

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LESLIE R. RUDNICK

Appeal No. 95-0944
Application 07/748,730¹

ON BRIEF

Before RONALD SMITH, SOFOCLEOUS and HANLON, Administrative Patent Judges.

SOFOCLEOUS, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 33, 36, 37, and 40 to 43, all the claims remaining in the application.

¹ Application for patent filed August 22, 1991.

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The subject matter on appeal is directed to a process for preparing high temperature, stable lubricant fluids or additives by reacting an olefin with diphenyl disulfide to form a monoalkylated thiophenol.

Appellant acknowledges that all the claims stand or fall together. Independent claim 33 reads as follows:

33. A process for the preparation of a high-temperature stable lubricant fluid or lubricant additive comprising reacting (1) an olefinic hydrocarbon containing from 3 to about 500 carbons and optionally containing S, N, O, P, F, and (2) a diphenyl disulfide in the presence of a zeolite catalyst thereby forming a monoalkylated thiophenol wherein the reaction temperature varies from ambient to about 350E C, the molar ratio of olefinic hydrocarbon to diphenyl disulfide varies from 1:1 to about 10:1 and the amount of catalyst varies from 5 to about 100 grams of catalyst to about 1 mole of diphenyl disulfide.

The reference relied upon by the Examiner is:

Forbus et al. (Forbus) 5,171,915 Dec. 15, 1992

Claims 33, 36, 37, and 40 to 43 stand rejected under 35 U.S.C. § 103 as being unpatentable over Forbus.

We cannot sustain this rejection.

The claims at bar are directed to a process of reacting an olefinic hydrocarbon with diphenyl disulfide to form a monoalkylated thiophenol. Although Forbus discloses a similar process for preparing alkylated aromatics, he does not disclose diphenyl disulfide as a reactant. Forbus only discloses diphenyl

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sulfide as a reactant among a laundry list of possible reactants, and diphenyl sulfide is not the same compound as diphenyl disulfide. The examiner urges that one having ordinary skill in the art would have been motivated to employ the particular diphenyl sulfide reactant employed by appellant since it is encompassed by Forbus; however, the examiner has cited no reference teaching the equivalence of diphenyl sulfide and diphenyl disulfide in a process similar to that claimed here.

For the foregoing reasons, we cannot sustain this rejection.

REVERSED

RONALD H. SMITH)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
MICHAEL SOFOCLEOUS)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
ADRIENE LEPIANE HANLON)	

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Administrative Patent Judge)

Charles J. Speciale
Mobile Oil Corp.
Office of Patent Counsel
3225 Gallows Road
Fairfax, VA 22037