

Table of Contents

REMARKS	1
I. Introduction.....	1
II. The Proposed Claim Amendments Should Not Be Entered	4
III. Ground 1 - Rejection of Claims as Being Obvious Over Schafer-Sindlinger in view of Ohno.....	6
1. Schafer-Sindlinger Does Not Preclude the Use of a Wall Flow Monolith	6
2. A “Washcoat” and a “Slurry Loaded Washcoat” Means a Coating.....	9
3. Ohno Teaches a Coating and Therefore a “Slurry Loaded Washcoat”.....	12
4. One of Ordinary Skill in the Art Would have Provided a Wall Flow Filter in the System of Schafer-Sindlinger.....	15
5. Unclaimed Features Cannot Be Used to Establish Patentability	18
6. Claim 11.....	19
B. Ground 2 – Rejection of Claim 9 as being obvious over Schafer-Sindlinger in View of Ohno and Chapman.....	20
IV. Ground 9 - Rejection of Claims 1-8, 10, and 12-15 as Being Obvious Over Ohno in View of Speronello and Tennison.....	20
1. One of Ordinary Skill in the Art Would Have Combined the SCR Zeolite Catalyst of Speronello with the Filter of Ohno.....	21
2. One of Ordinary Skill in the Art Would Have Combined System Components with the SCR Catalyst Coated Filter of Ohno.....	22
B. Claims 3-6.....	24
C. Claim 11.....	25
V. Ground 10 - Rejection of Claim 9 as Being Obvious Over Ohno in View of Speronello, Tennison, and Chapman.....	26

VI. Unexpected Results.....26

VII. Grounds 21 and 22 Proposed Rejections of Claims 1-8 and 10-15 as Being Obvious Over Hashimoto in view of Ohno and Schafer-Sindlinger, and of Claim 9 as Being Obvious Over Hashimoto in view of Ohno, Schafer-Sindlinger, and Chapman.....29

VIII. Grounds 23-25 Proposed Rejections of Claims 1, 2, 7, 8, and 10-15 as Being Obvious Over Hashimoto in view of Ohno and Tennison, of Claims 3-6 as Being Obvious Over Hashimoto in view of Ohno, Tennison, and Speronello, and of Claim 9 as Being Obvious Over Hashimoto in view of Ohno, Tennison, and Chapman.....30

CONCLUSION33

REMARKS

I. Introduction

The Patent Owner's Amendment ("Amendment") fails to overcome rejections set forth in the Action Closing Prosecution dated August 16, 2012 ("ACP").

Initially, the claim amendments presented in the Amendment should not be entered inasmuch as the claim amendments would complicate the issues on appeal by necessitating further rejections. In particular, the newly introduced terms "slurry loaded washcoat" and "zeolite and a base metal component" are not supported by the written description of the '597 patent. As such, entry of the amendments would necessitate new rejections under 35 U.S.C. § 112, first paragraph.

Nevertheless, even if the claim amendments are entered, neither the claim amendments, nor the corresponding arguments of the Patent Owner, overcomes rejections set forth in the ACP.

The ACP properly finds that the claimed emission treatment system would have been obvious in view of the cited art. The claims merely combine a known SCR catalyst coated filter, as is taught by Ohno, with other known components of an exhaust treatment system.¹ Schafer-Sindlinger and Tennison both exemplify the exhaust system components, namely oxidation catalysts and ammonia injectors. The claimed invention is merely an obvious combination of components for use in exhaust treatment systems.

Schafer-Sindlinger discloses an exhaust treatment system that includes an oxidation catalyst and ammonia injector upstream of an SCR catalyst. As properly found in the ACP, it would have been obvious for one of ordinary skill in the art to have used Ohno's SCR catalyst coated filter as the SCR catalyst support structure in the system of Schafer-Sindlinger. Indeed, one of ordinary skill in the art would have been motivated to combine the SCR catalysis and filter functions on one structure in order to reduce the size of the exhaust treatment system.

¹ An SCR catalyst coated filter is the subject of Reexamination Control No. 95/001,744, which is a reexamination of a patent that claims priority to the '597 patent. The catalyst coated filter claimed in Control No. 95/001,744 is of similar scope to the filter component claimed in the present reexamination, and the catalyst coated filter claimed in Control No. 95/001,744 is rejected as being obvious in view of much of the same art as the present reexamination. To be logically consistent, the claimed system herein should continue to be rejected in the present reexamination given that the filter is rejected in Control No. 95/001,744, and that the other claimed system components were known and obvious.

The Patent Owner attempts to overcome the rejection with the combination of Schafer-Sindlinger in view of Ohno by arguing that Schafer-Sindlinger does not teach a wall flow filter for supporting the SCR catalyst, and by arguing that it would not have been obvious to use the wall flow filter of Ohno in the system. One of ordinary skill in the art, however, would not have viewed Schafer-Sindlinger as precluding the use of a wall flow filter for supporting the SCR catalyst, as the disclosure of honeycomb structures in Schafer-Sindlinger would have been understood to encompass wall flow filters. Further, there is nothing in the disclosure of Schafer-Sindlinger that teaches away from the use of a wall flow filter for supporting the SCR catalyst, or otherwise indicates that a wall flow filter could not be used to support the SCR catalyst. The Patent Owner mischaracterizes Schafer-Sindlinger by asserting that the reference requires an amount of catalyst coating that is incompatible with the filter taught by Ohno. Schafer-Sindlinger, however, does not require any particular amount of coating, and it is clear that one of ordinary skill in the art would not have had to use different coating techniques than the ones taught by Ohno when using Ohno's filter in the system of Schafer-Sindlinger.

In another rejection, the ACP properly finds that given the SCR catalyst coated filter of Ohno, it would have been obvious to have provided an oxidation catalyst and ammonia injector upstream of the SCR catalyst. The Tennison reference is cited as demonstrating that an oxidation catalyst and an ammonia injector were obvious components for use in an exhaust treatment system upstream of an SCR catalyst. In fact, providing the oxidation catalyst and ammonia injector upstream of the SCR catalyst coated filter of Ohno would have amounted to nothing more than utilizing Ohno's filter in its intended manner, *i.e.*, providing the SCR catalyst coated filter in a system such that the SCR catalysts would catalyze the reduction of NO_x with the ammonia as a part of an exhaust treatment system.

The Patent Owner, however, fails to properly address the rejection made in the ACP by arguing that Tennison teaches a system wherein the filter is positioned downstream of the SCR catalyst filter. Ohno teaches a SCR catalyst coated filter, and thus, the order of the SCR catalyst and filter in the system of Tennison is irrelevant to the question of whether it would have been obvious to provide an oxidation catalyst and ammonia injector upstream of the SCR catalyst coated filter of Ohno. The ACP properly rejects the Patent Owner's previously submitted spurious arguments with respect to the order of components in the system of Tennison, and should continue to do so.

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