

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC K. EISENHART, BRADLEY A. JACOBS
and LOUIS C. GRAZIANO

Appeal No. 1996-3931
Application No. 08/198,336¹

ON BRIEF

Before JOHN D. SMITH, HANLON, and WARREN, Administrative Patent Judges.

JOHN D. SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal pursuant to 35 U.S.C. § 134 from the final rejection of claims 1-12.

Claim 1 is representative and is reproduced below:

¹ Application for patent filed February 18, 1994.

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1. An adhesive composition for wet lamination of substrates, comprising:

from about 40 weight percent to about 65 weight percent solids dispersed in an aqueous medium, wherein the solids comprise:

a polymer having first repeating units derived from a vinyl ester monomer, having second repeating units derived from a (C₁-C₁₂)alkyl (meth)acrylate monomer and having a glass transition temperature of -15°C to about +15°C; and

from about 0.1 parts by weight to about 40 parts by weight of a plasticizer compound per 100 parts by weight of the polymer.

As evidence of obviousness, the examiner relies upon the following references:

Weist et al. (Weist)	4,322,516	Mar. 30, 1982
Weist et al. (Canadian '895) (Canadian Patent)	1 141 895	Feb. 22, 1983

The appealed claims stand rejected under 35 U.S.C. § 103 as unpatentable over Weist or Canadian '895.

We cannot sustain the stated rejection.

The subject matter on appeal is directed to an aqueous adhesive composition for wet lamination of substrates having from about 40 weight percent to 65 weight percent solids dispersed in an aqueous medium. The solids component of the claimed composition comprises a polymer having repeating units

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derived from a vinyl ester monomer (e.g., vinyl acetate) and repeating units derived from an alkyl(meth) acrylate monomer (e.g., butyl acrylate). Significantly, the polymer has a glass transition temperature (T_g) of -15°C to about $+15^{\circ}\text{C}$. Additionally, the solid component of the claimed composition contains a plasticizer compound. When compared to aqueous adhesive compositions containing polymers having T_g s below -15°C , the claimed compositions show large increases in viscosity. See the specification at page 6, line 28 to page 7, line 3.

As evidence of obviousness of the claimed aqueous adhesive composition, the examiner relies on Weist or its Canadian equivalent referred to as Canadian '895, which references have identical disclosures. Weist discloses an aqueous pressure-sensitive adhesive composition containing, in finely divided form, copolymers comprised of vinyl acetate monomeric units and acrylic acid ester monomeric units, such as butyl acrylate. However, Weist's copolymers have a T_g in the range of -20 to -60°C . See the abstract and column 1, lines 61-64 of Weist. In contrast, as emphasized above, the T_g range of the claimed

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polymer component of appellants' adhesive is -15 to +15°C. Accordingly, the examiner's factual finding that the Weist polymer which has a T_g of -20°C "[i]s within the scope" of the claimed polymeric component is clearly erroneous. See the answer at page 5. Further, although the examiner alternatively contends that the T_g s of the claimed and prior art polymers are "very close" (answer, page 3), the examiner points to no reason, suggestion, or teaching in the Weist reference that would have motivated a person of ordinary skill in the art to utilize a polymer having a T_g in the range required by the polymeric component of the appealed claims. Thus, a prima facie case of obviousness has not been established for the subject matter defined by the appealed claims. Accordingly, the decision of the examiner is reversed.

OTHER ISSUES

Before taking any further action in this application, the examiner should obtain an English translation for Japanese Kokai 57 087481 published May 31, 1982 to determine whether this reference contains anticipating examples of the herein claimed composition. An abstract of this publication is of

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record in appellants' disclosure statement filed on April 25, 1996 as Paper No. 12. The abstract discloses a composition having "anchoring power to a base material" which is comprised of a copolymer formed from vinyl acetate and butyl acrylate monomers which copolymer has a T_g equal to or less than 0°C . The composition also contains "1-50pts.wt. plasticizer".

In summary, the decision of the examiner is reversed. Other issues should be considered prior to the allowance of this application.

JOHN D. SMITH)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ADRIENE LEPIANE HANLON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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CHARLES F. WARREN)
Administrative Patent Judge)

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APJ JOHN D. SMITH

APJ WARREN

APJ HANLON

DECISION: REVERSED
Send Reference(s): Yes No
or Translation (s)
Panel Change: Yes No
Index Sheet-2901 Rejection(s):

Prepared: August 8, 2000

Draft	Final		
3 MEM. CONF.	Y		N
OB/HD	GAU		
PALM/ ACTS 2/BOOK			
DISK (FOIA)/REPORT			