

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FRANZ-JOSEF CARDUCK, THEO FLECKENSTEIN, GERD GOEBEL
and ROLAND HOURTICOLON

Appeal No. 2006-0219
Application No. 09/855,002

ON BRIEF

Before KIMLIN, OWENS and WALTZ, Administrative Patent Judges.
KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-14 and 16-30. Claims 1 and 18 are illustrative:

1. A liquid distributor, said distributor being in the form of a channel distributor comprising a drainage outlet in the form of a drainage pipe having a cross-section, at the upper end of the drainage pipe, which tapers downward in the shape of a nozzle, wherein the inner wall of the nozzle is comprised of a material resistant to the adherence of solids which would block the flow of liquid through the outlet.

18. A liquid distributor having a tapering drainage pipe in the shape of a nozzle.

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The examiner relies upon the following references in the rejection of the appealed claims:

Ohlswager et al. (Ohlswager)	3,899,000	Aug. 12, 1975
Hehl	3,936,262	Feb. 3, 1976
Dear et al. (Dear)	4,479,509	Oct. 30, 1984
Plachy	5,154,353	Oct. 13, 1992

Appellants' claimed invention is directed to a liquid distributor comprising a channel distributor with drainage outlets. According to appellants, "[t]o ensure that the uniformity of distribution of the liquid is largely independent of the disturbances factors, for example blockages of the drainage outlets, the drainage outlets are in the form of drainage pipes having a cross-section which tapers in the shape of a nozzle" (page 2 of brief, third paragraph).

Appealed claims 18, 20 and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hehl. Claims 23-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ohlswager. In addition, claims 1-14, 16, 17, 19, 21 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Plachy in view of Dear.

Appellants submit at page 3 of the brief that "[t]he claims stand and fall together." Accordingly, the claims separately rejected by the examiner stand or fall together as a group.

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We have thoroughly reviewed each of appellants' arguments for patentability. However, we are in complete agreement with the examiner that the claimed subject matter is unpatentable over the cited prior art. Accordingly, we will sustain the examiner's rejections for essentially those reasons expressed in the answer, and we add the following primarily for emphasis.

We consider first the rejection of claims 18, 20 and 22 under Section 102 over Hehl. We agree with the examiner that the injector nozzle of Hehl meets the claim requirement for a liquid distributor having a tapered drainage pipe in the shape of a nozzle, i.e., the injection nozzle of Hehl is a liquid distributor of moldable material that comprises drainage pipes 22, 12 and 13 that are in communication with tapered nozzle 2. Appellants contend that "Hehl does not disclose a liquid distributor as this term is understood in the art" (page 4 of brief, third paragraph). However, appellants' specification does not define "liquid distributor" in any way that distinguishes the devices encompassed by the appealed claims from the distributor of liquid material described by Hehl. Also, appellants have presented no objective evidence which establishes that one of ordinary skill in the art would not consider the device of Hehl to be a liquid distributor. Furthermore, while appellants

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maintain that component 2 of Hehl is a "connector" and is not a drainage pipe, component 2 of the reference is tapered and is in fluid communication with drainage pipes 22, 12 and 13 and, therefore, can be fairly considered as part of the drainage pipes.

We now turn to the Section 102 rejection of claims 23-29 over Ohlswager. We concur with the examiner that plate means 16 of Ohlswager meets the claim 23 requirement for a hood having at least one opening that covers an inlet opening of a drainage pipe. Notwithstanding appellants' argument to the contrary, we agree with the examiner that "[t]he base of 'plate means' 16 clearly extends over the drainage pipes 12," thereby covering them as claimed (page 4 of answer). Appellants acknowledgment that "[t]he fluid enters the vessel impinging on the splash baffle located over the top of pipe opening thereby restricting the fluid entering the opening of the pipe" supports the conclusion that plate 16 of the reference covers the opening to pipe 12, at least to some extent. While appellants submit that "Ohlswager does not teach or suggest the use of the splash plate to prevent foreign matter from entering the pipe and fouling or clogging the system" (page 6 of brief, first paragraph), it logically follows that plate 16 of the reference prevents at

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least some foreign matter from entering the pipe. Furthermore, claim 23 does not recite any such function of preventing fouling of the pipe.

As for appellants' argument that "[t]he Ohlswager plates 16 of Figure 1 do not contain any openings" (page 6 of brief, last paragraph), we find that the reference disclosure of perforated tray 16 in figures 3 and 4 fairly supports the conclusion that plate 16 may be perforated or non-perforated.

We now consider the Section 103 rejection of claims 1-14, 16, 17, 19, 21 and 30 over Plachy in view of Dear. It is appellants' principal contention that component "11 in Figure 4 of Plachy shows a weir and not a taper in pipes 13 and 14" (page 7 of brief, last full sentence). Appellants provide a definition of "weir" as "an obstruction placed in a channel to cause the liquid to rise upstream from it and flow over or through it," and appellants maintain that a weir is not a taper, (page 8 of brief, first paragraph). However, the weir of Plachy meets appellants' definition of taper by providing a gradual diminution in diameter of the opening in the transverse plane of the opening. Moreover, we are confident that one of ordinary

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skill in the art would have found it obvious to employ a conventional weir or taper in a drainage pipe for the purpose of restricting its flow.

Manifestly, tapered nozzles were notoriously well-known in the art at the time of filing the present application. We note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the inference of obviousness established by the examiner.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

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

AFFIRMED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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TERRY J. OWENS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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THOMAS A. WALTZ)	
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ECK/hh

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