

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 MARK A. SHALKEY

Appeal 2006-2494
Application 10/651,553
Technology Center 1700

Decided: March 21, 2007

Before CHUNG K. PAK, CHARLES F. WARREN, and PETER F. KRATZ,
Administrative Patent Judges.

PAK, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1 through 4, all of the claims pending in the above-identified application. We have jurisdiction pursuant to 35 U.S.C. § 6.

I. APPEALED SUBJECT MATTER

The subject matter on appeal is directed to a method for manufacturing a honeycomb ceramic material that can be used as a catalytic converter to reduce the pollution emissions from various gasoline and diesel engines (Specification, 0001 and 0004). Details of the appealed subject matter are recited in representative claim 1, which is reproduced below:

1. A method of manufacturing a honeycomb ceramic substrate comprising:

providing a plasticized ceramic batch material;

filtering the ceramic batch material through a filter screen comprising filter wires having a wedge shaped cross section;

extruding the filtered ceramic batch material through a die to form a honeycomb ceramic substrate.

II. PRIOR ART

As evidence of unpatentability of the claimed subject matter, the Examiner has relied upon the following references:

Orso	US 3,888,963	Jun. 10, 1975
Peters	US 4,574,459	Mar. 11, 1986
Baba	US 4,839,120	Jun. 13, 1989

III. REJECTIONS

The Examiner has rejected the claims on appeal as follows:

- 1) Claim 1 under 35 U.S.C. § 102(b) as anticipated by the disclosure of Baba;
- 2) Claim 2 under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Baba and Orso; and

- 3) Claims 3 and 4 under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Baba and Peters.

IV. ISSUE

Has the Examiner demonstrated that Baba either expressly or inherently describe the claimed filtering step within the meaning of 35 U.S.C. § 102(b)?

V. RELEVANT FACTUAL FINDINGS

1. Baba teaches supplying, by an auger 3, a kneaded ceramic material through a grid drum 7 in which the material is loosened and crushed (col. 3, ll. 11-56). “The loosened and crushed ceramic material is formed by the forming column ring 4 and the cutting machine 8 into a formed circular cylinder or columnar body...the formed columnar body is extruded by the conventional plunger molding machine to form a formed body having a predetermined shape” (col. 3, ll. 56-65).
2. Baba is silent as to filtering the ceramic batch material with “filter wires having a wedge shaped cross section” as required by claim 1 (col. 1-6).
3. Baba’s grid drum illustrated in Figures 3a and 3b relied upon by the Examiner provides no filtering function (no separation of particles) (*id.*)

VI. PRINCIPLES OF LAW

Inherency may not be established by probabilities or possibilities. *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981).

VII. ANALYSIS

The Examiner's §§ 102 and 103 rejections are premised on Baba either expressly or inherently describing the claimed filtering step.

According to the Examiner (Answer 3):

Baba teaches a method of manufacturing a honeycomb ceramic substrate (1:5-10) comprising: providing a plasticized ceramic batch material (3:3-11); filtering the ceramic batch material through a filter screen (Fig. 3a) comprising a wedge shaped cross section (Fig. 3b); extruding the filtered ceramic batch material through a die to form a honeycomb ceramic substrate (1:5-10, 1:45-52, and 3:22-28).

However, contrary to the Examiner's finding, Baba is silent as to filtering the ceramic batch material with "filter wires having a wedge shaped cross section" as required by claim 1. Baba's Figures 3a and 3b relied upon by the Examiner are directed to a grid drum which provides no filtering function (no separation of particles). (See Baba, col. 2, ll. 52-54 and col. 3, ll. 14-22). As correctly pointed out by the Appellant (Br. 4), "the grid drum loosens and crushes the material reaching it so that all of the material [is] discharged from the extruder." (See also Baba, col. 3, ll. 14-22 and 54-64). On this record, the Examiner simply has not supplied any evidence to demonstrate that the grid drum inherently or necessarily functions as a filter. *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). Accordingly, for the reasons well articulated by the Appellant in the Brief and above, we reverse the Examiner's decision rejecting the claims on appeal under 35 U.S.C. §§ 102(b) and 103.

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VIII. ORDER

The decision of the Examiner is reversed.

REVERSED

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