

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UMICORE AG & CO. KG,
Petitioner,

v.

BASF CORPORATION,
Patent Owner.

Case IPR2015-01123
Patent 8,404,203 B2

Before CHRISTOPHER L. CRUMBLY, JO-ANNE M. KOKOSKI, and
JEFFREY W. ABRAHAM, *Administrative Patent Judges*.

KOKOSKI, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Umicore AG & Co. KG (“Petitioner”) filed a Petition (“Pet.”) to institute an *inter partes* review of claims 1–31 of U.S. Patent No. 8,404,203 B2 (“the ’203 patent,” Ex. 1001). Paper 1. BASF Corporation (“Patent Owner”) filed a Preliminary Response (“Prelim. Resp.”). Paper 7. We have jurisdiction under 35 U.S.C. § 314.

Upon consideration of the Petition, Preliminary Response, and the evidence of record, we determine that Petitioner has established a reasonable likelihood of prevailing with respect to the unpatentability of claims 1–31 of the ’203 patent. Accordingly, we institute an *inter partes* review of those claims.

A. *Related Proceedings*

Petitioner indicates that the ’203 patent is the subject of IPR2015-01124, also filed by Petitioner. Pet. 1.

B. *The ’203 Patent*

The ’203 patent, titled “Process for Reducing Nitrogen Oxides Using Copper CHA Zeolite Catalysts,” is directed to methods of manufacturing copper CHA¹ zeolite catalysts and their use in exhaust gas treatment systems. Ex. 1001, 1:19–22. The Specification describes embodiments where the “catalyst compris[es] a zeolite having the CHA crystal structure and a mole ratio of silica to alumina greater than about 15 and an atomic ratio of copper to aluminum exceeding about 0.25.” *Id.* at 2:13–16. The catalyst can be “deposited on a honeycomb substrate,” which can comprise a wall flow substrate or a flow through substrate. *Id.* at 2:41–45. The ’203

¹ The parties agree that CHA crystal structure is defined by the International Zeolite Association, and that zeolites having the CHA crystal structure are also known as “chabazite.” Pet. 8; Prelim. Resp. 15.

patent also describes embodiments where “at least a portion of the flow through substrate is coated with CuCHA adapted to reduce oxides of nitrogen contained in a gas stream flowing through the substrate,” and those where “at least a portion of the flow through substrate is coated with Pt and CuCHA adapted to oxidize ammonia in the exhaust gas stream.” *Id.* at 2:45–51; *see also id.* at 2:53–58 (describing embodiments where at least a portion of the wall flow substrate “is coated with CuCHA adapted to reduce oxides of nitrogen contained in a gas stream flowing through the substrate,” and those where “at least a portion of the wall flow substrate is coated with Pt and CuCHA adapted to oxidize ammonia in the exhaust gas stream.”).

The '203 patent further describes “a process for the reduction of oxides of nitrogen contained in a gas stream in the presence of oxygen wherein said process comprises contacting the gas stream with the catalyst described above.” *Id.* at 3:8–11. Figure 10A of the '203 patent is reproduced below:

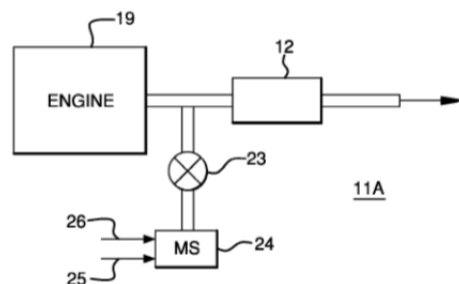


FIG. 10A

Figure 10A is a schematic depiction of an embodiment of the emissions treatment system described in the '203 patent. *Id.* at 4:11–13. Engine 19 emits an exhaust stream containing gaseous pollutants and particulate matter, which is conveyed to a position downstream from engine 19 “where a reductant, i.e., ammonia or an ammonia-precursor, is added to the exhaust

stream.” *Id.* at 21:61–66. Aqueous urea, for example, is an ammonia precursor that enters mixing station 24 on line 25 along with air from line 26. *Id.* at 22:1–3. Valve 23 is used to meter precise amounts of aqueous urea to be added to the exhaust stream; the aqueous urea is converted to ammonia in the exhaust stream. *Id.* at 22:3–5. The exhaust stream containing ammonia is then conveyed to “catalyst substrate 12 (also referred to herein including the claims as ‘the first substrate’) containing CuCHA in accordance with one or more embodiments.” *Id.* at 22:6–9. “On passing through the first substrate 12, the NO_x component of the exhaust stream is converted through the selective catalytic reduction of NO_x with NH₃ to N₂ and H₂O.” *Id.* at 22:9–12.

The ’203 patent also describes an embodiment that “contains a second substrate 27 interposed between the NH₃ injector and the first substrate 12.” *Id.* at 22:18–21, Fig. 10B. The second substrate is coated with a catalyst composition that can be the same as, or different from, that coated on the first substrate. *Id.* at 22:21–24. In another embodiment, an oxidation catalyst is included “upstream of the site of ammonia/ammonia precursor injection.” *Id.* at 22:49–51, Fig. 10C. The “oxidation catalyst is disposed on a catalyst substrate 34,” and the system can also include first substrate 12 and second substrate 27. *Id.* at 22:51–54. In this embodiment, the exhaust stream is conveyed first through catalyst substrate 34, “where at least some of the gaseous hydrocarbons, CO and particulate matter are combusted to innocuous components.” *Id.* at 22:54–57. According to the ’203 patent, “the first substrate 12 could be a catalyzed soot filter” with the CuCHA catalyst disposed thereon, and “the second substrate 27 comprising” a

CuCHA catalyst “may be located upstream from catalyst substrate 34.” *Id.* at 22:62–67.

C. Illustrative Claims

Petitioner challenges claims 1–31 of the ’203 patent. Claims 1 and 26 are independent, and read as follows:

1. A process for the reduction of oxides of nitrogen contained in a gas stream in the presence of oxygen wherein said process comprises contacting the gas stream with a catalyst comprising a zeolite having the CHA crystal structure and a mole ratio of silica to alumina from about 15 to about 100 and an atomic ratio of copper to aluminum from about 0.25 to about 0.50.

Ex. 1001, 23:9–15.

26. A process for the reduction of oxides of nitrogen contained in a gas stream in the presence of oxygen wherein said process comprises adding a reductant to the gas stream and contacting the gas stream containing the reductant with a catalyst comprising a zeolite having the CHA crystal structure and a mole ratio of silica to alumina from about 15 to about 150 and an atomic ratio of copper to aluminum from about 0.25 to about 1.

Id. at 24:29–36.

D. The Prior Art

Petitioner relies on the following prior art references:

Reference	Publication	Date	Exhibit No.
Maeshima	US 4,046,888	Sept. 6, 1977	1002
Zones	US 6,709,644 B2	Mar. 23, 2004	1004
Patchett	U.S. App. 2006/0039843 A1	Feb. 23, 2006	1005

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.