

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(2) is not binding precedent of the Board.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. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM LOCKETT, JR.

Appeal No. 1997-2105
Application 08/426,160

ON BRIEF

Before GARRIS, LIEBERMAN, and KRATZ, Administrative Patent
Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection
of claims 21 through 38 which are all of the claims pending in
the application.

The subject matter on appeal relates to a fractionator

Appeal No. 1997-2105
Application No. 08/426,160

apparatus and to a fractionating process wherein the improvement comprises a separation tray and downpipe for separating hotter vapors from cooler liquid within a fractionation vessel. The fractionation tray is located above a bottoms liquid hold-up pool and below a vapor feed contacting zone, and the downpipe is connected to the separation tray and extends downwardly therefrom and into the bottoms liquid hold-up pool so as to establish vapor sealing means for preventing the hotter vapors from directly contacting the cooler liquid. This appealed subject matter is adequately illustrated by independent claim 21 which reads as follows:

21. In a fractionator having a fractionation vessel, including a reactor effluent vapors inlet, a vapor feed contacting zone, a baffled contacting section above said vapor feed contacting zone, a top section above said baffled contacting section, a heavy bottoms liquid hold-up section below said vapor feed contacting zone, a bottoms outlet, and a bottoms recycle system having a heat exchanger in which a recycled, cooled bottoms is fed back to said fractionation vessel to said heavy bottoms liquid hold-up pool section and above said vapor feed contacting zone, the improvement which comprises:

a separation tray and downpipe for separating hotter vapors from cooler liquid within said fractionation vessel, said separation tray being located above said bottoms liquid hold-up pool and below said vapor feed contacting zone, said downpipe being connected to said separation tray and extending downwardly from said separation tray and into said bottoms

Appeal No. 1997-2105
Application No. 08/426,160

liquid hold-up pool as to establish vapor sealing means for preventing said hotter vapors from directly contacting said cooler liquid.

Appeal No. 1997-2105
Application No. 08/426,160

The prior set forth below is relied upon by the examiner
as evidence of obviousness:

Bridgeford	3,502,547	Mar. 24, 1970
Sampath et al.	(Sampath) 5,326,436	Jul. 5, 1994

The admitted prior art shown in Figure 1 of the appellant's
drawing

All of the appealed claims stand rejected under 35 U.S.C.
§ 103 as being unpatentable over the admitted prior art in
view of Sampath with or without Bridgeford.

OPINION

We cannot sustain this rejection.

We agree with the appellant that the Sampath and
Bridgeford references contain no teaching or suggestion of
providing the admitted prior art fractionator with a
separation tray and downpipe at a location between the bottoms
liquid hold-up pool and the vapor feed contacting zone as
required by the independent claims on appeal. Neither of
these patents discloses and would not have suggested a
separation and downpipe of the type and at the location
claimed by the appellant. Indeed, the arrangements shown in
these patents, such as the trough/baffle arrangement of
Sampath and the plate/downpipe arrangement of Bridgeford, are

Appeal No. 1997-2105
Application No. 08/426,160

for purposes distinct from the purposes of the here claimed invention wherein the separation tray and downpipe are located between the

bottoms liquid hold-up pool and the vapor feed contacting zone to thereby establish a vapor sealing means for preventing the hotter vapors from directly contacting the cooler liquid.

From our perspective, it is only the appellant's own disclosure which would have suggested modifying the prior art shown in Figure 1 in such a manner as to result in the arrangements of Sampath or Bridgeford disposed at the here claimed location to thereby establish a vapor sealing means in accordance with the independent claims on appeal. It follows that we consider the rejection before us to be fatally based upon the unwitting application of impermissible hindsight.

W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-312 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). We cannot sustain, therefore, the examiner's section 103 rejection of the appealed claims as being unpatentable over the admitted prior art in view of Sampath with or without Bridgeford.

Appeal No. 1997-2105
Application No. 08/426,160

Appeal No. 1997-2105
Application No. 08/426,160

The decision of the examiner is reversed.

REVERSED

	Bradley R. Garris)	
	Administrative Patent Judge)	
)	
)	
)	
	Paul Lieberman)	BOARD OF
PATENT)	
	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
	Peter F. Kratz)	
	Administrative Patent Judge)	

tdl

Appeal No. 1997-2105
Application No. 08/426,160

Kenneth P. Glynn
Suite 201, Plaza One
One Route 12 West
Flemington, NJ 08822-1731