

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LENROC COMPANY,
Petitioner,

v.

ENVIRO TECH CHEMICAL SERVICES, INC.,
Patent Owner.

Case IPR2014-00382
Patent 7,728,132 B2

Before LINDA M. GAUDETTE, GRACE KARAFFA OBERMANN, and
KRISTINA M. KALAN, *Administrative Patent Judges*.

GAUDETTE, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

On January 27, 2014, Lenroc Company (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 1-12 (the “challenged claims”) of U.S. Patent No. 7,728,132 (Ex. 1001, “the ’132 patent”). 35 U.S.C. §§ 311-319. Enviro Tech Chemical Services, Inc. (“Patent Owner”) timely filed a Preliminary Response (Paper 7, “Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Upon consideration of the Petition and Patent Owner’s Preliminary Response, we determine Petitioner has not established a reasonable likelihood that it would prevail in showing the unpatentability of at least one of the challenged claims. Accordingly, the Petition is denied under 35 U.S.C. § 314(a) for the reasons that follow.

II. BACKGROUND

A. *Related Matters*

Neither Petitioner nor Patent Owner indicates it is aware of another judicial or administrative matter that would affect, or be affected by, a decision in this proceeding. Pet. 1; *see generally* Prelim. Resp.

B. *The ’132 Patent (Ex. 1001)*

The ’132 patent relates to methods for preparing a composition for use in stabilizing chlorinated water to sunlight decomposition. Ex. 1001, Abstract. At the time of the invention, it was known in the art that cyanuric acid is an effective chlorine stabilizer, *id.* at 1:33-36, and that, due to its more neutral pH, monosodium cyanurate is preferred over cyanuric acid for UV stabilization in outdoor chlorinated pools and fountains, *id.* at 2:4-7. According to the ’132 patent,

at the time of the invention, it was known in the art to treat chlorinated water with both powder and slurry forms of monosodium cyanurate. *See generally id.* at 2:8-3:14. The '132 patent describes known methods of producing commercial quantities of monosodium cyanurate powder as inefficient and costly. *Id.* at 2:10-24. Monosodium cyanurate slurries produced by known methods, such as the method disclosed in Jany, are described as difficult to use due to their high viscosity and tendency to dewater (separate) in a container. Ex. 1001, 2:50-3:22.

The inventive methods of the '132 patent are said to overcome the aforementioned drawbacks of the prior art methods and products produced thereby. *Id.* at 3:27-40. The '132 patent describes methods for preparing both slurry and dry, solid monoalkali metal cyanurate materials. *Id.* at 6:43-10:3. The slurry and dry, solid materials are prepared from monoalkali metal cyanurate wetcakes, made by blending:

(1) monoalkali metal base with a slurry made of water and either cyanuric acid wetcake or dry, virgin cyanuric acid, *id.* at 4:48-55;

(2) monoalkali metal base, preferably in a dry, solid form, with cyanuric acid wetcake, *id.* at 6:60-63, 9:8-9; or

(3) dry, virgin cyanuric acid with

(a) an aqueous solution of a monoalkali metal base, *id.* at 7:5-6, 9:19-20, or

(b) sufficient water “so that it can be processed as if it were cyanuric acid wetcake,” and a monoalkali metal base, preferably in a dry, solid form, *id.* at 7:3-5, 9:17-19.

A slurry of monoalkali metal cyanurate is prepared by introducing the monoalkali metal cyanurate wetcake to water under high speed mixing or homogenization. *Id.* at 5:23-25, 7:21-23. A dry, solid monoalkali metal cyanurate is prepared by drying

the monoalkali metal cyanurate wetcake using any suitable means such as “a fluidized bed dryer, a flash dryer, a double-cone vacuum tumble dryer, a rotating circular tray dryer . . . , and an atmospheric tray dryer.” *Id.* at 9:35-39.

C. Illustrative Claims

Challenged claims 1-5 and 10 recite “method[s] for preparing a slurry of a monoalkali metal cyanurate.” Ex. 1001, claims 1 and 10. Challenged claim 6 depends from claim 1, and recites “[a] monoalkali metal cyanurate slurry prepared according to the method of claim 1.” *Id.* at claim 6. Challenged claims 7-9, 11, and 12 recite “method[s] for preparing a dry, solid monoalkali metal cyanurate.” *Id.* at claims 7, 11, and 12.

Claims 1 and 11, reproduced below, are illustrative of the claimed subject matter:

1. A method for preparing a slurry of a monoalkali metal cyanurate, comprising:

(a) Blending cyanuric acid wetcake with a monoalkali metal base to form a wetcake of a monoalkali metal cyanurate without dispersing the cyanuric acid wetcake in an aqueous medium prior to blending; and

(b) Introducing said monoalkali metal cyanurate wetcake to water, under high speed mixing, to form a slurry of a monoalkali metal cyanurate having a viscosity of less than 131 centiStokes, wherein said water contains a suspension agent in an amount sufficient to increase its viscosity.

11. A method for preparing a dry, solid monoalkali metal cyanurate, comprising:

(a) Forming a wetcake of monoalkali metal cyanurate by blending cyanuric acid or cyanuric acid wetcake with a monoalkali metal base; and

(b) Drying the formed wetcake of monoalkali metal cyanurate.

D. Evidence Relied Upon

Petitioner relies upon the following references, as well as the Declaration of Kurt F. Stephan, executed January 24, 2014 (Ex. 1006, “Stephan Declaration”):

References	Patents/Printed Publications	Exhibit
Stephan	U.S. Patent No. 8,067,587 B2	1002
Jany	U.S. Patent No. 6,207,177 B1	1004
Doonan	U.S. Patent No. 4,233,444	1005

E. Asserted Grounds of Unpatentability

Petitioner challenges the patentability of the '132 patent claims based on the following grounds:

References	Basis	Claims challenged
Stephan	§ 102(e)	7 and 9-12
Stephan and Jany	§ 103(a)	10
Stephan and Doonan	§ 103(a)	11 and 12
Stephan, Doonan, and Jany	§ 103(a)	1-9

III. CLAIM CONSTRUCTION

A. Legal Standard

Claims of an unexpired patent are interpreted using the broadest reasonable construction in light of the specification of the patent. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012); 37 C.F.R. § 42.100(b). We determine that, for purposes of this Decision, the only claim language requiring express construction is the term “wetcake,” recited in each of the challenged independent claims: 1, 7, and 10-12.

B. Petitioner's and Patent Owner's Proposed Constructions for the Term "Wetcake"

Petitioner does not offer a construction for the claim term "wetcake," *per se*, but proposes constructions for the phrases "cyanuric acid wetcake" and "wetcake of monoalkali metal cyanurate."¹ Pet. 3-4. Petitioner contends the phrase "cyanuric acid wetcake," as used in the challenged claims, "means a composition comprising cyanuric acid and water, where the amount of water in the composition is about 20-40% by weight." Pet. 3 (citing Ex. 1001, 4:47-48, 6:60-62, 9:6-8; Ex. 1006, 3, ¶ 7a). Petitioner contends the phrase "wetcake of monoalkali metal cyanurate" means "a composition comprising monoalkali metal cyanurate and water, where the composition contains about 40-90% monoalkali metal cyanurate by weight." *Id.* at 4 (citing Ex. 1001, 5:3-8; Ex. 1006, 3, ¶ 7b).

Patent Owner contends "[t]he term 'wetcake' means a wet solid that is not a dry solid." Prelim. Resp. 4. Patent Owner provides numerous citations to the '132 patent, *see id.* at 4-5, in support of its argument that the Specification "clearly distinguish[es] between the physical state of a 'wetcake' and the physical state of a 'dry solid,'" *id.* at 5. Patent Owner contends independent claims 7, 11, and 12 distinguish between the physical state of a wetcake and the physical state of a dry solid, requiring a step of drying a monoalkali metal cyanurate wetcake to prepare a "dry solid" monoalkali metal cyanurate." *Id.*

¹Petitioner and Patent Owner do not dispute that the phrases "wetcake of monoalkali metal cyanurate" and "monoalkali metal cyanurate wetcake" are used interchangeably in the '132 patent Specification, and agree these phrases should be construed identically. Pet. 4; Prelim. Resp. 6. We agree and, for convenience, we use the phrase "wetcake of monoalkali metal cyanurate" throughout our decision to refer to both terms.

Patent Owner argues Petitioner's proposed constructions for the phrases "cyanuric acid wetcake" and "wetcake of monoalkali metal cyanurate" fail to acknowledge that a wetcake is a wet solid, which is physically different from a dry solid. *Id.* at 6-7. Patent Owner contends these phrases mean, respectively, "a wet solid, not a dry solid, of cyanuric acid and water" and "a wet solid, not a dry solid, of a monoalkali metal cyanurate and water." *Id.* at 5-6.

C. The '132 Patent Claims

Challenged independent claims 1, 7, and 10-12 recite blending "cyanuric acid wetcake"² with a monoalkali metal base to form "a wetcake of monoalkali metal cyanurate." Ex. 1001, 12:39-14:22. Challenged claims 7, 11, and 12 recite "method[s] for preparing a dry, solid monoalkali metal cyanurate" and further require a step of "[d]rying said monoalkali metal cyanurate wetcake." *Id.* at 13:3-9, 14:4-22. The term "wetcake" is not used in the dependent claims. *Id.* at 12:51-13:19 (claims 2-6, 8, and 9). The challenged claims do not use other terms such as "cake" or "semi-dry solid cake," *see infra* pp. 7-8, and do not explicitly recite solids or water contents of the wetcakes.

D. The '132 Patent Specification

The '132 patent does not explicitly define the term "wetcake." *See generally* Ex. 1001. The '132 patent uses the terms "wetcake" and "cake" to describe monoalkali metal cyanurate material used to prepare a dry, solid monoalkali metal cyanurate. *Id.* at 8:58-9:34. The "dry solid monoalkali metal cyanurate," *id.* at 8:60-61, is prepared by "[d]rying the monoalkali metal cyanurate wetcake" in suitable drying equipment, such as a fluidized bed dryer or flash dryer, *id.* at 9:35-39.

² Claims 10-12 recite "cyanuric acid or cyanuric acid wetcake."

The '132 patent also uses the terms “wetcake” and “cake” to describe monoalkali metal cyanurate material used to prepare slurries of monoalkali metal cyanurate. *Id.* at 3:51-65, 4:32-5:8, 6:46-7:20. In one embodiment, cyanuric acid and monoalkali metal base are dry-blended to form a “semi-dry solid cake” of monoalkali metal cyanurate. *Id.* at 3:53-54, 60-61. In another embodiment, monoalkali metal base is added to a slurry of cyanuric acid to form monoalkali metal cyanurate. *Id.* at 4:48-55. A “‘wetcake’ contain[ing] about 40-90% solid monoalkali metal cyanurate by weight” is then separated from the slurry. *Id.* at 5:3-4, 7-8 (internal quotation added).

The '132 patent also uses the term “wetcake” to describe cyanuric acid material used in forming the above-described monoalkali metal cyanurate wetcakes.

The cyanuric acid may be dry, virgin material or it may be a by-product from [a process] using trichloroisocyanuric acid or sodium dichloroisocyanurate as a chemical reactant. When by-product material is used, it is generally available as a water-washed *wetcake* separated from the reaction liquors by any conventional solid-liquid separation technique, e.g., centrifugation, filtration, using a hydrocyclone, or by gravitational sedimentation. The amount of water in the wetcake is usually in the range of about 20-40% by weight. *Id.* at 4:40-48, 6:53-62, 8:66-9:8 (emphasis added). The '132 patent also describes adding water to the dry virgin cyanuric acid so that it may be “processed as if it were cyanuric acid wetcake.” *Id.* at 7:3-5, 9:16-18.

E. The Prior Art

“In construing claims, we look first to the intrinsic evidence of record.” *Tate Access Floors, Inc. v. Interface Architectural Res., Inc.*, 279 F.3d 1357, 1371 n.4 (Fed. Cir. 2002). “[P]rior art cited in a patent or cited in the prosecution history of the patent constitutes intrinsic evidence.” *Powell v. Home Depot U.S.A., Inc.*, 663

F.3d 1221, 1231 (Fed. Cir. 2011) (quoting *Kumar v. Ovonic Battery Co.*, 351 F.3d 1364, 1368 (Fed. Cir. 2003)).

During prosecution of the '132 patent, the Examiner considered Doonan and Jany. Ex. 1001, page 1, "References Cited." In the "Description of the Related Art" section, *id.* at 1:14-3:23, the '132 patent describes the process of U.S. Patent No. 4,432,959, issued to Shimamura et al. on Feb. 21, 1984 (hereinafter "Shimamura"), Ex. 1001, 2:8-24, noting it is "an alternative [existing] process for producing the powder form of monosodium cyanurate," *id.* at 2:15-16.

Doonan discloses "[c]yanuric acid [for use in the manufacture of monoalkali metal cyanurates] is commercially available in powder (e.g. -100 to +300 mesh) or granular (e.g. - 20 to + 100 mesh) forms." Ex. 1005, 1:66-68. Doonan states that "cakes of cyanuric acid" may also be used, e.g., "a wet cake of cyanuric acid recovered from a filter or centrifuge . . . where the cake contains from about 65 to about 99 and preferably from about 70 to about 85 percent by weight of cyanuric acid." *Id.* at 2:1, 9-12.

Jany discloses cyanuric acid for use in swimming pool water "is typically in a dry (containing 6 wt % or less water), granulated form." Ex. 1004, 1:17-18. Jany discloses that slurries of pure cyanuric acid which have not been treated with caustic "tend to settle and form hard cakes that are typically difficult to resuspend." *Id.* at 1:28-29.

Shimamura describes "a process of producing sodium cyanurate in the form of dry powder," Shimamura 1:36-37,

by reacting iso cyanuric acid in powder form with sodium carbonate or sodium hydrogencarbonate in powder form, or with a mixture thereof, wherein at least one of said starting materials in powder form is a hydrate, or both of said starting materials are anhydrides, in which case water is added to the anhydrides in an amount sufficient to

produce a hydrate at room temperature, and wherein the starting materials are mixed and kneaded together in powder form while the materials are maintained at a temperature at which water may be liberated from said hydrate,

id. at 1:41-51. According to Shimamura, “[s]odium cyanurate that is obtained by the process according to the invention has rich fluidity and is free from any cakes. Thus, it can be used in the form of powder.” *Id.* at 2:39-42.

F. Stephan Declaration (Ex. 1006)

Petitioner cites to the Stephan Declaration (Ex. 1006) in support of its proposed claim construction. *See* Pet. 3-4. Declarant testifies that the term “cyanuric acid wetcake,” as used in the ’132 patent, “means a composition comprising cyanuric acid and water, where the amount of water in the composition is about 20-40% by weight. ’132 Patent at 4:47-48, 6:60-62; 9:6-8.” Ex. 1006, 3, ¶ 7a. Declarant testifies that “Stephan discloses blending cyanuric acid having ‘a moisture content of 20% or less, preferably 5% or less,’” i.e., a cyanuric acid wetcake, “with a monoalkali metal base . . . to form a wetcake of monoalkali metal cyanurate.” *Id.* at 10, ¶¶ 11a, b. Declarant further testifies that the terms “monoalkali metal cyanurate wetcake,” “wetcake of monoalkali metal cyanurate,” and “wetcake of a monoalkali metal cyanurate,” as used in the ’132 patent, “mean a composition comprising monoalkali metal cyanurate and water, where the composition contains about 40-90% monoalkali metal cyanurate by weight.” *Id.* at 3, ¶ 7b. Declarant testifies that “[o]ne of ordinary skill in the art at the time of the invention of the ’132 Patent would have recognized that Stephan’s disclosure of ‘monosodium cyanurate monohydrate’ as a reaction product (Stephan at 4:1-3) constitutes a wetcake of monoalkali metal cyanurate as that term is used in the ’132 Patent.” *Id.* at 10-11, ¶ 11c (determining, through calculation, that Stephan’s

monosodium cyanurate monohydrate contains 89.35% monoalkali metal cyanurate and 10.65% water).

G. Analysis

Based on our review of the Specification and related prior art, we agree with Patent Owner that one of ordinary skill in the art at the time of the invention would have understood that a wetcake is a wet solid, which physically differs from a dry solid. *See* Ex. 1001, claims 7, 11, and 12 (requiring a step of drying monoalkali metal cyanurate wetcake to produce a dry solid); Ex. 1001, 7:3-5, 9:16-18 (“[w]hen the cyanuric acid is dry, virgin material, sufficient water may be added so that it can be processed as if it were cyanuric acid wetcake”), *id.* at 8:60-61, 9:35-39 (describing preparation of a dry solid monoalkali metal cyanurate by drying a monoalkali metal cyanurate wetcake); Ex. 1005, 1:66-68, 2:1, 9-12 (disclosing cyanuric acid is commercially available in powder and granular forms, or in cake/wetcake form); Ex. 1004, 1:17-20, 28-29 (disclosing cyanuric acid is typically available in dry, granulated form and that cyanuric acid in slurry form may settle and form hard cakes); Shimamura 2:39-42 (“Sodium cyanurate that is obtained by the process according to the invention has rich fluidity and is free from any cakes. Thus, it can be used in the form of powder.”). One of ordinary skill in the art would have understood that a wetcake and a powder may have the same moisture content, yet differ physically in that the particles of a wetcake are capable of adhering together to form a cake, while the particles of a powder do not adhere to each other, but are free flowing. *Compare* Ex. 1005, 2:9-12 (a wet cake of cyanuric acid containing from about 65-99% cyanuric acid) *with* Shimamura, 1:44-45 (“wherein at least one of said starting materials in powder form is a hydrate”).

Therefore, we interpret the claim term “wetcake” as meaning a solid material comprising particles having some adherence to one another such that they

are not free flowing. We do not adopt Declarant's proposed construction of "wetcake of monoalkali metal cyanurate" as necessarily encompassing material in the form of a hydrate, *see* Ex. 1006, 10, ¶ 11c, because Declarant's testimony is at odds with the intrinsic evidence, *see* Shimamura 1:44-49 ("wherein at least one of said starting materials in powder form is a hydrate, or both of said starting materials are anhydrides, in which case water is added to the anhydrides in an amount sufficient to produce a hydrate at room temperature, and wherein the starting materials are mixed and kneaded together in powder form"). We find that, for purposes of this Decision, a determination as to the specific moisture content of a "cyanuric acid wetcake" or a "wetcake of a monoalkali metal cyanurate" is unnecessary.

IV. ANALYSIS

A. Anticipation of Claims 7 and 9-12 by Stephan

Challenged independent claims 7, 11, and 12, and challenged dependent claim 9 recite a "method for preparing a dry, solid monoalkali metal cyanurate." Challenged independent claim 10 recites a "method for preparing a slurry of monoalkali metal cyanurate." Each of the independent claims recites a first step of blending cyanuric acid wetcake³ with a monoalkali metal base to form "a wetcake of monoalkali metal cyanurate." Based on our interpretation of the claim term "wetcake," *supra* pp. 11-12, we determine the first step recited in each of challenged claims 7 and 10-12 requires forming a solid material comprising particles of monoalkali metal cyanurate having some adherence to one another such that they are not free flowing.

³Claims 10-12 recite "cyanuric acid or cyanuric acid wetcake."

1. Stephan (Ex. 1002)

Stephan “relates to a process for producing a monoalkali metal cyanurate powder” by “adding an aqueous solution of a monoalkali hydroxide to a cyanuric acid powder.” Ex. 1002, 2:44-47. “[T]he monoalkali hydroxide is [preferably] either sodium or potassium hydroxide and is present in solution at a concentration of from about 40% to about 60% wt/wt.” *Id.* at 2:51-54. “The cyanuric acid powder should have a moisture content of 20% or less, preferably 5% or less,” because excess moisture in the cyanuric acid powder causes the reactant mixture to form a pasty or dough-like mass. *Id.* at 3:5-8. Stephan indicates a preference for cyanuric acid powder below 20 mesh. *Id.* at 3: 29-30. Stephan defines “[t]he term ‘powder’” as “any substance in the form of fine, dustlike particles, produced by crushing or grinding.” *Id.* at 2:36-37. According to Stephan, “[t]he addition of a caustic hydroxide solution . . . to the cyanuric acid powder causes an exothermic reaction to take place[,] . . . reduc[ing] the amount of moisture present in the mix.” *Id.* at 3:60-63. “The reaction can be terminated any time after the desired aqueous alkali metal hydroxide solution is added, preferably as long as the material has no clumps and is a free flowing powder.” *Id.* at 4:29-32.

[T]he particle size of the formed sodium or potassium cyanurate will be reasonably equivalent to the particle size of the starting cyanuric acid powder. Mixing equipment, such as a ribbon blender, will form spherical particles during 1 to 6 hours of blending, and yield a free flowing, granular powder, which requires no additional drying or grinding.

Id. at 3:53-59. “Without further drying, the resultant alkali metal cyanurate will be a hydrate such as monosodium cyanurate monohydrate.” *Id.* at 4:1-3; *see also id.*, Abstract (“The concentrated aqueous alkali hydroxide solution is added sequentially to the cyanuric acid powder as the admixture is vigorously mixed,

forming a monoalkali metal cyanurate as a hydrated powder.”).

2. *Stephan Declaration (Ex. 1006)*

Declarant calculates the monosodium cyanurate monohydrate disclosed in Stephan as comprising 10.65% water and 89.35% monoalkali metal cyanurate by weight. Ex. 1006 at 11, ¶ 11c. Declarant testifies that “[o]ne of ordinary skill in the art at the time of the invention of the ’132 Patent would have recognized that Stephan’s disclosure of ‘monosodium cyanurate monohydrate’ as a reaction product (Stephan at 4:1-3) constitutes a wetcake of monoalkali metal cyanurate as that term is used in the ’132 Patent.” *Id.* at 10, ¶ 11c. Declarant’s testimony is based on his opinion that “wetcake of monoalkali metal cyanurate” as recited in the challenged claims “mean[s] a composition comprising monoalkali metal cyanurate and water, where the composition contains about 40-90% monoalkali metal cyanurate by weight.” *Id.* at 3, ¶ 7b.

3. *Analysis*

“It is axiomatic that for anticipation, *each and every* claim limitation must be explicitly or inherently disclosed in the prior art.” *In re NTP, INC.*, 654 F.3d 1279, 1302 (Fed. Cir. 2011) (citations omitted). “The anticipation analysis asks solely whether the prior art reference discloses and enables the claimed invention, and not how the prior art characterizes that disclosure or whether alternatives are also disclosed.” *Hewlett-Packard Co. v. Mustek Sys., Inc.*, 340 F.3d 1314, 1324 n.6 (Fed. Cir. 2003).

Petitioner contends the monosodium cyanurate monohydrate formed in Stephan’s method contains 89.35% monoalkali metal cyanurate and, therefore, corresponds to a “wetcake of monoalkali metal cyanurate,” as recited in challenged claims 7 and 9-12. Pet. 20, 26, 30-31, and 34 (citing Ex. 1006 at 10-11, ¶ 11c). Petitioner’s contention is based on Declarant’s interpretation of the challenged

claim limitation “wetcake of monoalkali metal cyanurate” as meaning a composition containing water and 40-90% monoalkali metal cyanurate by weight. *Id.* (citing Ex. 1006 at 3, ¶ 7b).

In response, Patent Owner argues Petitioner’s proposed correspondence is based on an erroneous construction of the phrase “wetcake of monoalkali metal cyanurate” as encompassing a dry powder. Prelim. Resp. 25 and 30-31. Patent Owner contends Stephan’s reaction mixture is in the form of a free flowing powder, and the product of the reaction, monosodium cyanurate monohydrate, is likewise a free flowing powder. *Id.* at 25 (citing Ex. 1002, 3:46-48, 3:57-58, 4:52-53). Patent Owner argues Stephan’s method “never forms a wetcake at any step.” *Id.* (emphasis omitted); *see also id.* at 31.

We agree with Patent Owner that Stephan’s disclosure is directed to formation of a dry, free-flowing powder, not a wet solid, of monoalkali metal cyanurate. *See* Ex. 1002, 4:29-32 (referring to the reaction product as a material having no clumps and “a free flowing powder”). A “wetcake,” as we interpret this claim term, does not encompass a free-flowing powder, and does not necessarily encompass material in the form of a hydrate. *See supra* pp. 11-12.

Because Petitioner has not identified in Stephan a description of forming “a wetcake of a monoalkali metal cyanurate,” as recited in challenged claims 7 and 9-12, Petitioner has not demonstrated a reasonable likelihood that it would prevail on the ground that claims 7 and 9-12 are anticipated by Stephan.

C. Obviousness Grounds

Petitioner argues claim 10 would have been obvious over Stephan in view of Jany, claims 11 and 12 would have been obvious over Stephan in view of Doonan, and claims 1-9 would have been obvious over Stephan in view of Jany and Doonan. Those grounds depend on Petitioner’s contention that Stephan describes

a “wetcake” as specified in the challenged claims. For the reasons stated above, on this record, Petitioner fails to show that Stephan contains such a disclosure, and neither Jany nor Doonan remedies that failure. Based on the information presented, Petitioner has not shown a reasonable likelihood of prevailing at trial with respect to any claim challenged in the remaining grounds.

V. CONCLUSION

Petitioner has not demonstrated a reasonable likelihood that it would prevail on the grounds that: (1) claims 7 and 9-12 are anticipated by Stephan; (2) claim 10 would have been obvious over Stephan in view of Jany; (3) claims 11 and 12 would have been obvious over Stephan in view of Doonan; and (4) claims 1-9 would have been obvious over Stephan in view of Jany and Doonan.

VI. ORDER

For the reasons given, it is

ORDERED that the Petition is *denied*, and no trial is instituted.

PETITIONER:
Michael R. Langer
mrlanger@michaelbest.com

Kevin P. Moran
kpmoran@michaelbest.com

Andrew T. Dufresne
atdufresne@michaelbest.com

PATENT OWNER:
Audrey A. Millemann
amillemann@weintraub.com