

TAB

Docket No.: 000939.44379
Serial No. : 74/599,060



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of:)
)
Atomic Energy of Canada Limited/)
EnergieAtomique du Canada Limitee)
)
Mark: CHEMIC)
)
Serial No.: 74/599,060)
)
)
Filed November 14, 1994)



07-25-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #26

Trademark Attorney
Won T. Oh

Law Office 104

TRADEMARK TRIAL AND APPEAL BOARD
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NOTICE OF APPEAL

Applicant hereby appeals to the Trademark Trial and Appeal Board the decision of the Trademark Examining Attorney refusing registration of the above-captioned mark under Section 2(e) of the Trademark Act, pursuant to 37 C.F.R. § 2.141. 2.142.

Please charge the fee of \$100.00 to the Deposit Account of Banner & Witcoff, Ltd.,
Deposit Account No. 19-0733.

Respectfully submitted,

**Atomic Energy of Canada Limited/
EnergieAtomique du Canada Limitee**

Date: 7/25/2002

By: [Signature]
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Atomic Energy of Canada Limited/ Energie Atomique du Canada Limitee)	Trademark Attorney
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**MOTION FOR SUSPENSION OF APPEAL
AND MEMORANDUM IN SUPPORT THEREOF**

Applicant respectfully moves that the Trademark Trial and Appeal Board suspend the Appeal pending the Examiner's consideration of the Request for Reconsideration. A copy of the Request for Reconsideration is attached hereto as Exhibit A.

Applicant submits that good cause exists for granting this Motion for Suspension of Appeal because if the Examiner accepts the Applicant's Request for Reconsideration, the Appeal will be moot.

Wherefore, Applicant respectfully requests that the Trademark Trial and Appeal Board issue an order suspending the Appeal pending the outcome of the Examiner's decision on the Request for Reconsideration. In the event the Examiner rejects the Request for Reconsideration,

ATTACHMENT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:)	
Atomic Energy of Canada Limited)	Examining Attorney
U.S. Serial No.: 74/599060)	Won T. Oh
Filing Date: November 14, 1994)	Law Office 104
Mark: CHEMIC)	

REQUEST FOR RECONSIDERATION

Attn.: BOX RESPONSES – NO FEE

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

Dear Sir:

This responds to an Office action mailed on January 31, 2002.

REMARKS

Reconsideration of the above-mentioned office action dated January 31, 2002, is respectfully requested. The Examining Attorney has raised an issue with respect to the nature of the services for which the mark is used on the basis that the wording in the specimen of use submitted identifies a process.

It is well settled that a mark may be used to describe both a process and a service. See, e.g. *In re Universal Oil Products Co.*, 177 USPQ 456 (CCPA 1973) and *In re Hughes Aircraft Co.*, 222 USPQ 263 (TTAB 1984), as well as *In re Produits Chimiques Ugine Kuhlmann Societe Anonyme*, 190 USPQ 305 (TTAB 1976), *In re United Merchants & Mfrs., Inc.*, 124 USPQ 11

(TTAB 1959) and *In re Stafford Printers, Inc.*, 153 USPQ 428 (TTAB 1967). The critical issue is whether the specimens show use of the mark as both a service mark and a mark for a process.

It is clear from the specimen submitted (another copy of which is attached as Attachment A) that the mark CHEMIC refers to the service of removing contaminants and remediation services performed for others by the Applicant AECL as well as the process. It reads "AECL's proven CHEMIC technology effectively removes a wide range of contaminants....The CHEMIC process permits treatment of waste solutions....CHEMIC technology is available for purchase or license. AECL also offers alternatives such as third party involvement for on-site set-up and operation." The specimen enclosed provides information on how the applicant can be contacted to order the service as well as it is an advertisement which refers to the service. All of this makes it clear that CHEMIC is a service mark for the service of performing Applicant's process i.e. the removal and treatment of contaminants and remediation services. Applicant respectfully submits that this dual use of the mark falls into the same category of acceptable usage of a mark as a service mark that the TTAB found persuasive in *Stafford Printing, supra* and *United Merchants, supra*.

In *Stafford*, the Board explained the process/service dichotomy as follows:

And what is a process? A process, inter alia, is a particular method or system of doing something, producing something or a system used in a manufacturing operation or other technical operation. . . . By its very meaning, 'process' can encompass a service. That the term 'process' is used on specimens does not ipso facto mean that an arbitrary mark used in conjunction therewith designates a process and not more. *Stafford, supra*, 153 USPQ at 429.

In *Stafford*, the issue was whether "Staffordblend" was registrable as a service mark for the printing of textiles, when the specimens (tags) submitted included the language "printed by STAFFORDBLEND process". The Board held that the applicant rendered the service of

printing textiles using the Staffordblend process; that Applicant was the only entity to perform this particular process of printing; and that based on that one specimen, Applicant had demonstrated service mark usage of the mark Staffordblend for those services. In *United Merchants, supra*, a similar conclusion was reached when the Board concluded that Fort Rep/utation functioned as both the name of a textile finish and as a service mark for the finishing of textiles.

The specimen Applicant has submitted makes it abundantly clear that Applicant is actually performing the services recited in the application, and that it does so under the service mark CHEMIC.

NO CONFLICTING MARKS

Applicant notes that the Examining Attorney has searched the office records and has found no prior registered or pending marks that would bar registration of Applicant's mark on the ground of likelihood of confusion. With the submission of this response, it is believed that all objections of the Examining Attorney have been resolved.

Publication is respectfully solicited.

Respectfully submitted,

Atomic Energy of Canada Limited

Date: _____

July 24/2002

By: _____

Holly M. Ford

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Attorneys for Applicant



CHEMIC™ Groundwater Remediation Technology

AECL's proven CHEMIC™ technology effectively removes a wide range of contaminants, including low levels of radio-activity, heavy metals, and trace amounts of organics. Portable, simple to operate and control, CHEMIC technology can be applied to the remediation of contaminated groundwater or landfill leachates, to clean pond water, to recover dilute concentrations of metals and radionuclides, to process mixed waste streams, or to remove contaminants from soil leaching activities.

The CHEMIC process is based on chemical reaction or sorption of the contaminants to convert the contaminants from dissolved to filterable solids. Resulting effluent is clean, and can meet different discharge standards including the drinking water limit. The process minimizes the secondary waste volume produced.

To date, over 2.3 million US gallons of contaminated groundwater have been successfully treated with CHEMIC technology at a flow rate of up to 2.5 US gallons per minute.

Wide-ranging Customer Benefits

- The CHEMIC process is suitable for continuous operation and demands less space than conventional systems. It reaches steady-state quickly and its modular construction provides the convenience of trailer-mounted portability.
- It can be readily adapted to a broad range of volume throughputs.



- It is simple to operate and control.
- It can process aqueous solutions to produce water suitable for discharge or reuse.
- The CHEMIC process permits treatment of waste solutions containing a variety of radioactive and hazardous species, and uses common, low-cost chemicals and other waste by-products for cost-effectiveness.
- Secondary waste is reduced to a very small volume (typically 1/1000th the volume of the original process feed).
- Secondary waste can also be solidified for disposal or further treated to extract valuable metals the client might wish to recover.



AECL
Atomic Energy
of Canada Limited

EACL
Énergie atomique
du Canada limitée

Patented Process

Patented CHEMIC technology transforms dissolved contaminants, including trace levels of organics, into easily filtered solids through precipitation, ion scavenging and sorption processes. The solids are formed by the addition of chemicals and particles that capture dissolved contaminants through chemical reactions, creating precipitated solids either through co-precipitation or through sorption onto particle surfaces. Contaminated solids are then removed by filtration techniques, permitting the release of the water for recycling or direct discharge. Secondary waste, comprised of filtered solids, can be further processed to recover metals or be immobilized for disposal.

The CHEMIC process uses a combination of steps, consisting of chemical conditioning, cross-flow microfiltration and dewatering by gravity settling, filter pressing, or vacuum filtration. It is very effective for treating groundwater containing mixed wastes and having diverse physiochemical properties.

Minimum secondary waste volumes are generated by the process. The filtrate water is discharged once it meets the specified water quality.

A detailed Quality Assurance Plan is prepared and followed for each project.

Specific Applications

- waste solutions containing heavy metals
- radionuclides and trace organics in various combinations in groundwater or pond water
- groundwater contaminated with strontium-90, cesium-137, cobalt-60 and other trace radionuclides
- acidic soil leachate containing radionuclides such as uranium, radium or cesium-137
- groundwater and landfill leachates containing trace levels of uranium and arsenic
- fuel bay waters containing fission and activation products

Health And Safety Issues

During normal operation no significant health and safety issues are anticipated. Specially-designed safety features ensure spills and overflows from process equipment are detected easily by moisture detectors installed inside catch trays; level controllers utilized in tanks; and catch trays placed under all process equipment. Use of in-line pressure, pH, conductivity, temperature and flow rate sensors and computer control provide process reliability. Ventilation systems can be equipped with high-efficiency particulate air filters to avoid fugitive airborne releases.

For wastes containing radionuclides, shielding of filtration and dewatering equipment will minimize risks to operator safety.

Purchase or License?

CHEMIC technology is available for purchase or license. AECL also offers alternatives such as third-party involvement for on-site set-up and operation.

For more information, please contact:

AECL, Technical Services Division
AECL, Chalk River, Ontario, CANADA
Tel.: (613) 584-8811 ext. 4525
Fax: (613) 584-1812

or

Shaun Cotnam ext. 6080
e-mail: cotnams@aecl.ca