

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BLUECATBIO MA INC.,  
Petitioner,

v.

YANTAI AUSBIO LABORATORIES CO., LTD.,  
Patent Owner.

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PGR2020-00051  
Patent 10,338,063 B2

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Before CHRISTOPHER L. CRUMBLEY, JO-ANNE M. KOKOSKI, and  
ELIZABETH M. ROESEL, *Administrative Patent Judges*.

ROESEL, *Administrative Patent Judge*.

JUDGMENT  
Final Written Decision  
Determining No Challenged Claims Unpatentable  
*35 U.S.C. § 328(a)*

Dismissing Patent Owner's Motion to Exclude  
*37 C.F.R. § 42.64*

## I. INTRODUCTION

### A. *Background and Summary*

BlueCatBio MA Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) seeking post-grant review of claims 1, 3–5, 7, 10–12, and 14–20 (“the challenged claims”) of U.S. Patent No. 10,338,063 B2 (Ex. 1001, “the ’063 Patent”). Yantai AusBio Laboratories Co., Ltd. (“Patent Owner”) filed a Preliminary Response. Paper 23 (“Prelim. Resp.”). We instituted a post-grant review of the challenged claims. Paper 26 (“Inst. Dec.”). We denied Patent Owner’s request for rehearing of the Decision granting institution. Papers 28, 41.

After institution, we issued an Order (Paper 51) granting-in-part Patent Owner’s Motion for additional discovery (Paper 43), which was opposed by Petitioner (Paper 48). *See also* Paper 49 (Patent Owner’s reply). Our Order required Petitioner to produce two categories of information: (1) particular documents sought by Patent Owner to show secondary considerations of non-obviousness; and (2) all communications between Petitioner’s declarants, Prof. Alexander Slocum and Mr. Yoshiki Yagi, in the time period leading up to the filing of the Petition. Paper 51.

Thereafter, Patent Owner filed a Response to the Petition (Paper 53, “PO Resp.”), Petitioner filed a Reply (Paper 58, “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 64, “PO Sur-reply”). Patent Owner filed a Motion to exclude evidence (Paper 69), Petitioner filed an Opposition (Paper 70), and Patent Owner filed a Reply (Paper 71). An oral hearing was held on September 17, 2021, and a transcript of the hearing is included in the record. Paper 78 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 328(a). For the reasons that

follow, we determine that Petitioner has not shown that the challenged claims of the '063 Patent are unpatentable. In brief, we determine that the claims, when properly construed, require that the claimed centrifuge generate a wind that drives to the drain all or nearly all of the liquid expelled from a reaction vessel onto the inner surface of the centrifuge housing, and that Petitioner failed to show by a preponderance of the evidence that the Gyro Washer, asserted as prior art, drives all or nearly all of the expelled liquid to the drain.

*B. Related Matters*

The parties state that the '063 Patent is not currently involved in any other judicial or administrative matters that would affect, or be affected by, a decision in this proceeding. Pet. xi; Paper 6, 2 (Patent Owner's Mandatory Notices).

*C. The '063 Patent (Ex. 1001)*

The '063 Patent was issued on an application filed February 5, 2016, and claims priority to PCT Application No. PCT/EP2014/066947, filed August 6, 2014, and EP Application No. 13179437, filed August 6, 2013. Ex. 1001, codes (21), (22), (30), (86).

The '063 Patent is titled, "Centrifuge and Method for Centrifuging a Reaction Vessel Unit." Ex. 1001, code (54). An object of the '063 Patent "is to provide a centrifuge for cleaning a reaction vessel unit." *Id.* at 3:18–19. The '063 Patent discloses that the centrifuge has a rotor for holding at least one reaction vessel unit with its openings directed outwardly, a motor for rotating the rotor around a rotation axis, a housing having a substantially cylindrical inner surface, and a drain for discharging fluid expelled from the reaction vessel unit. *Id.* at 3:23–29. According to

the '063 Patent, “a gap is provided between the inner surface and the rotor so that by rotating the rotor a wind is generated which drives the expelled fluid on the inner surface to the drain wherein an aspiration pump is connected to the drain for discharging fluid.” *Id.* at 3:29–33; *see also id.* at 3:53–4:5 (discussing the size of the gap and its function).

Figure 2 of the '063 Patent is reproduced below.

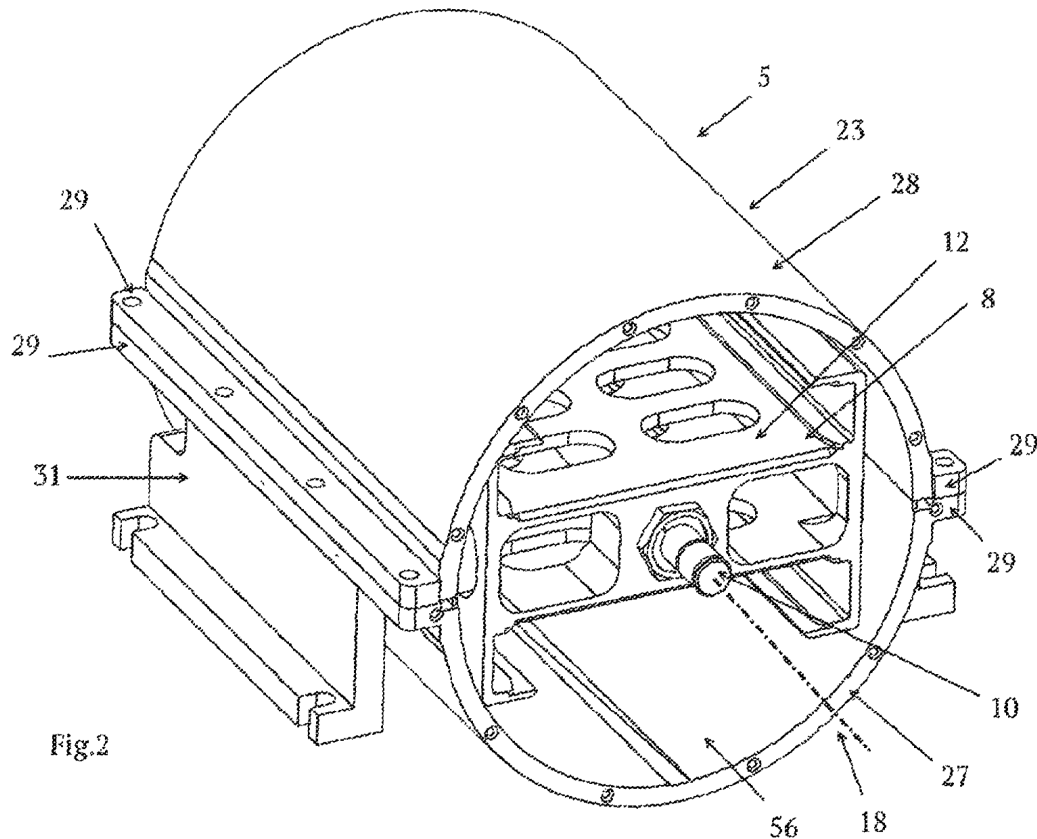


Figure 2 is a perspective view of a rotor and housing of a centrifuge with its front side wall removed. Ex. 1001, 9:30–31.



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