

REGISTERED

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Section 65(2)

4 months

Marks & Clerk  
Box 957, Station B  
Ottawa, Ont.

Application No: 137,814  
Date Filed: March 22, 1972  
Title: Water Feed And Effluent Treatment For Hydrogen  
Sulfide-Water System

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Dear Sir,

This will acknowledge receipt of your letters of Sept. 20, 1978, and April 22, 1980.

The claims of this application were refused by the Examiner because, in his view they defined the same invention as that claimed in Canadian patent 865,022, dated March 2, 1971 to Nazzer. The Nazzer application was filed on August 2, 1968 which, it may be noted, predated Applicants Canadian filing date (March 22, 1972) by three years plus, and predates the convention priority date (March 22, 1971) by more than one year.

I have reviewed the arguments submitted on behalf of the Applicant and also the amendments which were made to the claims. After careful consideration, I have decided to accept all of the amended method claims, that is claims 1 to 10 and 21 to 24, as defining an invention different from that claimed in the patent to Nazzer, because they eliminate a compression step before the absorption step, and hence they do not require a pressurization of the gas after flash-off.

On the other hand, however, I am satisfied that the apparatus claims 11 to 20, for the reasons explained below, define essentially the same invention as that defined in the Nazzer patent. Consequently, I now reject this application under Section 63(2) of the Patent Act unless the Applicant commences an action to set aside prior Canadian patent 865,022, insofar as it covers the invention in question, within four months of the date of this letter, and diligently prosecutes said action subsequently. In the alternative the Applicant may delete apparatus claims 11 to 20.

It is clear that both the patent and the application deal with gas/liquid contact processes wherein the gas is soluble in the liquid, and the liquid is passed through a hot contact zone at elevated pressure including the steps of removing a portion of the liquid which has passed through the hot contact zone, removing the dissolved gas therefrom by a pressure reduction (flashing-off), recovering the gas, and returning said gas to the system.

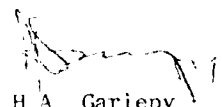
The present apparatus claims 11 to 20 and the apparatus claims 7 to 10 of the patent specify an apparatus having: 1) a hot tower zone, 2) a cold tower zone, 3) a humidifier zone, 4) a gas recovery system comprising; 5) at least one pressure reduction means (throttle means), and 6) a gas absorption means connected to the pressure reduction means to receive gas flashed off from liquid passing through the pressure reduction means

Additional features found in both sets of claims include: 7) a stripping means (fractionating tower), 8) first and second pressure reduction means (throttle devices) with the gas adsorption means connected to at least one of said pressure reduction means by way of a compressor, 9) a means to pass stripped effluent in heat exchange relation with water circulating through said humidifier zone, and 10) a heating means.

The Applicant has made little or no attempt to show how his apparatus claims are different in structure from those of the patent. He did, however, attempt to differentiate his apparatus by restrictions which are directed to modes of operation and not to structural features. For example, amended claim 11 requires that the gas absorber means is "at a pressure not greater than that of the gas which has been flashed". This is clearly a process limitation and does not alter the fact that both sets of claims generally define the same apparatus.

I am consequently satisfied that a second patent which includes the apparatus claims should not be permitted. The Applicant has four months within which to submit an appropriate amendment deleting apparatus claims 11 to 20, or to commence an action to set aside prior Canadian patent 865,022 to Nazzari.

Yours truly,

  
J.H.A. Gariepy  
Commissioner of Patents