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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WINFRIED G. PAUL,
SIVARAM KRISHNAN,
and
ROGER J. WHITE

Appeal No. 1997-1063
Application No. 08/414,702

ON BRIEF

Before KIMLIN, JOHN D. SMITH, and PAK, ***Administrative Patent*** *Judges.*

PAK*, Administrative* *Patent Judge*.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the examiner's refusal to allow claims 5 through 7 in the above-identified application. Subsequent to the final Office action dated Feb. 26, 1996 (Paper No. 7), claim 8 was canceled and newly

introduced claim 9 was allowed. See the Amendment dated May 6, 1996, Paper No. 8, and the Advisory Action dated May 17, 1996, Paper No. 9.

Claim 6 is representative of the subject matter on appeal and reads as follows:

> 6. A thermoplastic molding composition consisting essentially of a homogeneous blend of
>
> (i) a block copolycarbonate conforming structurally to
>
> wherein n is an integer of 1 to 1000, m is an integer of about 1 to 500, p is an integer of about 1 to 10, A is a derivative of an aromatic dihydroxy compound, R and R' are C_1-C_{20} alkyl or C_6-C_{14} aryl radical and
>
> (ii) about 2 to 10 percent relative to the weight of said blend, of a partially fluorinated polyolefin having a number average molecular weight of 30,000 to 1,000,000 as determined by gel permeation chromatography selected from the group consisting of poly(vinylidene fluoride), polyvinylidene difluoride, poly(vinylfluoride), poly(trifluoroethylene),

poly(chlorotrifluoroethylene) and
poly(trifluoroethylene alkali metal sulfonate),

said composition having a flame retardance rating of V-0 in accordance with UL-94 @ 1/8", said rating being achieved in the absence of additional flame retarding agents.

In support of his rejection, the examiner relies on the following prior art references:

Paul et al. (Paul)	4,600,632	Jul. 15, 1986
Mark	4,220,583	Sep. 2, 1980

Claims 5 through 7 stand rejected under 35 U.S.C. § 103 as unpatentable over the combined disclosures of Mark and Paul.

We reverse.

This is the second appeal of claimed subject matter directed to a thermoplastic molding composition. In comparison with the claims previously considered by the Board in the decision entered March 8, 1995, in related Application 07/755,916, Appeal No. 1993-3828 (Paper No. 13), the presently claimed thermoplastic molding composition requires, ***inter alia***, a partially fluorinated polyolefin having a higher number average molecular weight than that claimed previously and precludes certain components included in the previously considered composition. Specifically, the presently claimed thermoplastic molding composition ***consists essentially*** of a homogeneous blend of a block copolycarbonate selected from

those included in the claimed formula and a partially fluorinated polyolefin having a number average molecular weight of 30,000 to 1,000,000 selected from a list of the specifically claimed partially fluorinated polyolefins. The types and amounts of the block copolymer carbonates and partially fluorinated polyolefins employed are such that the claimed thermoplastic molding composition must have a flame retardant rating of V-0 in accordance with UL-94 @ 1/8", without the addition of any additional flame retarding agents and other agents which may have an impact on the flame retardant property. Thus, the claimed thermoplastic molding composition is limited to only those which exhibit an unexpected flame retardant property as shown in the example at page 7 of the specification.

As evidence of obviousness of the claimed subject matter under 35 U.S.C. § 103, the examiner relies on the combined disclosures of Mark and Paul. However, we find that neither of these references recognizes the importance of using specific combinations of specific block copolycarbonates and specific partially fluorinated polyolefins to obtain a thermoplastic molding composition having an unexpected flame

retardant property. In fact, Mark teaches that partially fluorinated polyolefins are not useful for improving the flame retardant property of a block copolycarbonate molding composition. See column 1, lines 56-64 and column 7, Table II.

Under these circumstances, we agree with appellants that the evidence of unobviousness outweighs the evidence of obviousness proffered by the examiner. Accordingly, we reverse the examiner's decision rejecting all of the appealed claims under 35 U.S.C. § 103 over the applied prior art.

The decision of the examiner is reversed.

REVERSED

EDWARD C. KIMLIN Administrative Patent Judge	)	
JOHN D. SMITH Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
CHUNG K. PAK Administrative Patent Judge	)	

CKP:hh

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