

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) TTC-69904/08	
		Application Number 14/166,376-Conf. #8968	Filed January 28, 2014
		First Named Inventor Ping Wang et al.	
		Art Unit 1651	Examiner K. Ariani
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant.</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>59,142</u>.</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p style="text-align: right;"> <u>Weston R. Gould, Ph. D./</u> Signature <u>Weston R. Gould, Ph. D.</u> Typed or printed name <u>(248) 647-6000</u> Telephone number <u>June 26, 2015</u> Date </p> <p>NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.</p>			
<input type="checkbox"/> *Total of <u>1</u> forms are submitted.			

NOTICE OF APPEAL FROM THE EXAMINER TO THE PATENT TRIAL AND APPEAL BOARD		Docket Number (Optional) TTC-69904/08
In re Application of Ping Wang et al.		
Application Number 14/166,376-Conf. #8968	Filed January 28, 2014	
For METHOD FACILITATING REMOVAL OF BIOORGANIC STAINS FROM SURFACES		
Art Unit 1651	Examiner K. Ariani	
<p>Applicant hereby appeals to the Patent Trial and Appeal Board from the last decision of the examiner.</p> <p>The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ <u>800.00</u></p> <p><input type="checkbox"/> Applicant asserts small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by 50%, and the resulting fee is: \$ _____</p> <p><input type="checkbox"/> Applicant certifies micro entity status. See 37 CFR 1.29. Therefore, the fee shown above is reduced by 75%, and the resulting fee is: \$ _____ <small>Form PTO/SB/15A or B or equivalent must either be enclosed or have been submitted previously.</small></p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input checked="" type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. <u>07-1180</u>.</p> <p><input checked="" type="checkbox"/> Payment made via EFS-Web.</p> <p><input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(a) (PTO/AIA/22 or equivalent) is enclosed. For extensions of time in reexamination proceedings, see 37 CFR 1.550.</p> <p>WARNING: INFORMATION ON THIS FORM MAY BECOME PUBLIC. CREDIT CARD INFORMATION SHOULD NOT BE INCLUDED ON THIS FORM. PROVIDE CREDIT CARD INFORMATION AND AUTHORIZATION ON PTO-2038.</p> <p>I am the</p> <p><input type="checkbox"/> applicant <input checked="" type="checkbox"/> attorney or agent of record <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34</p> <p style="margin-left: 150px;">Registration number <u>59,142</u> Registration number _____</p> <p>Signature <u>/Weston R. Gould, Ph. D./</u></p> <p>Typed or printed name <u>Weston R. Gould, Ph. D.</u></p> <p>Telephone Number <u>(248) 647-6000</u></p> <p>Date <u>June 26, 2015</u></p> <p>NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.</p>		
<input type="checkbox"/> * Total of <u>1</u> forms are submitted.		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Utility Application of:
Ping Wang et al.

Application No.: 14/166,376

Confirmation No.: 8968

Filed: January 28, 2014

Art Unit: 1651

For: METHOD FACILITATING REMOVAL OF
BIOORGANIC STAINS FROM SURFACES

Examiner: K. Ariani

**PRE-APPEAL REQUEST FOR REVIEW:
STATEMENT OF ARGUMENTS**

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

Applicants request review of the above-referenced application on the basis of the following remarks:

Remarks to the nonobviousness of all claims.

Claims 1-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Russell et al. (U.S. 6,905,733) (hereinafter "Russell") in view of Studer et al. (European Polymer Journal, 2005; 41:157-167) (hereinafter "Studer").

The outstanding rejection must be REVERSED as the cited reference combination fails to teach or suggest incorporation of an amylase into a solvent-borne polymeric system as claimed, and amounts to nothing more than a finding of independent elements in the prior art to make a rejection in direct contrast to the holding of *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007).

The outstanding rejection is based on an incorrect understanding of the teaching of the Russell reference where the Office Action states the Russell teaches a: "two-component solvent-

borne polymer resin (two-component solvent-borne polyurethane), polyisocyanate cross-linker, and additives (see for example column 1 lines 65-Continued on column 2 lines 1-8, and column 3 lines "ECG Synthesis) Synthesis"), and the enzyme is homogenously distributed within the material (column 8 lines 8-15, and Figures 2A and 28)." (Office Action, page 3) Respectfully, Russell; does not teach a two-component solvent borne polyurethane with enzymes as is asserted in the Office Action. The cited section of Russell (col. 1, line 65 to col. 2, line 8) actually teaches that the materials are water-borne. Russell takes pains to distinguish between solvent-borne and water-borne materials in the Background section. Col. 1, lines 51-54 teach that water-borne polyurethane coatings are recognized in the art as different than solvent-borne systems. As such, the reading of the Russell reference in the outstanding Office Action is factually incorrect.

The entire purpose and teaching of Russell is to develop a method in which an enzyme can be added to the aqueous phase of a two-component system. (col. 1, lines 57-63.) The cited section of Russell (col. 1, line 65 to col. 2, line 8) is, therefore, directed to water-borne systems, not solvent-borne systems. Indeed, col. 2, line 2 teaches that the enzyme is added to "create an aqueous mixture." Respectfully, such a system is not an amylase dispersed in a two component solvent-borne polymer resin as the resins used are aqueous polyester based polyols. As such, a *prima facie* case of obviousness is not present as Russell does not teach that which it is purported to teach in the Office Action.

The response to Arguments section asserts that the prior arguments are not acceptable because "the features upon which applicant relies (i.e. type of solvent) are not recited in the rejected claim(s)." (Office Action, page 2.) Respectfully, claim 1 recites "one or more amylases dispersed in a two component solvent-borne polymer resin." (emphasis added). Contrary to the statement in the Office Action, the claims do recite the features upon which Applicant relies.

The Office Action also asserts that Studer teaches a hydroxyl functionalized acrylate resin and an isocyanate crosslinker. The basis of the rejection is understood as since Studer teaches the acrylate resin, one would have been motivated to make the substitution with the resin of Russell. Applicant respectfully disagrees. The rejection amounts to nothing more than an independent teaching of an enzyme in a water-borne resin, and an independent teaching that solvent-borne resins are known. "A patent composed of several elements is not proved obvious

merely by demonstrating that each element was, independently, known in the prior art.... [I]t can be important to identify a reason that would have prompted a person of ordinary skill in the art to combine the elements as the new invention does.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418-419 (2007). Indeed, no motivation is presented in the Office Action or either cited reference.

In addition, the assertion that the water- and solvent-borne resins are art-recognized as interchangeable is in direct contrast to the teaching of Russell and the teaching of the specification. It is submitted that Russell motivates one of ordinary skill in the art to use water-borne systems instead of solvent-borne systems. This is because when using the method of Russell that requires water-borne systems one may achieve 18-38 percent activity retention (col. 11, line 49) compared to 5% as was achieved by prior methods of forming water-borne systems (col. 1, lines 43-46.) Thus, one of ordinary skill in the art would be motivated to use the method of Russell, which requires water-borne systems.

The specification also makes clear that water-borne and solvent-borne resins are distinguishable. The examples of the specification make both solvent-borne and water-borne coatings and clearly show that the solvent-borne systems are superior in terms of stability. (See Example 4 and FIG. 5.) No cited teaching of Russell or Studer contradicts this teaching.

Overall, the rejection amounts to nothing more than an improper reading of the primary reference (Russell) and a finding of independent elements in the art, which is an improper basis for a rejection under 35 U.S.C. §103(a).

Claims 1-5 stand rejected on the grounds of non-statutory double patenting over claims 1-4, 7, 22, and 23 of U.S. Patent No. 8,252,571.

The outstanding rejection must be REVERSED at least as the claimed materials incorporating amylases possess unexpectedly superior activity that is not taught by the cited reference. U.S. 8,252,571 equates all hydrolases. (See col. 4, lines 20-50, particularly, lines 43-50.) In contrast, the present specification teaches that amylase is surprisingly superior to many other hydrolases in these systems such as relative to proteases. (See [0030]). This is supported by data comparing enzyme types in FIG. 9. Protease (an exemplary hydrolase) is not nearly as effective as others.

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