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 chamer 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 ei
substantially
concludes tha
the artisan to
merman to be
taught by Wi
kinson also di
liquid injectio
liquid into a r
inlet hopper,
would therefo
man accordin
concept of ha
dles mounted
releasably cou
concludes tha
the artisan to
as taught by I
it is well know
between an a
driving motor
the concept of
trough. The e
have been obv
ens to modify
discharge ope
nature suggest
ningham is ci
preclude leak
mixing chamb
it would have
teachings of
means on the

Claim 15 st
obvious subjec
light of the c
man, Wilkinso
ningham and
ings of Zimme
Clemens and
specified supra
would have be
in light of the
spray element
trols since Au
known.

Claims 16, 1
directed to ob
U.S.C. 103 in
of Zimmerma
Clemens, Cunn
bining the teac
son, Futty, La
in the manner
concludes that
further modify
include a gas-fi
purposes.

Rather than
pellant and the
the brief and a
thereof.