

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UMICORE AG & CO. KG,

Petitioner,

Patent No. 8,404,203
Title: Process for reducing
nitrogen oxides using copper
CHA zeolite catalysts
-----x

DEPOSITION OF OLIVIA SCHMIDT

Friday, April 29, 2016

Iselin, New Jersey

11:05 a.m.

Reported by:
Jennifer Ocampo-Guzman, CRR, CLR
Job NO.: 16159

April 29, 2016
11:05 a.m.

HIGHLY CONFIDENTIAL-ATTORNEYS' EYES
ONLY Deposition of OLIVIA SCHMIDT, held
at the Apa Hotel Woodbridge, 120 Wood
Avenue, South, Iselin, New Jersey,
pursuant to notice, before Jennifer
Ocampo-Guzman, a Certified Real-Time
Shorthand Reporter and a Notary Public
of the State of New Jersey.

OLIVIA SCHMIDT, called as a
witness, having been duly sworn, was examined
and testified as follows:

EXAMINATION BY

MR. PFEFFER:

Q. Can you please state your name for
the record.

A. My name is Oliva Schmidt.

Q. And have you ever been deposed
before?

A. Yes.

Q. How many times?

A. One.

Q. So just to go over some basic
rules, I'm going to ask you questions. I'll
ask you to try to answer them verbally so she
can get it recorded down. If you don't
understand a question, feel free to ask me to
repeat it or rephrase it.

Other than that, if you ever have a
need to take a break, let me know. The only
thing I would ask is not do it while a
question is pending, and maybe one follow-up
question, and then we can take a break if you
need one.

APPEARANCES:

Behalf of the Patent Owner:

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BY: ANISH DESAI, ESQ.

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ALSO PRESENT:

ANNA-LISA GALLO, ESQ. (BASF)

Do you understand that?

A. Yes.

Q. You're nodding your head. The
first rule was to verbally respond.

And you understand that you are
here to testify regarding a declaration you
submitted for use in four separate inter
parte review proceedings in the patent
office?

A. Yes.

Q. And it relates to two patents owned
by BASF, the '662 and the '203 patent; is
that correct?

A. Correct.

Q. I'm going to --

MR. PFEFFER: I'm doing to place
before the witness Exhibit 2034.
(Discussion off the record.)

Q. Is this the declaration that you
submitted in these two IPRs?

A. Yes.

Q. Sorry. Four IPRs.

And when was the last time you saw
this declaration?

A. This morning.

1 Q. This morning.
 2 Did you do anything to prepare for
 3 your deposition today?
 4 A. Yes.
 5 Q. What did you do?
 6 A. I met with my legal counsel.
 7 Q. Was that today or yesterday?
 8 A. This morning and earlier in the
 9 week.
 10 Q. About how many hours did you spend
 11 with your legal counsel preparing for today's
 12 deposition?
 13 A. Roughly two hours.
 14 Q. How long have you been at BASF?
 15 A. Over 20 years.
 16 Q. And when did you start working in
 17 the mobile emissions catalyst group?
 18 A. July 2015.
 19 Q. And prior to July 2015, you had
 20 worked in the pigment area and in the
 21 absorbant catalyst area; is that correct?
 22 A. Correct.
 23 Q. And those were the primary areas
 24 you had worked in prior to July 2015 while at
 25 BASF?

1 A. I worked in absorbants group,
 2 pigments group, and the pharma ingredient
 3 solutions group.
 4 Q. For your formal education, has any
 5 of that been in the technical area, or was
 6 that all in business?
 7 A. My vocation has been in business.
 8 Q. And what are your responsibilities
 9 at BASF as the vice president of global
 10 strategic markets for mobile emissions
 11 catalysts?
 12 A. I'm responsible for marketing,
 13 product management, pricing, program
 14 management, innovation, on a global basis,
 15 that looks into how to increase our market
 16 share in the mobile emissions category.
 17 Q. And do you have responsibility for
 18 sales as well, or is that a different
 19 function at BASF?
 20 A. That reports to a different
 21 function within BASF. It reports to the vice
 22 presidents of regional business management.
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 Q. Now, in this declaration that you
 13 submitted, you don't discuss any technical
 14 details regarding the --
 15 MR. PFEFFER: Let me back up.
 16 Q. You understand that your
 17 declaration is, relates to a certain copper
 18 CHA catalyst; is that correct?
 19 A. Copper chabazite, correct.
 20 Q. The CHA stands for chabazite?
 21 A. Chabazite, yes.
 22 Q. So when you refer to these
 23 catalysts, you refer to them as copper
 24 chabazite normally?
 25 A. Correct.

1 Q. I will try to use that terminology
 2 just so we're on the same frame.
 3 And in your declaration, you don't
 4 provide any details on the technical aspects
 5 of the copper chabazite catalyst; is that
 6 correct?
 7 A. Correct.
 8 Q. You rely on the --
 9 (Discussion off the record.)
 10 Q. You rely on the declaration of Dr.
 11 Moweeny (phonetic) with regard to the
 12 technical aspects of the BASF's copper
 13 chabazite catalyst; is that correct?
 14 A. Correct.
 15 (Discussion off the record.)
 16 Q. Among the people at BASF, you
 17 wouldn't consider yourself to be a technical
 18 expert with respect to the BASF copper
 19 chabazite catalyst; is that correct?
 20 A. Correct.
 21 Q. Also, in your declaration, you
 22 don't discuss anything of the patents that
 23 are involved in these IPRs; is that correct?
 24 A. Correct.
 25 Q. You don't compare any of the claims

1 of these patents to the copper chabazite
 2 catalyst products of BASF in your
 3 declarations; is that correct?
 4 A. Correct.
 5 Q. In your declaration, you discuss
 6 the global diesel SCR market; is that
 7 correct?
 8 A. Yes.
 9 Q. What is the SCR market?
 10 A. Can you clarify?
 11 Q. You used the phrase. I just want
 12 to know in your declaration, when you discuss
 13 the -- for example, in paragraph 6, you
 14 discuss the global diesel SCR market.
 15 A. Yes.
 16 Q. And then below you have a chart
 17 that has a title, "Total Global SCR Market."
 18 I just want to understand what you mean by
 19 the "Total Global SCR Market" in this
 20 declaration; what is that supposed to entail
 21 and not to entail?
 22 A. The global collective catalytic
 23 reduction market is a component that is used
 24 in diesel engines to, part of a system to
 25 meet, as part of meeting the regulation

1 make up a system. And one of the components
 2 is the SCR using copper chabazite.
 3 Q. Do you sell the system itself or do
 4 you just sell the components that will
 5 eventually make up a system?
 6 A. Sometimes we sell the whole system,
 7 depending on what the OEM requires, and
 8 sometimes we sell specific components to make
 9 the system.
 10 Q. You mentioned OEM. That's the
 11 original equipment manufacturers?
 12 A. Correct. The automotive and truck
 13 manufacturers or the engine producers.
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 MR. DESAI: So we will just go
 25 ahead and mark this transcript "Highly

1 standards for emissions control.
 2 Q. You said as part of a system. What
 3 is it part of a system, what system is it a
 4 part of?
 5 A. Well, SCR is a component, and
 6 depending on the requirements of the engine,
 7 you may have more components that make a
 8 system. You may have a diesel oxidation
 9 component and lean trap -- lean NOx trap
 10 component. You have an SCR. You may have an
 11 SCR and a filter. It's all part of a system
 12 that is required to meet, depending on the
 13 regulation -- on the requirements of the
 14 engine, to meet the regulation standards.
 15 Q. And does BASF just sell the
 16 catalyst alone or does it also sell the
 17 catalyst as part of larger systems?
 18 MR. DESAI: Objection, vague.
 19 Q. The copper chabazite catalyst that
 20 BASF sells, does it sell just the copper
 21 chabazite catalyst alone or does it also sell
 22 the copper chabazite catalyst as part of a
 23 larger system with other components?
 24 MR. DESAI: Same objection.
 25 A. We sell different components that

1 Confidential, Attorneys' Eyes Only."
 2 MR. PFEFFER: Okay.
 3 Q. And when you're talking about this
 4 market here, is that limited to the mobile
 5 market, or does that include stationary
 6 diesel plants as well, diesel facilities?
 7 A. Mobile.
 8 Q. And the copper chabazite catalysts
 9 are a type of zeolite catalyst, correct?
 10 A. Copper chabazite is an ingredient,
 11 a key ingredient to make the SCR catalyst.
 12 Q. But the copper chabazite is a
 13 zeolite; is that correct?
 14 A. Yes, it's a type of zeolite.
 15 Q. Other than the BASF copper
 16 chabazite catalyst, what other catalysts does
 17 BASF compete with in the SCR market?
 18 MR. DESAI: Objection, vague.
 19 A. Yeah, can you clarify?
 20 Q. So currently BASF, you market
 21 BASF's copper chabazite catalyst for use in
 22 the global diesel SCR market; is that
 23 correct?
 24 A. Uh-huh. Yes.
 25 Q. And other people also sell products

1 in that same global diesel SCR market,
 2 correct?
 3 A. Correct.
 4 Q. And those product are not BASF
 5 copper chabazite catalysts, correct?
 6 A. Correct.
 7 Q. And you, as part of your marketing,
 8 are aware of the other products that you're
 9 competing against, correct?
 10 A. Yes.
 11 Q. And what are those other products?
 12 A. You have Vanadium, SCR, and you
 13 have --
 14 Q. Vanadium?
 15 A. Vanadium, SCR, and then you also
 16 have iron BIDA zeolite -- zeolites, sorry.
 17 Q. In your declaration, you also talk
 18 about sales by BASF licensees; is that
 19 correct?
 20 A. Yes.
 21 Q. And there you're referring to
 22 Johnson Matthey; is that correct?
 23 A. We refer them as BASF licensees.
 24 Q. I think it's footnote 1 on page 2.
 25 A. Uh-huh, yes.

1 agreement -- I mean there is obviously a
 2 license agreement between Johnson
 3 Matthey and Umicore, the existence of
 4 that agreement is public, but the
 5 details are not. And so we will just
 6 step out for a second.
 7 (Discussion off the record.)
 8 MR. DESAI: So why don't you ask
 9 your last question again, and I think we
 10 will be able to get an answer then that
 11 hopefully will satisfy you without
 12 disclosing information that we're not
 13 allowed.
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 Q. So earlier you had stated that one
 22 of the responsibilities of the global
 23 strategic marketing team was to market mobile
 24 emissions catalyst products; is that correct?
 25 A. Correct.

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 Q. And the copper chabazite catalyst
 8 that Johnson Matthey sells, it makes -- it
 9 makes itself, correct?
 10 A. Can you repeat --
 11 Q. Johnson Matthey isn't selling a
 12 BASF copper chabazite product manufactured by
 13 BASF. Johnson Matthey, as your licensee,
 14 manufactures its own copper chabazite
 15 catalyst that it sells; is that correct?
 16 A. I don't know if I can disclose
 17 details of the agreement that we have with
 18 Johnson Matthey. More to say that we have a
 19 license agreement.
 20 MR. DESAI: Can I confer with the
 21 witness for a moment?
 22 MR. PFEFFER: Sure. To find out in
 23 terms of the scope of what she can and
 24 can't disclose?
 25 MR. DESAI: Yes. There is an

1 Q. And you place advertisements as
 2 part of that marketing effort?
 3 A. Yes, from time to time.
 4 Q. Do you or somebody else at BASF
 5 directly contact customers, potential
 6 customers regarding the copper chabazite
 7 catalysts products?
 8 A. Contacting customers or selling or
 9 advertisement of our products, it's part of
 10 our normal course of function by sales.
 11 Q. So that's part of the separate
 12 sales apparatus at BASF, that is not part of
 13 marketing; is that correct?
 14 A. Correct.
 15 Q. Are you involved in determining the
 16 pricing of the copper chabazite catalyst
 17 products?
 18 A. Yes, together with sales, my team
 19 is involved in pricing the product and
 20 determining the costs.
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

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