

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 38

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEPHEN A. HALL

Appeal No. 2001-0831
Application No. 08/765,079

ON BRIEF

Before CAROFF, PAWLIKOWSKI, and NAGUMO, Administrative Patent Judges.

CAROFF, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 14, 31-34, and 36-47. Subsequent to the final rejection, appellant was permitted to cancel claim 41. Additionally, appellant has indicated in his reply brief (page 3) that the appeal is withdrawn as to claim 38. Accordingly, the appeal is dismissed as to claim 38. Thus, the claims now before us for consideration are 14, 31-34, 36-37, 39-40 and 42-47.

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The claims on appeal relate to a powder coating composition obtained by reacting a polyisocyanate with three distinct alcoholic compounds.

Claim 14 is illustrative of the subject matter encompassed by the appealed claims, and reads as follows:

14. A powder coating composition comprising a powdered solid ethylenically unsaturated material having a melting point from 60° to 120°C and an average particle size from 10 to 250 μm which can melt and reflow prior to curing obtained by reacting in bulk in a molten state a polyisocyanate with an at least stoichiometric amount of an alcoholic component comprising: monohydric alcohol component with an ethylenic unsaturation derived from acrylic acid or methacrylic acid; saturated monohydric alcohol and a monomeric polyol, said monomeric polyol being present in an amount not more than 50% of the stoichiometric amount of hydroxyl groups required to react with the isocyanate groups of the polyisocyanate.

All of the appealed claims stand rejected for obviousness under 35 U.S.C. § 103 based upon a combination of the following two prior art references:

Meixner et al. (Meixner)	5,068,305	Nov. 26, 1991
Takayama et al. (Takayama)	5,382,619	Jan. 17, 1995

Based upon the record before us, we agree with the appellant that the examiner has failed to establish a prima facie case of obviousness against any of the claims at issue. Accordingly, we shall reverse the examiner's rejection.

In our opinion, there is no doubt that the powder coating composition taught by Meixner satisfies all of the limitations

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embodied in appellant's broadest claim other than the limitation requiring use of a saturated mono-ol as one of the three alcoholic reactants involved in preparation of appellant's composition. Also, we are mindful that Takayama suggests using a saturated mono-ol as one of two alcoholic reactants to produce certain urethane compounds, and demonstrates (Table 3) that the inclusion of a saturated mono-ol is instrumental in avoiding generation of cracks when producing in-mold cured products.

That being said, we agree with the appellant that the differences between the Meixner and Takayama compositions would appear to be significant, with respect to both the compositions themselves, e.g., powdery solid (Meixner) v. liquid resin (Takayama), and their respective processing characteristics, e.g., powder coating (Meixner) v. in-mold curing (Takayama).

Given such differences, in order to establish a nexus between Meixner and Takayama, and thus a case for obviousness, the examiner would have to provide evidence or a sound technical explanation as to why those of ordinary skill in the art would find the suggestions of Takayama reasonably pertinent to the particular problems and conditions encountered in the field of

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powder coating technology. Here, the examiner has failed to provide the requisite evidence or explanation. Hence, we are compelled to reverse the examiner's rejection.

Because our reversal is based upon a failure to establish a prima facie case of obviousness, we need not decide whether the test results reported in the Williams Declaration of record (appellant's brief: Appendix B) constitute a dispositive showing of unexpected results.

For the foregoing reasons, the decision of the examiner is reversed.

REVERSED

MARC L. CAROFF)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
BEVERLY A. PAWLIKOWSKI)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
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)	
MARK NAGUMO)	
Administrative Patent Judge)	

MLC:hh

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