

In re Broco, 225 USPQ 227 (TTAB 1984), are distinguished. In *TMS* (THE MONEY SERVICE for financial services) the applicant did not sell "money." In *House Store* (HOUSE STORE for retail store services in the field of furniture), the applicant did not sell "houses." In *Broco* (THE LIBRARY COMPANY for library supply services) the applicant did not sell "libraries." Appellant here does sell wickerware, hence the rationale supporting registrability in the cited cases is inapplicable.

**Decision:**

The refusal of registration is affirmed.

**Patent and Trademark Office  
Board of Patent Appeals and  
Interferences**

Ex parte Clapp

Opinion dated Feb. 28, 1985

**PATENTS**

**1. Anticipation — Combining references,  
(§51.205)**

To support conclusion that claimed combination is directed to obvious subject matter, references must either expressly or impliedly suggest claimed combination or examiner must present convincing line of reasoning as to why artisan would have found claimed invention to have been obvious in light of references' teachings.

Application for patent of Thomas R. Clapp, Serial No. 257,162, filed Apr. 24, 1981. From rejection of Claim 9-19, applicant appeals (Appeal No. 553-54). Reversed.

Gomer W. Walters, for appellant.

Before Bennett, Henon and Spencer, Examiners-in-Chief.

Henon, Examiner-in-Chief.

This appeal is from the decision of the examiner rejecting claims 9 through 19, which constitute all the claims remaining in the application.

The invention relates to an auger type mixing apparatus for mixing cementitious materials employing a volatile liquid. Representative claim 9 reads as follows:

9. Apparatus mounted on a vehicle for mixing a cementitious material in which a volatile liquid is employed comprising:

an enclosed mixing chamber sealed to prevent the escape of the volatile liquid and any potentially dangerous fumes;

a solid frame forming the top of said mixing chamber and having an inlet end thereof pivotably mounted on the vehicle;

an easily removable elastomeric trough forming the bottom of said mixing chamber, the elastomeric material selected to be compatible with the materials being mixed;

an auger having a central shaft and mounted in said frame to convey materials through said mixing chamber;

mixing paddles mounted on the shaft of said auger;

a drive motor for said auger mounted on said frame;

a releasable flexible coupling between the aligned shafts of said motor and said auger to permit removal of said auger from said frame;

an inlet hopper to introduce substantially dry materials into said mixing chamber;

liquid injection means to introduce a liquid into said mixing chamber at a distance removed from said inlet hopper to have said substantially dry material form a plug to prevent the liquid and any fumes from backing up said inlet hopper; and

a discharge opening formed in said elastomeric trough.

The references relied on by the examiner are:

Clemens	2,159,205	May 23, 1939
August	2,709,075	May 24, 1955
Tiemersma	3,199,145	Aug. 10, 1965
Cunningham	3,227,424	Jan. 4, 1966
Zimmerman	3,310,293	Mar. 21, 1967
Futty et al. (Futty)	3,339,898	Sep. 5, 1967
Wilkinson et al. (Wilkinson)	3,348,820	Oct. 24, 1967
Lasar	3,901,483	Aug. 26, 1975

Claims 9 through 14 and 17 stand rejected as being directed to obvious subject matter within the meaning of 35 U.S.C. 103 in light of the teachings of Zimmerman in view of Wilkinson, Futty, Lasar, Clemens and Cunningham. The examiner contends that Zimmerman discloses the claimed subject matter except for "having the mixing chamber enclosed with a solid top frame and having a removable auger and having liquid injection means and aligned shafts between the motor and auger and a discharge formed in the elastomeric trough," (final rejection, page 2, paper number 5). The examiner cites Wilkinson as disclosing an enclosed mixing chamber

where the examiner concludes that the artisan to merman to be taught by Wilkinson also discloses liquid injection liquid into a rear inlet hopper, would therefore man according concept of handles mounted releasably could conclude that the artisan to be as taught by I it is well known between an a driving motor the concept of trough. The examiner have been obvious to modify discharge opening nature suggest ningham is to preclude leakage mixing chamber it would have teachings of means on the

Claim 15 stands obvious subject light of the examiner, Wilkinson ningham and ings of Zimmerman Clemens and specified supra would have been in light of the spray elements controls since August known.

Claims 16, 17 directed to obvious U.S.C. 103 in view of Zimmerman Clemens, Cunningham the teaching, Futty, Lasar in the manner concludes that further modify include a gas-filling purposes.

Rather than appellant and the the brief and a thereof.