schoeberl, Hough, and the general knowledge, experience, and common sense of a POSITA, as reflected in Wendt, Han, Glembotsky, and Burns;
- (19) the Board's determination of the patentability of claims 26-27 over Davies and Peters (US Patent No. 3,984,303);
- (20) the Board's determination of the patentability of claims 26-27 over Davies, Peters, and Hough;
- (21) the Board's determination of the patentability of claims 26-27 over Davies, Peters, and Erickson;
- (22) the Board's determination of the patentability of claims 26-27 over Davies, Peters, Erickson, and Hough;
- (23) the Board's determination of the patentability of claims 26-27 over Davies, Peters, Erickson, and the general knowledge, experience, and common sense of a POSITA, as reflected in Wendt, Han, Glembotsky, and Burns;

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