

COMMENTS



I wish to call to the attention of readers of *Fusion Technology* some comments from the January 1991 issue of *Fusion Facts*. This monthly newsletter about cold fusion development is published by the Fusion Information Center, University of Utah Research Park, Salt Lake City, Utah (Hal Fox, Editor-in-Chief). On p. 5, under a discussion of "Pons-Fleischmann Patents & Science Review of NCFI," courtesy of Dr. H. Aspden and Dr. Bob Bass, the following statement is made:

Barry Fox notes that the patent office examiners say that because of an article in the journal *Fusion Technology*, [Vol. 16, No. 2, Sep. 1989], "the claimed invention cannot be considered novel or cannot be considered to involve an inventive step." After all of the unjust criticism laid on Pons and Fleischmann for not revealing more details of their invention or discovery, it is apparent that it is not difficult to lose some patent rights by early publication. Pons and Fleischmann have made repeated comments on the legal limitations that prevented them from acting in the role of true scientists (which they prefer) because of stringent advice and counsel (or insistence) on the part of the legal staff of the University of Utah and the patent attorneys. The legal defense of claims made in the patent application by the U of Utah patent attorneys will likely be based on the fact that the dates of invention preceded the cited publication.

Until I read this article, I was not aware of the role that this *Fusion Technology* article played in that particular patent application (I assume that this is only one of a series of interwoven applications).

Incidentally, *Fusion Facts* often publishes brief reviews of the Technical Notes on Cold Fusion published in *Fusion Technology*. In that connection, in the January issue, Mr. Fox points out the following:

In addition to *Fusion Technology*, the *Journal of Radioanalytical and Nuclear Chemistry* and the *Indian Journal of Technology* are now regularly featuring cold fusion articles. Turnaround times for both journal articles and conference proceedings are typically several months.

Fusion Technology readers and Editorial Advisory Board members remain divided about the wisdom of publishing Technical Notes on Cold Fusion. This division is natural since there is an equal division of views about the validity of cold fusion itself. However, if you look back at the articles that have appeared, it seems evident that there is mounting evidence that anomalous nuclear effects of some type do occur in solids. Exactly what reactions, their

rate, and the reaction products are still unclear due to problems of non-reproducibility and so on. But, there seems to be a gradual convergence toward understanding this "mystery."

Meanwhile, we hope that the continued publication of these articles serves an important purpose: namely, to provide communication among researchers working on important issues that can affect the field of fusion energy. All Notes have undergone the standard review process, although as indicated in the "Call for Technical Notes," the ground rules for review allow more speculation. Now the crucial question seems to be whether or not these anomalous effects will really play a role in fusion development versus basic physics phenomena that will impact some other field. We simply don't know the answer to that question yet. Depending on how this works out, we may decide it is more appropriate to refer such Notes to a different journal with more appropriate coverage. For the time being, however, our policy is to continue to receive Technical Notes on Cold Fusion. It should be noted, however, that the field has progressed and become more sophisticated. Consequently, the reviewers are, and I believe rightly so, asking that the Technical Notes have a deeper foundation and less speculation. That certainly seems appropriate and we will expect such in future submissions.

As usual, the editorial staff would be glad to hear comments or views from readers about these or other issues of importance to the journal.

George Miley