

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 32

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD GRIEVES
and KIMLEIGH G.M. PRATLEY

Appeal No. 95-2204
Application 08/018,356¹

ON BRIEF

Before WINTERS, GARRIS and OWENS, Administrative Patent Judges.
GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claim 32 which is the sole claim remaining in the application.

The subject matter on appeal relates to a method of bonding plastic substrates with cyanoacrylic adhesive which comprises treating at least one of the substrates with a tetramethyl-1,3

¹ Application for patent filed February 16, 1993. According to appellants, the application is a continuation of Application 07/619,021, filed November 28, 1990, now abandoned.

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butane diamine primer. Further details of this appealed subject matter are set forth in the claim, a copy of which taken from the appellants' Brief is appended to this decision.

The references relied upon by the examiner as evidence of obviousness are:

Reynolds et al. (Reynolds)	2,716,134	Aug. 23, 1955
von Bramer	3,260,637	Jul. 12, 1966
Yonezawa et al. (Yonezawa) (Japanese Patent)	43-5004	Feb. 23, 1968

Claim 32 stands rejected under 35 USC § 103 as being unpatentable over von Bramer in view of Reynolds alone or in combination with Yonezawa.

We refer to the Brief and to the Answer for a complete exposition of the opposing viewpoints expressed by the appellants and the examiner concerning the above noted rejections.

OPINION

For the reasons which follow, we cannot sustain either of these rejections.

von Bramer discloses a method of bonding substrates generally including plastic substrates with a cyanoacrylic adhesive which includes the step of treating the substrates with

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a promoter or catalyst solution which contains one or more certain types of organic amines. One subclass of these organic amines comprises diamines. Of the diamines envisioned by patentee, the one structurally closest to the here claimed diamine contains an ethane substituent rather than the appellants' 1,3-butane substituent as the diamine bridging group (e.g., see lines 46-60 in column 3).

Neither Reynolds nor Yonezawa provides any suggestion for replacing the ethane substituent of von Bramer's diamine primers with a 1,3-butane substituent based upon a reasonable expectation of successfully achieving the desired primer function. This is because Reynolds discloses diamines of the type under consideration but not in the context of performing a primer function (e.g., patentee teaches his diamines are useful as intermediates or insecticides). On the other hand, Yonezawa discloses a primer function relating to certain amines generally but not to any kind of diamines specifically.

The examiner seems to believe that the diamines of von Bramer and the diamines claimed by the appellants possess a homologous relationship of such a nature that the former would have suggested the latter. It is well settled that a prima facie case of obviousness may be based upon a homologous relationship,

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that is to say, a similarity in chemical structure and function between a prior art compound and a claimed compound, whereby one skilled in the art would have been motivated to make a claimed compound in the expectation that compounds similar in structure will have similar properties. In re Payne, 606 F.2d 303, 313, 203 USPQ 245, 254 (CCPA 1979). In essence, therefore, the examiner would argue that the diamines of claim 32 are so similar in structure to those of von Bramer that the artisan would have been motivated to make and use such claimed diamines as primers expecting them to possess the primer function exhibited by patentee's diamines.

On the record before us, however, the examiner has advanced no support for the proposition that appellants' claimed and von Bramer's disclosed diamines and in particular the ethane versus 1,3-butane substituents thereof are sufficiently similar in chemical structure whereby the artisan would have expected the 1,3-butane-containing diamine to possess the primer characteristics of patentee's ethane-containing diamine. Moreover, our own research in this matter has failed to reveal any support for such a proposition. Under these circumstances, any structural similarity that may exist between the respective diamines of claim 32 and of von Bramer is inadequate to establish

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a prima facie case of obviousness. In re Jones, 958 F.2d 347,
350, 21 USPQ2d 1941, 1943 (Fed. Cir. 1992).

For the above stated reasons, we cannot sustain the
examiner's § 103 rejections of claim 32 as being unpatentable
over von Bramer in view of Reynolds or as being unpatentable over
von Bramer in view of Reynolds and Yonezawa.

The decision of the examiner is reversed.

REVERSED

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SHERMAN D. WINTERS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
BRADLEY R. GARRIS)	
Administrative Patent Judge)	APPEALS AND
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)	INTERFERENCES
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TERRY J. OWENS)	
Administrative Patent Judge)	

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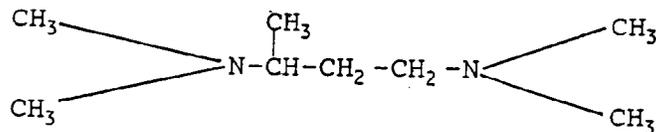
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APPENDIX

32. A method of bonding a first plastic substrate which is conventionally difficult to bond comprised of a plastic material selected from the group consisting of a plastic material with a low surface energy and a highly crystalline plastic material to a second plastic substrate with cyanoacrylate adhesive comprising the steps of:

(i) treating the first plastic substrate or the second plastic substrate or both the first plastic substrate and the second plastic substrate with a primer for the promotion of bonding of the two plastic substrates with the cyanoacrylate adhesive, which primer is a compound of the formula:



(ii) applying the cyanoacrylate adhesive to the first plastic substrate or to the second plastic substrate or to both the first plastic substrate and the second plastic substrate; and

(iii) adhering the first plastic substrate to the second plastic substrate.

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