

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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

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

Decided: October 27, 2009

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

McCARTHY, *Administrative Patent Judge.*

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.

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

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

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

1. A process for wet screening fibrous suspensions with a screen having a plurality of screen openings, the process comprising:
 - guiding a portion of the fibrous suspension passing through the plurality of screen openings, which are formed as long holes having inlet widths of between 1 and 8 mm, as accepted stock; and
 - guiding a portion of the fibrous suspension not passing through the long holes separately from the accepted stock as rejected material.

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

ISSUES

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

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

¹ 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

suspension comprising slushed recovered paper as recited in claim 19?

Have the Appellants shown that the Examiner erred in finding that Shearer discloses a screen structured and arranged as a pressurized screen as recited in claims 20-22 and 37?

Have the Appellants shown that the Examiner erred in finding that Shearer discloses guiding a suspension having a consistency of at least 2% as recited in claim 15, or of at least 3% as recited in claim 16?

Have the Appellants shown that the Examiner erred in finding that Shearer discloses guiding a suspension having a screenable contaminants content of at least 0.3% as recited in claim 17, or of at least 0.5% as recited in claim 18?

FINDINGS OF FACT

The record supports the following findings of fact (“FF”) by a preponderance of the evidence.

1. Chupka discloses a screening cylinder for paper stock. The screening cylinder includes a plurality of holes or slots. (Chupka, col. 2, ll. 37-42).

2. Chupka teaches the use of laser cutting to form the holes or slots in the screening cylinder. (Chupka, col. 6, ll. 8-11). At one point, Chupka states that laser cutting “has the advantage of permitting the formation of slots over a substantially wide range of slot widths, such as 0.002” [approximately 0.05 mm] or less up to 0.035” [approximately 0.89 mm] or more.” (Chupka, col. 6, ll. 39-42).

1 3. At a later point, Chupka states that the “widths may be as
2 narrow as 0.002” up to 0.35” [approximately 8.9 mm] or more, as desired for
3 a particular screen.” (Chupka, col. 7, ll. 5-7).

4 4. The upper bound of the range described in the passage quoted
5 in FF 3 differs from the upper bound of the range described in the passage
6 quoted in FF2 only by the omission of a leading zero immediately before the
7 two significant figures of the width.

8 5. Chupka does not provide any example of a screening cylinder
9 having an opening with an inlet or pressure-side width greater than 0.035”.
10 (See, e.g., Chupka, col. 6, ll. 45-63). Although Chupka describes a screening
11 cylinder having a slot with an *exit* opening width as wide as 0.040”
12 (approximately 1.0 mm) (see Chupka, col. 6, ll. 55-58), the context indicates
13 that Chupka intended to provide the example to illustrate the possibility of
14 tapering the walls of the slot rather than to suggest a slot inlet width greater
15 than 0.035”.

16 6. Chupka does not indicate that a screening cylinder having slots
17 with inlet widths greater than 0.035” would be desirable in any application
18 described or suggested in the reference.

19 7. Chupka’s statement that the widths of the slots may be “up to
20 0.35” or more” was an obvious typographical error which would not have
21 put one of ordinary skill in the art in possession of a process for wet
22 screening fibrous suspensions including a step of guiding a portion of a
23 fibrous suspension passing through a plurality of screen openings which are
24 formed as long holes having inlet widths of between 1 and 8 mm.

25 8. Shearer discloses a screen assembly 10 for use in a digester.
26 (Shearer, col. 2, l. 66 – col. 3, l. 2).

1 9. Shearer's screen assembly 10 includes a plurality of screens.
2 Each screen includes a frame 12 and a metal screen plate 13. (Shearer, col.
3 3, ll. 17-19). Each screen plate 13 has a plurality of slots 17. (Shearer, col.
4 3, ll. 25-29). Figure 2 of Shearer depicts the slots as being elongated.
5 10. The width of each of the slots 17 at the inner surface of a screen
6 plate 21 is between about 2-13 mm, preferably between about 3-9 mm.
7 (Shearer, col. 4, ll. 8-10).
8 11. Shearer describes the digester as "having an inlet for
9 comminuted cellulosic fibrous material (such [as] wood chips) at the top,
10 and an outlet for produced chemical cellulose pulp (e.g., kraft or sulfite pulp)
11 at the bottom." (Shearer, col. 3, ll. 5-9).
12 12. Elsewhere, Shearer discloses that the inner surfaces of the
13 screen plates 13 are contacted by "cellulosic fibrous material slurry" in the
14 digester. (*E.g.*, Shearer, col. 8, ll. 4-9 (claim 14)).
15 13. Shearer discloses that one portion of the cellulosic fibrous
16 material slurry, namely, the comminuted cellulosic fibrous material (such as
17 wood chips), engages the inner surfaces 21 of the screen plates 13. Another
18 portion of the cellulosic fibrous material slurry, including a portion of the
19 suspending liquid, is withdrawn through the slots 17 to the outer surfaces 22
20 of the screen plates 13 by pumps. (Shearer, col. 4, ll. 1-5).
21 14. The Examiner has made specific findings in support of the
22 rejections of each of claims 2-8, 11-18 and 26-36. The Examiner also has
23 provided a citation to the disclosure of Shearer supporting the finding that
24 Shearer discloses the limitations separately recited in each of these claims.
25 (*See* Ans. 7-10). Although the Appellants dispute these findings, they
26 provide no arguments explaining why any of the Examiner's citations fails

1 to support the Examiner's findings. Therefore, we adopt the Examiner's
2 findings in support of the rejections of claims 2-8, 11-14, 26-33 and 36 on
3 pages 7-10 of the Examiner's Answer.

4
5 PRINCIPLES OF LAW

6 Anticipation is an issue fact. *In re Schreiber*, 128 F.3d 1473, 1477
7 (Fed. Cir. 1997).

8 Rejection for anticipation or lack of novelty
9 requires, as the first step of the inquiry, that all the
10 elements of the claimed invention be described in a
11 single reference. . . . Further, the reference must
12 describe the applicant's claimed invention
13 sufficiently to have placed a person of ordinary
14 skill in the field of the invention in possession of
15 it.

16 *In re Spada*, 911 F.2d 705, 708 (Fed. Cir. 1990) (citations omitted).

17
18 ANALYSIS

19 Claim 1 recites a method including the step of guiding a portion of a
20 fibrous suspension passing through a plurality of screen openings formed as
21 long holes having inlet widths of between 1 and 8 mm. Claim 23 recites an
22 apparatus including at least one screen formed with a plurality of elongated
23 holes such that the width of the elongated holes is between 1 and 8 mm at a
24 fibrous suspension inlet.

25 Chupka discloses a screening cylinder. (FF 1). At one point, Chupka
26 describes a screen with slots having inlet widths of 0.002" (0.05 mm) or less
27 up to 0.035" (0.89 mm) or more. (FF 2). This range of slot widths does not
28 overlap or even meet the slot inlet width range of between 1 and 8 mm

1 recited in claims 1 and 23. Chupka's disclosure that the slot inlet width
2 might be more than 0.89 mm does not necessarily imply that the slot width
3 would be as large as 1 mm. Consequently, Chupka's disclosure of a screen
4 with slots having inlet widths of 0.002" or less up to 0.035" does not meet
5 the slot inlet width limitations of claims 1 and 23.

6 A later passage of Chupka appears at first glance to describe slots as
7 narrow as 0.002" up to 0.35" [approximately 8.9 mm] or more. (See FF 3).
8 In view of the difference between the two ranges and the context provided
9 by the disclosure of Chupka as a whole (see FF 4-6), one of ordinary skill in
10 the art would have interpreted the reference to an upper bound of 0.35" as
11 being an obvious typographical error (FF 7). Since no other passage in
12 Chupka refers to slots having inlet widths greater than 0.035" (FF 5), the
13 disclosure of Chupka as a whole would not have put one of ordinary skill in
14 the art in possession of a screen formed with a plurality of elongated holes
15 such that the width of the elongated holes is between 1 and 8 mm at a
16 fibrous suspension inlet. See *In re Yale*, 434 F.2d 666, 668-69 (CCPA 1970)
17 (holding that an obvious typographical error in the statement of a chemical
18 formula would not have put one of ordinary skill in the art in possession of
19 the compound identified by the formula). Neither would Chupka have put
20 one of ordinary skill in the art in possession of a method including a step of
21 guiding a portion of a fibrous suspension passing through the openings of
22 such a screen as accepted stock.

23 The Appellants have shown that the Examiner erred in finding that
24 Chupka anticipates independent claim 1, independent claim 23 or any of the
25 dependent claims on appeal. On the other hand, the Appellants have not

1 shown that the Examiner erred in finding that Shearer anticipates claims 1
2 and 23.

3 Shearer's screen assembly 10 is capable of wet screening fibrous
4 suspensions. In particular, the Appellants do not formally define the term
5 "fibrous suspension" in the Specification. One of ordinary skill in the art
6 would understand the term "slurry" to mean "a suspension of insoluble
7 material in water," G.A. Smook, HANDBOOK FOR PULP & PAPER
8 TECHNOLOGISTS 394 (Jt. Exec. Comm. of the Vocational Educ. Comms. of
9 the Pulp & Paper Indus. 1982). Giving the term "fibrous suspension" its
10 broadest reasonable interpretation consistent with both the ordinary usage of
11 the term by one of ordinary skill in the art and the usage of the term in the
12 Specification, *see In re ICON Health & Fitness, Inc.*, 496 F.3d 1374, 1379
13 (Fed. Cir. 2007); *In re American Acad. of Science Tech. Ctr.*, 367 F.3d 1359,
14 1364 (Fed. Cir. 2004), the term "fibrous suspension" is sufficiently broad to
15 include the "cellulosic fibrous material slurry" which contacts the inner
16 surfaces of the screens of Shearer's screen assembly 10 when the screen
17 assembly is installed in a digester (*see* FF 12 and 13). The Appellants have
18 identified nothing in the Specification disclaiming an interpretation of the
19 term "fibrous suspension" sufficiently broad to encompass Shearer's
20 cellulosic fibrous material slurry.

21 Shearer's screen assembly is capable of wet screening the cellulosic
22 fibrous material suspension. The Appellants do not formally define the term
23 "wet screening" in the Specification. Neither do the Appellants provide
24 evidence sufficient to show that the term "wet screening" has a specialized
25 meaning in the art to which the subject matter of claims 1 and 23 pertains.
26 The ordinary usage of the term "screen" is sufficiently broad to include

1 “pass[ing] (as coal, gravel, or paper stock) through a screen in order to
2 separate one part from another.” WEBSTER’S THIRD NEW INT’L DICTIONARY
3 2040 (G&C Merriam Co. 1971)(“screen,” entry 2, def. 4a(1)). Hence, the
4 ordinary usage of “wet screening” is sufficiently broad to include passing a
5 part of a liquid suspension through a screen in order to separate one part of
6 the liquid suspension from another. The Appellants have identified nothing
7 in the Specification disclaiming an interpretation of the term “wet screening”
8 of this breadth.

9 When Shearer’s screen assembly 10 is installed in a conventional
10 digester, pumps guide a portion of the cellulosic fibrous material slurry
11 passing through the screen openings 17 to the outer surfaces 22 of the
12 screens 13. (FF 13). Shearer’s description of the conventional digester as
13 having an inlet for comminuted cellulosic fibrous material at the top, and an
14 outlet for produced chemical cellulose pulp at the bottom (FF 11),
15 necessarily implies that the portion of the cellulosic fibrous material slurry
16 not passing through the screens is guided toward the bottom of the digester.
17 Shearer’s screen assembly 10 wet screens the cellulosic fibrous material
18 slurry in the sense that the screens 13 of Shearer’s screen assembly 10 are
19 arranged to separate portions of the cellulosic fibrous material slurry passing
20 through the screens from materials not passing through the screens.

21 As the Examiner points out, the meaning of the terms “accepted
22 stock,” “accepted portions” and “rejected material” as used in claims 1 and
23 23 are dependent on the use to which the method of claim 1 or the apparatus
24 of claim 23 is to be put. None of these terms is formally defined in the
25 Specification. Neither do the Appellants provide evidence sufficient to show
26 that these terms have limited, specialized meanings in the art to which the

1 claimed subject matter pertains. In the context of the present appeal, the
2 broadest reasonable interpretation of the terms “accepted stock,” “accepted
3 portions” and “rejected material” is dependent on the uses to which each
4 component separated from the screened fibrous suspension might be put.

5 Assuming for purposes of this appeal only that no cellulose fiber pulp
6 would pass through the holes of Shearer’s screen assembly 10 were the
7 assembly placed in a conventional digester, the “black liquor” which did
8 pass through the holes would be an “accepted stock” or “accepted portion,”
9 that is, a useful raw material, for fuel use or tall oil recovery. In this sense,
10 the brown stock which exited through the bottom of the digester would be a
11 “rejected material.”

12 Therefore, the Appellants have not shown that the Examiner erred in
13 finding that Shearer discloses guiding a portion of a fibrous suspension
14 passing through the plurality of screen openings as accepted stock and
15 guiding another portion of the fibrous suspension not passing through the
16 long holes separately from the accepted stock as rejected material. In
17 addition, the Appellants have not shown that the Examiner erred in finding
18 that Shearer discloses the elements of claims 2-14, 26-33 and 36. (FF 14).

19 The Examiner finds with respect to the rejections of claims 6 and 7
20 that column 7, line 5 *et seq.* supports the finding that Shearer discloses a
21 ratio of hole length to hole width between 2 and 20 or, more specifically,
22 between 2 and 10. (Ans. 3). The Appellants, although they dispute these
23 findings, provide no explanation why any of the findings might be
24 erroneous. Claims 34 and 35 depend directly from claim 23 and, like claims
25 6 and 7, separately recite a ratio of hole length to hole width between 2 and
26 20 or, more specifically, between 2 and 10. The Examiner’s uncontested

1 findings concerning the disclosure of the subject matter of claims 6 and 7
2 also support the Examiner's finding that Shearer discloses the subject matter
3 of claims 34 and 35.

4 On the other hand, with respect to claims 9, 10, 24 and 25, the
5 Examiner provides no citation to the disclosure of Shearer, or any technical
6 reasoning, which might support the finding that Shearer inherently discloses
7 clearing the screen assembly 10 by moving a scraper past the screen
8 assembly (see Ans. 8). No basis for the Examiner's finding of inherency is
9 apparent.

10 The Examiner's citation of paragraphs 0006 and 0007 of the
11 Appellants' Specification does not support the Examiner's findings that
12 Shearer's screen assembly 10 inherently screens fibrous suspensions of the
13 consistencies recited in claims 15 and 16 or the contaminants content recited
14 in claims 17 and 18. Paragraphs 0006-07 of the Specification do not
15 describe screening within a conventional digester. Once again, no basis is
16 apparent for the Examiner's finding that Shearer inherently describes the
17 subject matter of claims 15-18.

18 With respect to claims 19-22 and 37, the Examiner provides no
19 reasoning to explain how the Abstract of Shearer supports the Examiner's
20 findings that Shearer discloses either the use of the screen assembly 10 to
21 screen slushed recovered paper or as a pressure screen. No basis for these
22 findings is apparent from the Abstract.

23 24 CONCLUSIONS

25 The Appellants have shown that the Examiner erred in finding that
26 Chupka discloses either a screen formed with a plurality of elongated holes

1 such that the width of the elongated holes is between 1 and 8 mm at a
2 fibrous suspension inlet, or a step of guiding a portion of a fibrous
3 suspension passing through a plurality of screen openings, which are formed
4 as long holes having inlet widths of between 1 and 8 mm, as accepted stock.
5 Therefore, the Appellants have shown that the Examiner erred in rejecting
6 claims 1-14 and 19-37 under § 102(b) as being anticipated by Chupka.

7 The Appellants have not shown that the Examiner erred in finding that
8 Shearer discloses guiding a portion of a fibrous suspension passing through
9 the plurality of screen openings as accepted stock, and guiding a portion of
10 the fibrous suspension not passing through the long holes separately from
11 the accepted stock as rejected material. Therefore, the Appellants have not
12 shown that the Examiner erred in rejecting claims 1 and 23 under § 102(b)
13 as being anticipated by Shearer.

14 The Appellants have not shown that the Examiner erred in finding that
15 Shearer discloses the hole dimensions and arrangements recited in claims 2-
16 8, 30-33 and 36. Therefore, the Appellants have not shown that the
17 Examiner erred in rejecting claims 2-8, 30-33 and 36 under § 102(b) as
18 being anticipated by Shearer.

19 The Appellants have not shown the Examiner erred in finding that
20 Shearer discloses the ratios of hole length to hole width recited in claims 34
21 and 35. Therefore, the Appellants have not shown that the Examiner erred
22 in rejecting claims 34 and 35 under § 102(b) as being anticipated by Shearer.

23 The Appellants have shown that the Examiner erred in finding that
24 Shearer discloses moving a scraper past a screen as recited in claims 9 and
25 10 or a scraper as recited in claims 24 and 25. Therefore, the Appellants

1 have shown that the Examiner erred in rejecting claims 9, 10, 24 and 25
2 under § 102(b) as being anticipated by Shearer.

3 The Appellants have not shown that the Examiner erred in finding that
4 Shearer discloses a screen formed as a cylindrical screen basket as recited in
5 claims 11-14 and 26-29 as well as the hole orientations recited in claims 12-
6 14 and 27-29. Therefore, the Appellants have not shown that the Examiner
7 erred in rejecting claims 11-14 and 26-29 under § 102(b) as being
8 anticipated by Shearer.

9 The Appellants have shown that the Examiner erred in finding that
10 Shearer discloses guiding a portion of a fibrous suspension comprising
11 slushed recovered paper as recited in claim 19. Therefore, the Appellants
12 have shown that the Examiner erred in rejecting claim 19 under § 102(b) as
13 being anticipated by Shearer.

14 The Appellants have shown that the Examiner erred in finding that
15 Shearer discloses a screen structured and arranged as a pressurized screen as
16 recited in claims 20-22 and 37. Therefore, the Appellants have shown that
17 the Examiner erred in rejecting claims 20-22 and 37 under § 102(b) as being
18 anticipated by Shearer.

19 The Appellants have shown that the Examiner erred in finding that
20 Shearer discloses guiding a suspension having a consistency of at least 2%
21 as recited in claim 15 or of at least 3% as recited in claim 16. Therefore, the
22 Appellants have shown that the Examiner erred in rejecting claims 15 and 16
23 under § 102(b) as being anticipated by Shearer.

24 The Appellants have shown that the Examiner erred in finding that
25 Shearer discloses guiding a suspension having a screenable contaminants
26 content of at least 0.3% as recited in claim 17 or of at least 0.5% as recited in

1 claim 18. Therefore, the Appellants have shown that the Examiner erred in
2 rejecting claims 17 and 18 under § 102(b) as being anticipated by Shearer.

3
4 DECISION

5 We AFFIRM the Examiner's decision rejecting claims 1-8, 11-14, 23,
6 26-36.

7 We REVERSE the Examiner's decision rejecting claims 9, 10, 15-22,
8 24, 25 and 37.

9 No time period for taking any subsequent action in connection with
10 this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R.
11 § 1.136(a)(1)(iv) (2007).

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13 AFFIRMED-IN-PART

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