

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(2) is not binding precedent of the Board.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. 33

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRENT J. BERTUS,
HAROLD W. MARK, JOHN S. ROBERTS,
and ARNOLD M. SCHAFFER

Appeal No. 1999-1252
Application 08/648,520

HEARD: March 23, 2000

Before GARRIS, WARREN, and WALTZ, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal which involves claims 1 through 4, 9 through 15, 17 through 27, 29 through 39 and 42 through 71 which are all of the claims pending in the application.

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The subject matter on appeal relates to a process which includes the step of contacting a regenerated catalyst with a reducing gas under conditions suitable for countering effects of contaminating metals thereon. This appealed subject matter is adequately illustrated by independent claim 1 and independent claim 35 which read as follows:

1. In a process for the catalytic cracking of a hydrocarbon feed wherein said feed is contacted with a crystalline zeolite aluminosilicate cracking catalyst containing at least one contaminating metal selected from the group consisting of nickel, vanadium, and iron under cracking conditions and at least a portion of said cracking catalyst is periodically regenerated by contact with a combustion supporting gas under regeneration conditions and at least a portion of the regenerated catalyst is employed in the catalytic cracking of hydrocarbon feed, the improvement consisting essentially of contacting at least a portion of said regenerated catalyst with a reducing gas under conditions suitable for countering effects of contaminating metals thereon to produce a passivated catalyst and employing at least a portion of said [reduced] passivated catalyst in cracking said hydrocarbon feed.

35. A process for the cracking of a hydrocarbon feedstock comprising contacting said feedstock under cracking conditions in a cracking zone with a cracking catalyst prepared by (1) starting with a contaminated cracking catalyst comprising crystalline zeolite alumino-silicate wherein said contaminants comprise carbon and at least one metal contaminant selected from the group consisting of nickel, vanadium, and iron, (2) exposing said contaminated cracking catalyst in an oxidation step to a combustion-supporting gas under conditions sufficient to result in combustion of carbon contaminant, and (3) then exposing the resulting catalyst in a reduction step to a reducing gas under conditions suitable for countering adverse effects of said contaminating metals.

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

Corneil et al. (Corneil)	2,575,258	Nov. 13, 1951
Suggitt et al. (Suggitt)	4,013,546	Mar. 22, 1977

Cimbalo et al. (Cimbalo), "Deposited metals poison FCC catalyst," Oil & Gas Journal, Vol. 70, No. 20, pp. 112-122, 1979

Claims 1 through 4, 9, 10, 12 through 15, 17 through 27, 29 through 39, 42 through 52 and 54 through 71 are rejected under 35 U.S.C. § 103 as being unpatentable over Suggitt, and claims 11 and 53 are correspondingly rejected over Suggitt in view of Corneil.

All of the claims on appeal are also rejected under 35 U.S.C. § 103 as being unpatentable over Corneil in view of Suggitt and Cimbalo.

Finally, all appealed claims are provisionally rejected under the doctrine of obviousness-type double patenting over the claims of copending application Serial No. 08/648,236.

OPINION

Having carefully studied the record before us on this

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appeal, we conclude that it is appropriate to sustain only the provisional rejection of all appealed claims under the doctrine of obviousness-type double patenting and the section 103 rejection of claims 35 through 39 and 42 through 45 as being unpatentable over Suggitt. None of the other rejections advanced by the examiner on this appeal can be sustained.

The issues raised by this appeal and our disposition of them correspond to the issues and their disposition of copending Appeal No. 99-2548 for the appellants' earlier mentioned application Serial No. 08/648,236. Accordingly, we refer to our decision in Appeal No. 99-2548 for a complete exposition of the issues raised by the subject appeal and our reasons for disposing of them in the manner discussed herein. The discussion below constitutes a brief summary of these matters.

We summarily sustain the provisional rejection of all claims based upon obviousness-type double patenting because the appellants have not contested this rejection with any reasonable specificity on the record before us (see the last full paragraph on page 21 of the brief). The section 103 rejection of claims 35 through 39 and 42 through 45 as being

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unpatentable over Suggitt is sustained because these claims do not exclude the chlorination/demetallization step of Suggitt. Finally, none of the other section 103 rejections on this appeal can be sustained because the reference evidence adduced by the examiner fails to establish a *prima facie* case of obviousness with respect to the subject matter defined by the rejected claims.

The decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

	Bradley R. Garris)	
	Administrative Patent Judge)	
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)	
	Charles F. Warren)	BOARD OF
PATENT)	
	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	

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Thomas A. Waltz)
Administrative Patent Judge)

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RICHMOND, PHILLIPS, HITCHCOCK & FISH
P.O. Box 2443
Bartlesville, OK 74005