

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte ADELE C. SHIPSTON, JOSEPH W. LANGAN, NANCY G. MITCHELL

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Appeal No. 1998-0306  
Application No. 08/450,227

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ON BRIEF

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Before GARRIS, KRATZ, and PAWLIKOWSKI, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the final rejection of claims 40-48 and 51-55 which are all of the claims remaining in the application.

The subject matter on appeal relates to a pressure sensitive adhesive comprising the reaction product of an activatable, polymeric, composition obtained after exposure to an activating treatment wherein the composition is non-tacky prior to exposure. This appeal subject matter is adequately illustrated by independent claim 40 which reads as follows:

40. A pressure sensitive adhesive comprising the reaction product of an activatable, polymeric, composition obtained after exposure to an activating treatment, wherein said activatable composition is non-tacky prior to exposure to the activating treatment.

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

Skoultchi et al. (Skoultchi)                      4,069,123                      Jan. 17, 1978

Mallya et al. (Mallya)                      5,011,867                      Apr. 30, 1991

Claims 40-44, 46-48 and 51–55 are rejected under 35 U.S.C. § 103 as being unpatentable over Skoultchi, and claim 45 is correspondingly rejected over this reference and further in view of Mallya.

These rejections cannot be sustained.

As correctly argued by the appellants in their brief and reply brief, Skoultchi contains no teaching or suggestion of the here claimed pressure sensitive adhesive wherein the activatable composition is non-tacky prior to exposure to the activating treatment. On the contrary, Skoultchi repeatedly teaches that his UV treatment improves cohesive strength without sacrificing the tack of his compositions (e.g. see lines 63-66 in column 1 and lines 7-19 in column 2). Indeed, the tables for examples I and II of this reference plainly reveal that patentee's adhesive possesses tack prior to UV exposure. In short, we are unable to perceive any merit in the examiner's position that the Skoultchi reference teaches or would have suggested a pressure

Appeal No. 1998-0306  
Application No. 08/450,227

sensitive adhesive wherein the activatable composition is non-tacky prior to exposure to the activating treatment as required by the appealed claims.

For this reason alone, the examiner's § 103 rejection of claims 40-44, 46-48 and 51-55 as being unpatentable over Skoultchi cannot be sustained. Moreover, since the above discussed deficiencies of Skoultchi are not supplied by the Mallya reference, we also cannot sustain the examiner's § 103 rejection of claim 45 as being unpatentable over Skoultchi in view of Mallya.

The decision of the examiner is reversed.

REVERSED

BRADLEY R. GARRIS	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
PETER F. KRATZ	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
BEVERLY PAWLIKOWSKI	)	
Administrative Patent Judge	)	

Appeal No. 1998-0306  
Application No. 08/450,227

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Appeal No. 1998-0306  
Application No. 08/450,227

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