

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(2) is not binding precedent of the Board.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. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YOSHIHIRO ARITA,
KIYOSHI KAWAMURA, KENTA KANAIDA,
and SATOSHI YAMADA

Appeal No. 96-0641
Application 08/004,890¹

ON BRIEF

Before KIMLIN, GARRIS, and SPIEGEL, Administrative Patent
Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection
of claims 3 through 8, 10 and 11 which are all of the claims

¹ Application for patent filed January 21, 1993.

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remaining in the application.

The subject matter on appeal relates to an aqueous resin composition comprising an oxazoline group-containing polymer, a carboxyl group-containing polymer and an acidic compound-amine salt catalyst which is formed from at least one acid selected from the group consisting of phosphoric acid, phosphorous acid, hydrochloric acid, sulfuric acid, nitric acid and an organic sulfonic acid. The appealed subject matter also relates to a curing process which utilizes the aforementioned composition. This subject matter is adequately illustrated by independent claim 3 which reads as follows:

3. An aqueous resin composition comprising in an aqueous medium an oxazoline group-containing polymer (A), a carboxyl group-containing polymer (B), and an acidic compound-amine salt catalyst (C) in an amount of from 0.1 to 10% by weight based on the total weight of the oxazoline group-containing polymer (A) and the carboxyl group-containing polymer (B), the acidic compound from which the acidic compound-amine salt catalyst (C) is formed being at least one acid selected from the group consisting of phosphoric acid, phosphorous acid, hydrochloric acid, sulfuric acid, nitric acid and an organic sulfonic acid.

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

Miller et al. (Miller)	4,113,674	Sep. 12, 1978
Keskey et al.	4,644,032	Feb. 17, 1987

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(Keskey)

BASF
(German)

30 48 493

Jul. 15, 1982

All of the claims on appeal stand rejected under 35
U.S.C.

§ 103 as being unpatentable over Keskey in view of the BASF
German reference or Miller. According to the examiner, "[i]t
would have been obvious to use any of the catalyst or acid
salt compounds of Miller or BASF in the Keskey composition"
(answer, page 4).

We can not agree and therefore can not sustain the above
noted rejection.

For obviousness under 35 U.S.C. § 103, there must have
been a suggestion as well as a reasonable expectation of
success for the modification here proposed by the examiner.
In re O'Farrell, 853 F.2d 894, 903-904, 7 USPQ2d 1673, 1680-
1681 (Fed. Cir. 1988). In this case, however, the applied
prior art contains neither the requisite suggestion nor
reasonable expectation of success for providing the
composition of Keskey with an acidic compound-amine salt
catalyst of the type taught by the secondary references.

This is because the polymer reactants (i.e., an oxazoline

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group-containing polymer and a carboxyl group-containing polymer) of Keskey are entirely different from the reactants which are catalyzed in the German reference and Miller respectively. For example, in the German reference, the reaction of N-vinylimidazol in the presence of hydroxyammonium sulfate to produce N-vinylimidazol polymerides (e.g., see Example 1 of the translation) has no apparent similarity at all to Keskey's aforementioned reaction. As a consequence, this prior art would not have provided an artisan of ordinary skill with motivation or a reasonable expectation of success in using the hydroxyammonium sulfate of the German reference as a catalyst for the composition of Keskey. Likewise, while Miller discloses using catalysts such as ammonium sulfate to produce poly-2-alkyl-2-oxazolines by the ring opening polymerization of oxazoline monomers (e.g., see lines 6 through 27 in column 1), the examiner points to nothing and we perceive nothing in Miller's disclosure which would have provided motivation or a reasonable expectation of success in using such catalysts for reacting an oxazoline group-containing polymer with a carboxyl group-containing polymer as desired by Keskey.

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In light of the foregoing, it is clear to us that we can not sustain the examiner's section 103 rejection of claims 3 through 8, 10 and 11 as being unpatentable over Keskey in view of the German reference or Miller.

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The decision of the examiner is reversed.

REVERSED

	Edward C. Kimlin)	
	Administrative Patent Judge)	
)	
)	
)	
	Bradley R. Garris)	BOARD OF
PATENT)	
	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
	Carol A. Spiegel)	
	Administrative Patent Judge)	

tdc

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