UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

NOTICE OF ENTRY OF JUDGMENT ACCOMPANIED BY OPINION

OPINION FILED AND JUDGMENT ENTERED: 12/11/2012

The attached opinion announcing the judgment of the court in your case was filed and judgment was entered on the date indicated above. The mandate will be issued in due course.

Information is also provided about petitions for rehearing and suggestions for rehearing en banc. The questions and answers are those frequently asked and answered by the Clerk's Office.

Costs are taxed against the appellant in favor of the appellee under Rule 39. The party entitled to costs is provided a bill of costs form and an instruction sheet with this notice.

The parties are encouraged to stipulate to the costs. A bill of costs will be presumed correct in the absence of a timely filed objection.

Costs are payable to the party awarded costs. If costs are awarded to the government, they should be paid to the Treasurer of the United States. Where costs are awarded against the government, payment should be made to the person(s) designated under the governing statutes, the court's orders, and the parties' written settlement agreements. In cases between private parties, payment should be made to counsel for the party awarded costs or, if the party is not represented by counsel, to the party pro se. Payment of costs should not be sent to the court. Costs should be paid promptly.

If the court also imposed monetary sanctions, they are payable to the opposing party unless the court's opinion provides otherwise. Sanctions should be paid in the same way as costs.

Regarding exhibits and visual aids: Your attention is directed Fed. R. App. P. 34(g) which states that the clerk may destroy or dispose of the exhibits if counsel does not reclaim them within a reasonable time after the clerk gives notice to remove them. (The clerk deems a reasonable time to be 15 days from the date the final mandate is issued.)

FOR THE COURT

/s/

_____

Jan Horbaly
Clerk

Jeffrey Stewart Bergman
Carlyn Anne Burton
Raymond T. Chen
Robert Fish
Aron T. Griffith
Mary L. Kelly
Amy J. Nelson
Kristi L. R. Sawert
Mei Tsang
12-1295 - Fluor Tec, Corp. v. David Kappos, Director, PTO
United States Patent and Trademark Office , Patent and Trademark Office, Case No. 95/001,168

United States Court of Appeals for the Federal Circuit

2012-1295
(Reexamination No. 95/001,168)

FLUOR TEC, CORP.,

Appellant,

v.

David J. Kappos, DIRECTOR,
UNITED STATES PATENT AND TRADEMARK OFFICE,

Appellee,

and

LUMMUS TECHNOLOGY, INC.,

Appellee,

Judgment

ON APPEAL from the UNITED STATES PATENT AND TRADEMARK OFFICE, BOARD OF PATENT APPEALS AND INTERFERENCES

in CASE NO(S).

This CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

AFFIRMED

ENTERED BY ORDER OF THE COURT

DATED DEC 10 2012

Jan Horbaly, Clerk

NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

(Reexamination No. 95/001,168)

FLUOR TEC, CORP.,
Appellant,

v.

DAVID J. KAPPOS, DIRECTOR, UNITED STATES PATENT AND TRADEMARK OFFICE,
Appellee,

AND

LUMMUS TECHNOLOGY, INC.,
Appellee.

2012-1295

Appeal from the United States Patent and Trademark Office, Board of Patent Appeals and Interferences.

Decided: December 11, 2012

ROBERT D. FISH, Fish & Associates, PC, of Irvine, California, argued for appellant. With him on the brief was MEI TSANG.

RAYMOND T. CHEN, Solicitor, United States Patent and Trademark Office, of Arlington, Virginia, argued for appellee, United States Patent and Trademark Office. With him on the brief were AMY J. NELSON and KRISTI L.R. SAWERT, Associate Solicitors.

JEFFREY S. BERGMAN, Osha Liang LLP, of Houston, Texas, argued for appellee, Lummus Technology, Inc.

Before LOURIE, BRYSON, and WALLACH, *Circuit Judges*.

LOURIE, *Circuit Judge*.

Fluor Tec, Corp. ("Fluor") appeals from the decision of the Board of Patent Appeals and Interferences (the "Board") in an *inter partes* reexamination affirming the Examiner's decision not to reject claims 1–9, 11, 13, 25–29, 31, 33, 37–47, 55, 56, and 58 of U.S. Patent 6,712,880 (the '"880 patent") owned by Lummus Technology, Inc. ("Lummus"). *See Fluor Tec, Corp. v. Patent of Lummus Tech. Inc.*, No. 2011-013099 (B.P.A.I. Dec. 15, 2011) ("*Board Decision*"). Because substantial evidence supports the Board's conclusion that the claimed invention would not have been obvious in view of the cited prior art, we *affirm*.

BACKGROUND

This appeal arises from an *inter partes* reexamination of the '880 patent in the U.S. Patent and Trademark Office (the "PTO"), assigned Patent Reexamination Control Number 95/001,168, which was initiated by third party requester Fluor under 35 U.S.C. § 311 and 37 C.F.R. § 1.913.

The '880 patent is directed to cryogenic processes for separating multi-component gaseous hydrocarbon

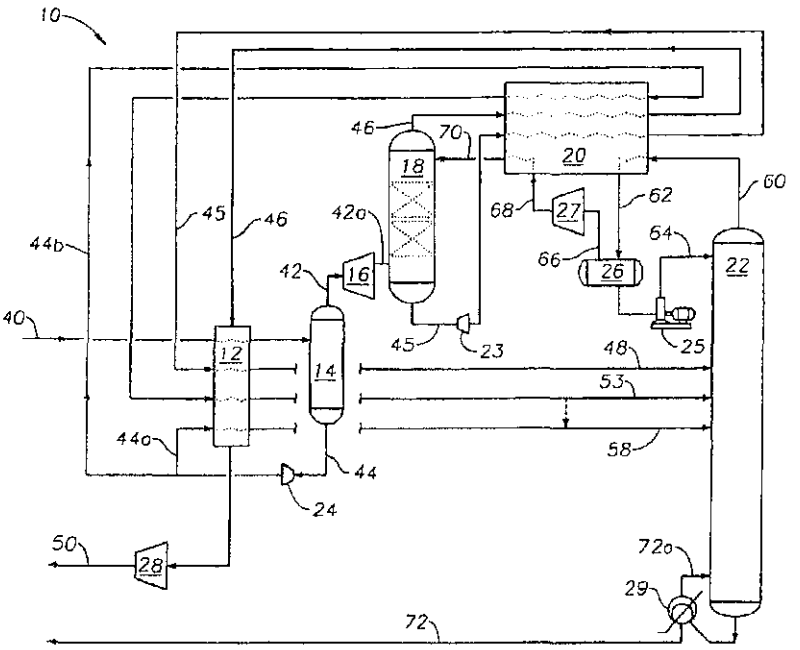
streams to recover both gaseous and liquid compounds using a high pressure absorber. '880 patent col.1 ll.10–15. The abridged claim 1 recited below, as amended during the reexamination proceeding, is representative of the claimed elements in dispute:

> 1. A process for separating a heavy key component from an inlet gas stream containing a mixture of methane, C_2 compounds, C_3 compounds, and heavier compounds, comprising the following steps:
>
> (a) at least partially condensing and separating the inlet gas into a first liquid stream and a first vapor stream;
>
> (b) expanding at least a portion of the first liquid stream, at least a portion of which is then designated as a first fractionation feed stream;
>
> (c) supplying a fractionation column the first fractionation feed stream and a second fractionation feed stream, the fractionation column produces a fractionation overhead vapor stream and a fractionation bottom stream;
>
> (d) expanding at least a portion of the first vapor stream, such expanded portion then designated as an expanded vapor stream;
>
> (e) supplying an absorber the expanded vapor stream and an absorber feed stream, the absorber produces an absorber overhead stream and an absorber bottom stream, the absorber having an absorber pressure that is substantially greater than and at a

> predetermined differential pressure from a fractionation column pressure; . . .

J.A. 325–326 (bracketing and underlining showing changes relative to the original patent claim omitted).

Figure 1, reproduced below, depicts a flow diagram of a separation process according to the '880 patent:

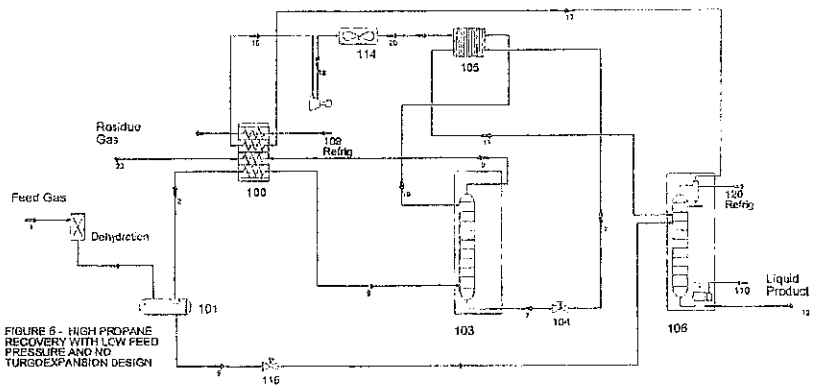


'880 patent fig. 1.

Relevant to the issues argued in this appeal, Lummus's separation apparatus is a two-column system that includes an absorber column [18] and a downstream fractionation column [22], wherein the absorber column is operated at a pressure substantially greater than the fractionation column. '880 patent col.6 ll.52–60, col.3 ll.48–54. Inlet gas [40] is first cooled or condensed in heat exchanger [12] and separated in separator [14] into first

liquid stream [44] and first vapor stream [42]. *Id.* col.7 ll.18–27. The first liquid stream [44] is expanded in expander [24], heated in exchanger [12], and supplied to a middle tray of fractionation column [22] as first fractionation feed stream [58]. *Id.* col.7 ll.31–35. A portion of first liquid stream [44] may be fed to overhead exchanger [20], as well as exchanger [12], before being supplied to fractionation column [22]. *Id.* col.8 ll.5–11. The first vapor stream [42] is expanded in turboexpander [16] to the operating pressure of absorber [18]. *Id.* col.7 ll.29–31. The expanded first vapor stream [42a] is then fed into the lower end of absorber [18]. *Id.* col.7 ll.34–36. In the absorber, heavier compounds in the vapor stream are absorbed by the falling liquid stream to produce absorber bottom stream [45], and lighter compounds rise to the top of the column to produce absorber overhead stream [46]. *Id.* col.7 ll.50–59. Absorber bottom stream [45] is cooled (condensed) in exchangers [20] and [12], and fed into the middle of fractionation column [22] as second fractionation feed stream [48]. *Id.* col.7 ll.60–62, col.8 ll.17–21.

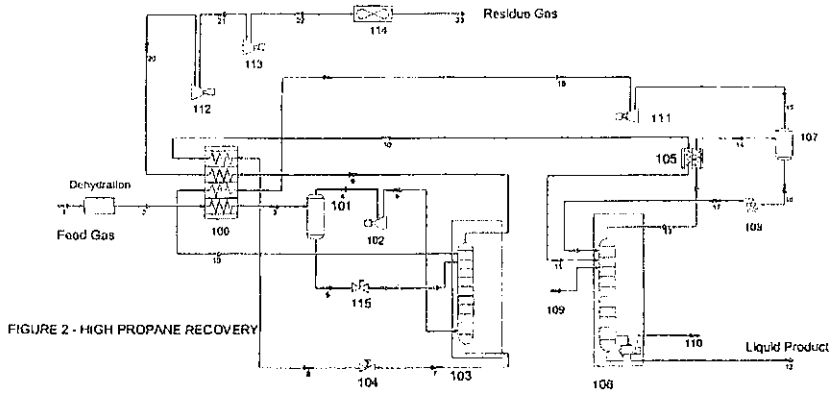
In requesting reexamination, Fluor relied on International Patent Publication Number WO 02/14763 of Mak (the "Mak application") as evidence of unpatentability. The Mak application discloses gas processing methods and configurations suitable for the recovery of propane or ethane that include an absorber and a fractionation column where the absorber is operated at a pressure higher than the fractionation column. Mak Appl. 2–3. The Mak application discloses two different configurations for gas separation, which depend on the pressure of the feed gas. One configuration, designed for use with low-pressure feed gas, does not involve expanding the first vapor stream, and is depicted in a flow diagram in Figure 5, reproduced below:



Mak Appl. fig. 5.

In this low-pressure design, the feed gas [1] is separated in separator [101] into a liquid portion [5] and a gaseous portion [2]. *Id.* at 8. The liquid portion [5] is expanded in Joules-Thompson valve [115] and fed directly into the fractionation column [106], and the gaseous portion [2] is cooled in heat exchanger [100] and fed into absorber [103] without expansion in a turboexpander. *Id.* The absorber overhead stream [9] is heated in exchanger [100] and fed into the gas pipeline without recompression, and the absorber bottom stream [7] is expanded in Joules-Thompson valve [104], which reduces the pressure and temperature, then heated in exchanger [105] and fed into the top of fractionation column [106]. *Id.*

The other configuration disclosed in the Mak application, designed for use with high-pressure feed gas, is depicted in a flow diagram in Figure 2, reproduced below:



Mak Appl. fig. 2.

In this high-pressure design, the feed gas [1], [2] is cooled in heat exchanger [100] and separated in separator [101] into a liquid portion [5] that is fed into the upper end of absorber [103], and a gaseous portion [4] that is expanded in turboexpander [102] and fed into a lower section of absorber [103]. *Id.* at 6. The absorber bottom stream [7] is expanded in Joules-Thompson valve [104], which lowers the pressure and significantly cools the stream, then heated in exchangers [100] and [105] and then fed into the top of fractionation column [106]. *Id.*

During reexamination, the Examiner rejected some of the patent claims as anticipated under 35 U.S.C. § 102(e) by the Mak application, and some of the claims as obvious under 35 U.S.C. § 103 in view of the Mak application. Thereafter, Lummus amended the independent claims to incorporate limitations from the dependent claims. Specifically, claim 1 was amended as excerpted above. Following the amendment, the Examiner withdrew the rejections of the claims in view of the Mak application. In particular, the Examiner found that the vapor stream in Mak's low-pressure configuration (*i.e.*, stream [2], [6] in Figure 5) is not expanded prior to entering the absorber,

as required by the claims. *Right of Appeal Notice dated Jan. 20, 2011 in Control No. 95/001,168*, 20–21. Further, the Examiner noted that, according to Lummus's amended claims, the first fractionation feed stream in the '880 patent has the same chemical composition as the first liquid stream, which is merely renamed after being warmed in the heat exchangers en route to the fractionation column. *Id.* at 14–15. In contrast, the first liquid stream in Mak's high-pressure configuration (*i.e.*, stream [5] in Figure 2) is initially fed to the absorber, where it undergoes chemical processing, and it is the chemically altered absorber bottom stream that is fed into the fractionation column as the first fractionation feed stream. *Id.* at 15–16.

Fluor then appealed to the Board under 35 U.S.C. § 134(c). The Board affirmed the Examiner's finding that the Mak application failed to anticipate the claims, and Fluor does not challenge that holding on appeal. *See Board Decision* at 12. The Board, like the Examiner, also found that it would not have been obvious to add an expander to the low-pressure configuration taught by the Mak application and depicted in Figure 5 because that system was specifically designed and labeled not to include turboexpansion. *Id.* at 12–13. The Board also concluded that the Examiner was correct in finding that there was no motivation for a skilled artisan to modify the high-pressure configuration taught by Mak and depicted in Figure 2 by rerouting the liquid stream to the fractionation column. *Id.* at 13. Accordingly, the Board affirmed the Examiner's decision not to reject the claims.

Fluor timely appealed. We have jurisdiction pursuant to 28 U.S.C. § 1295(a)(4)(A).

DISCUSSION

A claim is invalid for obviousness if, to one of ordinary skill in the pertinent art, "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made." 35 U.S.C. § 103(a) (2006); *see also KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406–07 (2007). Obviousness is a legal conclusion based on underlying factual findings. *In re Kao*, 639 F.3d 1057, 1065 (Fed. Cir. 2011). We review the Board's legal conclusions *de novo* and its factual determinations for substantial evidence. *In re Am. Acad. Sci. Tech. Ctr.*, 367 F.3d 1359, 1363 (Fed. Cir. 2004). Substantial evidence means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Consol. Edison Co. v. Nat'l Labor Relations Bd.*, 305 U.S. 197, 229 (1938).

I.

The claims of the '880 patent require either "expanding" or an "expansion means" for expanding at least a portion of the first vapor stream, which the specification discloses are to "be effectuated with a turbo-expander, Joules-Thompson expansion valves, a liquid expander, a gas or vapor expander or the like." J.A. 325–326; '880 patent col.6 ll.35–39. Fluor contends that the Board incorrectly determined that it would not have been obvious to add an expander to the low-pressure configuration depicted in Figure 5 of the Mak application. Fluor argues that it would have been a mere design choice for a skilled artisan to add an expander when utilizing Mak's low-pressure system with a high-pressure feed gas in order to improve the efficiency of the absorber, since the need to match the feed gas pressure with the absorber pressure

was well-known in the prior art.[1] We disagree because substantial evidence supports the Board's factual findings underlying its conclusion that the claims would not have been obvious.

The system depicted in Figure 5 of the Mak application does not include expanding at least a portion of the first vapor stream as required by the claims; rather, vapor stream [2], [6] is fed into absorber [103] after cooling in heat exchanger [100], but without passing through an expander. Indeed, Mak's low feed pressure configuration specifically excludes an expander: Figure 5 is expressly labeled as a "No Turboexpansion Design," and the Mak specification recites (i) that "[t]he gaseous portion of [2] is cooled in a heat exchanger [100] and the cooled gaseous portion [6] is then fed into absorber [103] *without expansion in a turboexpander*," Mak Appl. 8 (emphasis added); (ii) that "Figure 5 is a . . . configuration for a gas processing plant *without turboexpander*," *id.* at 4 (emphasis

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[1] To support its argument, Fluor relies, in part, on U.S. Patent 4,657,571 issued to Gazzi ("Gazzi"), which is cited in the background section of the '880 patent, but is not incorporated by reference into the patent specification or part of the prosecution history of the reexamination application. Fluor admits that Gazzi was never referenced in arguments to the Examiner or the Board and was not part of the administrative record considered by the Board, but nevertheless contends that it was within the knowledge of a person of ordinary skill in the art and therefore the Board's failure to consider it warrants vacating and remanding the Board's decision. Appellant Reply. Br. 9. However, because 35 U.S.C. § 144 provides that we "review the decision from which an appeal is taken on the record before the [PTO]," Gazzi is not properly before us for consideration on appeal. *In re Watts*, 354 F.3d 1362, 1367 (Fed. Cir. 2004) ("[R]eview of the Board's decision is confined to the 'four corners' of that record.").

added); and (iii) that "the feed gas is fed into the absorber *without passing through a turboexpander*," *id.* at 8 (emphasis added).

We agree with the Board's determination that it would not have been obvious to modify Mak's disclosure to add an expander. *See DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 567 F.3d 1314, 1326 (Fed. Cir. 2009) ("An inference of nonobviousness is especially strong where the prior art's teachings undermine the very reason being proffered as to why a person of ordinary skill would have combined the known elements."). The Mak application discloses two different configurations, one designed for high-pressure feed gas and one designed for low-pressure feed gas, and that Mak specifically discusses the advantages of the "no turboexpander design" for low-pressure feed gas. *See* Mak Appl. 8–9. In Mak's system, depicted in Figure 5, the gaseous portion is cooled in a heat exchanger before being fed into the absorber, but if high-pressure feed gas could be accommodated simply by adding an expander to the low-pressure configuration, then there would be no need for the separate high-pressure configuration. *See In re Gal*, 980 F.2d 717, 719 (Fed. Cir. 1992) (holding that different structure to achieve different purpose was not an obvious design choice). Adding an expander to Mak's low-pressure configuration is not simply a design choice that one would employ.

Moreover, a skilled artisan desiring to utilize a high-pressure feed gas would have been directed to follow the alternative systems disclosed in the Mak application that are specifically designed to accommodate a high-pressure feed gas, rather than attempt to modify Mak's low-pressure configuration. *See In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994) (a reference teaches away "when a person of ordinary skill, upon reading the reference . . . would be

led in a direction divergent from the path that was taken by the applicant"). Accordingly, viewing the teachings of the Mak application as a whole, a skilled artisan would not have been motivated to add an expander to the low-pressure configuration depicted in Figure 5 to arrive at the claimed invention. Because the Board's fact-finding is supported by substantial evidence, we affirm its conclusion of nonobviousness. *In re Jolley*, 308 F.3d 1317, 1320 (Fed. Cir. 2002).

II.

The claims of the '880 patent also require that the inlet gas is separated into a first liquid stream and a first vapor stream, and that at least a portion of the first liquid stream is designated as a first fractionation feed stream, which is supplied to a fractionation column. J.A. 325–326.

Fluor contends that the Board incorrectly determined that it would not have been obvious to modify the high-pressure configuration depicted in Figure 2 of the Mak application by rerouting the first liquid stream [5]—produced upon initial separation of feed gas [1], [2] in separator [101]—to the fractionation column [106] instead of to absorber [103] as disclosed. Fluor argues that a skilled artisan would have routed the liquid phase differently depending on the composition of the feed gas itself, *i.e.*, whether it was rich or lean.[2] Fluor asserts that it would have been obvious to reroute the liquid phase to the

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[2] A lean gas stream is one that contains a higher proportion of lighter hydrocarbons, such as methane (C_1) and ethane (C_2), and a lower percentage of heavier hydrocarbons, such as propane (C_3) and butane (C_4). In contrast, a rich gas stream is one that contains a lower proportion of lighter hydrocarbons and a higher proportion of heavier hydrocarbon components.

fractionation column as claimed, rather than to the absorber column as described in Mak's high-pressure configuration, when the feed gas is rich because that would provide a more efficient separation in the system depicted in Figure 2, which is specifically designed for lean feed streams. We again disagree because substantial evidence supports the Board's factual findings underlying its conclusion that the claims would not have been obvious.

First, in the system depicted in Figure 2 of the Mak application, the liquid stream [5] is fed into the absorber [103] and undergoes chemical processing in the absorber, by interaction with gas stream [6] and reflux stream [19], to produce a liquid absorber bottom stream [7]. Mak Appl. 6, fig. 2. This chemically altered absorber bottom stream is subsequently expanded in Joules-Thompson valve [104], heated in exchangers [100] and [105], and then fed into fractionation column [106]. *Id.* In contrast, Lummus's claims require that the expanded liquid stream be supplied directly to the fractionation column as a first fractionation feed stream without further chemical processing. The '880 patent specification discloses that, with reference to Figure 1, after the feed gas is separated in separator [12], "[t]he first liquid stream [44] is expanded in expander [24] and then supplied to front end exchanger [12] and warmed . . . then supplied to a mid-column feed tray of fractionation column [22] as a first fractionation feed stream [58]." '880 patent col.7 ll.31–35.

Second, Lummus's claims at issue here are not limited only to a rich feed gas, but encompass any hydrocarbon stream. *See, e.g.*, claim 1 ("inlet gas stream containing a mixture of methane, C_2 compounds, C_3 compounds, and heavier compounds"); *see also* '880 patent abstract, col.1 ll.11–15, col.5 l.65–col.6 l.16. Moreover, neither the claimed invention nor the Mak application discloses or suggests that the mixture of hydrocarbons in the feed gas

should have a direct bearing on the choice of which process should be employed for separation; on the contrary, the disclosure in Mak emphasizes that the choice of configuration should depend on the pressure of the feed gas, not the composition. Mak Appl. 3, 6, 8, 10–11.

Finally, Fluor has provided no evidence or rationale to support its proposition that a skilled artisan would have been motivated to substantially modify Mak's high-pressure configuration by rerouting the first liquid stream depending on the composition of the feed gas. *KSR*, 550 U.S. at 418 (requiring "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006))); *see also Mintz v. Dietz & Watson, Inc.*, 679 F.3d 1372, 1377 (Fed. Cir. 2012) (obviousness determination improper where "little more than an invocation of the words 'common sense' (without any record support showing that this knowledge would reside in the ordinarily skilled artisan)"). Therefore, again viewing the teachings of the Mak application as a whole, a skilled artisan would not have been motivated to modify the high-pressure configuration depicted in Figure 2 by rerouting the liquid stream to arrive at the claimed invention. Because the Board's fact-finding is supported by substantial evidence, we affirm its conclusion of nonobviousness. *Jolley*, 308 F.3d at 1320.

CONCLUSION

We have considered Fluor's remaining arguments and find them unpersuasive. The Board's judgment is affirmed.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

Questions and Answers

Petitions for Panel Rehearing (Fed. Cir. R. 40)
and
Petitions for Hearing or Rehearing En Banc (Fed. Cir. R. 35)

Q. When is a petition for panel rehearing appropriate?

A. Petitions for panel rehearing are rarely considered meritorious. Consequently, it is easiest to first answer when a petition for panel rehearing is not appropriate. A petition for panel rehearing should not be used to reargue issues already briefed and orally argued. If a party failed to persuade the court on an issue in the first instance, they do not get a second chance. This is especially so when the court has entered a judgment of affirmance without opinion under Fed. Cir. R. 36, as a disposition of this nature is used only when the appellant/petitioner has utterly failed to raise any issues in the appeal that require an opinion to be written in support of the court's judgment of affirmance.

Thus, as a usual prerequisite, the court must have filed an opinion in support of its judgment for a petition for panel rehearing to be appropriate. Counsel seeking panel rehearing must be able to identify in the court's opinion a material error of fact or law, the correction of which would require a different judgment on appeal.

Q. When is a petition for rehearing en banc appropriate?

A. En banc decisions are extraordinary occurrences. To properly answer the question, one must first understand the responsibility of a three-judge merits panel of the court. The panel is charged with deciding individual appeals according to the law of the circuit as established in the court's precedential opinions. While each merits panel is empowered to enter precedential opinions, the ultimate duty of the court en banc is to set forth the law of the Federal Circuit, which merits panels are obliged to follow.

Thus, as a usual prerequisite, a merits panel of the court must have entered a precedential opinion in support of its judgment for a petition for rehearing en banc to be appropriate. In addition, the party seeking rehearing en banc must show that either the merits panel has failed to follow decisions of the Supreme Court of the United States or Federal Circuit precedential opinions, or that the merits panel has followed circuit precedent, which the party seeks to have overruled by the court en banc.

Q. How frequently are petitions for panel rehearing granted by merits panels or petitions for rehearing en banc granted by the court?

A. The data regarding petitions for panel rehearing since 1982 shows that merits panels granted some relief in only three percent of the petitions filed. The relief granted usually involved only minor corrections of factual misstatements, rarely resulting in a change of outcome in the decision.

En banc petitions have been granted less frequently. Historically, the court has initiated en banc review in a few of the appeals decided en banc since 1982.

Q. Is it necessary to have filed either of these petitions before filing a petition for certiorari in the U. S. Supreme Court?

A. No. All that is needed is a final judgment of the Court of Appeals.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

INFORMATION SHEET

FILING A PETITION FOR A WRIT OF CERTIORARI

There is no automatic right of appeal to the Supreme Court of the United States from judgments of the Federal Circuit. You must file a petition for a writ of certiorari which the Supreme Court will grant only when there are compelling reasons. (See Rule 10 of the Rules of the Supreme Court of the United States, hereinafter called Rules.)

Time. The petition must be filed in the Supreme Court of the United States within 90 days of the entry of judgment in this Court or within 90 days of the denial of a timely petition for rehearing. The judgment is entered on the day the Federal Circuit issues a final decision in your case. [The time does not run from the issuance of the mandate, which has no effect on the right to petition.] (See Rule 13 of the Rules.)

Fees. Either the $300 docketing fee or a motion for leave to proceed in forma pauperis with an affidavit in support thereof must accompany the petition. (See Rules 38 and 39.)

Authorized Filer. The petition must be filed by a member of the bar of the Supreme Court of the United States or by the petitioner representing himself or herself.

Format of a Petition. The Rules are very specific about the order of the required information and should be consulted before you start drafting your petition. (See Rule 14.) Rules 33 and 34 should be consulted regarding type size and font, paper size, paper weight, margins, page limits, cover, etc.

Number of Copies. Forty copies of a petition must be filed unless the petitioner is proceeding in forma pauperis, in which case an original and ten copies of the petition for writ of certiorari and of the motion for leave to proceed in forma pauperis. (See Rule 12.)

Where to File. You must file your documents at the Supreme Court.

Clerk
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543
(202) 479-3000

No documents are filed at the Federal Circuit and the Federal Circuit provides no information to the Supreme Court unless the Supreme Court asks for the information.

Access to the Rules. The current rules can be found in Title 28 of the United States Code Annotated and other legal publications available in many public libraries.