

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD E. LAFLEUR, WILLIAM J. WORK,
ROBERT M. AMICI, NEWMAN M. BORTNICK and NORMAN L. HOLY

Appeal No. 95-3201
Application No. 08/083,957¹

ON BRIEF

Before KIMLIN, OWENS and KRATZ, Administrative Patent Judges.
KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed June 25, 1993. According to appellants, this application is a continuation-in-part of Application No. 07/929,878, filed August 11, 1992, now abandoned.

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This is an appeal from the final rejection of claims 8 and 15, all the claims remaining in the present application. A copy of illustrative claim 15 is appended to this decision.

The examiner relies upon the following reference as evidence of obviousness:

Freed	5,208,083	May 4, 1993 (filed Feb. 28, 1992)
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Appealed claims 8 and 15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Freed.

Upon careful consideration of the opposing arguments presented on appeal, we concur with appellants that the applied prior art fails to establish a prima facie case of obviousness for the claimed subject matter. Accordingly, we will not sustain the examiner's rejection.

The appealed claims define a polymeric blend comprising, inter alia, "at one least natural and melt-intractable polar polymer selected from starch, chitin, chitosan, lignin or cellulose." We interpret the claimed terms "natural" and "melt- intractable" in light of the present specification, specifically, page 4, as non-chemically modified polymers that are "extremely difficult to process, and may be described as

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melt-intractable." Consequently, we agree with appellants that the claimed cellulose is a non-thermoplastic, non-chemically modified polymer. It is this claimed cellulose component that is not disclosed or suggested in the Freed disclosure.

Although there is no dispute that Freed discloses a polymeric blend comprising claimed components (b)(i) and (b)(ii), Freed does not teach the inclusion of the claimed natural and melt-intractable cellulose. While the examiner points to Freed's disclosure of cellulosics as a component in the reference polymeric blend, appellants correctly point out that the cellulosics disclosed by Freed are one of many thermoplastic polymers described. Since Freed provides no teaching or suggestion of employing a non-thermoplastic cellulosic material in the polymeric blend, we cannot agree with the examiner's legal conclusion that the claimed polymeric blend would have been obvious to one of ordinary skill in the art. While the examiner contends that appellants have not furnished proof that the cellulosics of Freed are neither "natural" nor "melt-intractable," Freed himself describes the cellulosics as thermoplastic, which would

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disqualify such materials as "melt- intractable" as defined in appellants' specification.

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In conclusion, based on the foregoing, the examiner's
decision rejecting the appealed claims is reversed.

REVERSED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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TERRY J. OWENS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
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)	
PETER F. KRATZ)	
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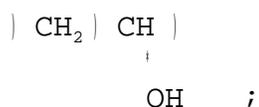
APPENDIX

15. A polymeric blend comprising:

(a) from about 10 to about 95 parts of at least one natural and melt-intractable polar polymer selected from starch, chitin, chitosan, lignin or cellulose;

(b) from about 5 to about 90 parts of a polymeric composite of:

i) from about 40 to about 95 parts by weight of a first polymer containing at least 50 mol% of units of the structure



ii) from about 5 to about 60 parts by weight of a second polymer containing at least about 70 parts of units derived from a lower alkyl methacrylate or acrylate, and at least one of either up to about 25 parts of units derived

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from a vinyl or vinylidene monomer containing an amide group or up to about 25 parts of units derived from an unsaturated carboxylic acid or anhydride.