United States District Court,
N.D. California.

DIONEX CORPORATION,
Plaintiff.
v.
ALLTECH ASSOCIATES, INC,
Defendant.

No. C03-1788 SBA

Aug. 18, 2004.

Dorsey & Whitney LLP, David J. Brezner, Theresa K. Hankes, San Francisco, CA, for Plaintiff Dionex Corporation.

Dionex's Revised Order on Claim Construction FN1

FN1. The only revisions contained herein appear in Paragraph 2 of the Proposed Order. The reason for these revisions is discussed in Dionex's Reply Brief, footnote 2.

SAUNDRA B. ARMSTRONG**, District Judge.**

The Court having considered the papers filed in relation to Plaintiff Dionex Corporation's Opening Brief and Evidence in Support of Claim Construction, other pleadings and papers on file, counsels' oral arguments and the record before the court, the Court rules as follows:

1. In Claim 8 of the '615 patent, the term "suppressor comprising an ion exchange resin bed" means an ion exchange resin packed bed suppressor. A membrane suppressor, e.g. one that utilizes membrane suppressor-type membranes to suppress by electrodialysis across a membrane, is not a suppressor ion exchange resin bed even if it includes ion exchange resin.

2. In Claim 8 of the '615 patent, the function of the term "means for applying an electrical potential through said first suppressor ion exchange resin bed to electrolyze water and regenerate said suppressor ion exchange resin" is electrolyzing water in the bed to regenerate the suppressor ion exchange resin using ions supplied by electrolyzing water in the bed, not supplied by an acid or a base from an external source. The corresponding structure is two spaced electrodes adjacent to a suppressor ion exchange resin bed, with no intervening membrane suppressor-type membrane; the electrodes are capable of being coupled to a power supply to apply an electrical potential through the suppressor bed to electrolyze water in the bed to generate hydronium ions and hydroxide ions to convert the exchangeable electrolyte counter-ions to hydronium or hydroxide ions and regenerate the ion exchange resin in the suppressor bed.

3. In Claim 1 of the '371 patent, the term "suppressor bed comprising ion exchange resin" means an ion exchange resin packed bed suppressor. A membrane suppressor, e.g. one that utilizes membrane suppressor-type membranes to suppress by electrodialysis across such membranes, is not a suppressor ion exchange resin bed even if it includes ion exchange resin.

4. In Claim 1 of the '371 patent, the term "suppressor bed having an inlet section and an outlet section ... a first electrode in an aqueous solution in an electrode chamber adjacent said suppressor bed inlet section but not said suppressor bed outlet section" means a suppressor bed having an inlet section and an outlet section. If the resin bed is a cation ion exchange bed, then in the inlet section the majority of the resin is in cation form and in the outlet section the majority of the resin is in the hydronium form. The first electrode extends into an aqueous solution in an opening in a housing adjacent the inlet section but not adjacent the outlet section.

5. In Claim 7 of the '371 patent, the term "second electrode chamber is disposed adjacent said suppressor bed outlet section and said second electrode is disposed in said second electrode chamber" means a second electrode that extends into an opening in a housing adjacent the suppressor bed outlet section.

6. In Claim 1of the '985 patent, the term "suppressor ... comprising an ion exchange resin bed having exchangeable ions of one charge, positive or negative, serving as a source of suppressing ions" means an ion exchange resin packed bed suppressor with positive or negative exchangeable ions that serve as a source of suppressing ions. A membrane suppressor, e.g. one that utilizes membrane suppressor-type membranes to suppress by electrodialysis across such membranes, is not a suppressor ion exchange resin bed even if it includes ion exchange resin.

7. In Claim 1 of the '985 patent, the term "said resin bed having an inlet section and an adjacent outlet section, said suppressor defining a liquid sample stream flow path between said resin bed inlet and outlet sections" means a resin bed having an inlet section that extends to an outlet section. If the resin bed is a cation ion exchange bed, then in the inlet section the resin is predominantly in cation form and in the outlet section the resin is predominantly in the hydronium form. At least a portion of the path of the liquid sample stream (i.e., the one flowing from the inlet to the resin bed inlet section to the resin bed outlet section and its outlet to the detector) extends between the inlet and outlet sections.

8. In Claim 1 of the '985 patent, the term "at least one electrode chamber adjacent to said resin bed inlet section but not adjacent said resin bed outlet section" means an opening in a housing into which an electrode extends, the opening being adjacent the resin bed inlet section but not adjacent the resin bed outlet section.

9. In claim 1 of the '985 patent, the term "a first electrode disposed in said one electrode chamber in electrical communication with but not in direct contact with said flow path" means an electrode extending into an opening in a housing, the electrode being in electrical communication with but not in direct contact with the liquid stream flow path.

10. In Claim 1 of the '985 patent, the term "second electrode disposed in or adjacent to said suppressor resin bed outlet section in electrical communication with said resin bed outlet 21 section but not in or adjacent to said suppressor bed inlet section" means a second electrode disposed in or adjacent the resin bed outlet section and in electrical communication with the resin bed outlet section but not in or adjacent the resin bed inlet section.

11. In Claim 12 of the '985 patent, the term "second electrode chamber ... said second electrode being disposed in said second electrode chamber" means a second electrode that extends into an opening in a housing adjacent the resin bed outlet section.

IT IS SO ORDERED.

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