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24959	7590	11/16/2016	EXAMINER	
PPG Industries, Inc. IP Law Group One PPG Place 39th Floor Pittsburgh, PA 15272			BLACKWELL, GWENDOLYN	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* YOUSSEF MOUSSA and CLAUDIA KNOTTS<sup>1</sup>

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Appeal 2015-006494  
Application 13/113,130  
Technology Center 1700

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Before BRADLEY R. GARRIS, CHUNG K. PAK, and N. WHITNEY  
WILSON, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134, Appellants appeal from the Examiner's rejections under 35 U.S.C. § 103(a) of claims 1, 19, and 20 as unpatentable over Cinoman (US 2007/0260003 A1, published Nov. 8, 2007) in view of Groen (WO 02/072664 A1, published Sept. 19, 2002 alone (Non-final Action 2, 3, 6) or in combination with Sadvary (US 2002/0086168 A1, published Jul. 4, 2002) (*id.* at 7, 8, 11) and claims 2–18 as unpatentable over

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<sup>1</sup> PPG Industries Ohio, Inc. is identified as the real party in interest. App. Br. 1.

these references alone or in combination with an additional prior art reference (*see generally id.* at 2–11). We have jurisdiction under 35 U.S.C. § 6.

We AFFIRM.

Appellants claim a liquid coating composition comprising a resinous binder and up to 10% by weight of a phosphatized polyester (independent claim 1).

A copy of representative claim 1, taken from the Claims Appendix of the Appeal Brief, appears below.

1. A liquid coating composition comprising:
  - (a) a resinous binder,
  - (b) up to 10 percent by weight of a phosphatized polyester comprising a reaction product comprising:
    - (i) a polyester having an Mn of 2000 to 10,000, a hydroxyl number of 20 to 75, and an acid value of 15 to 25; the polyester comprising a polycondensate of:
      - (A) a polyol component comprising a mixture of diols and triols,
      - (B) a polyacid component comprising an alpha, beta-ethylenically unsaturated polycarboxylic acid, and
    - (ii) a phosphorus acid.

Appellants present arguments specifically directed to claims 1, 19, and 20 only (App. Br. 2–5). Therefore, claims 2–18 will stand or fall with their parent claims, of which claim 1 is representative.

We sustain the § 103 rejections before us for the reasons expressed in the Non-final Action, the Answer, and below.

The Examiner finds that Cinoman discloses a powder coating composition having the claim 1 ingredients (Non-final Action 2–3) “formed by mixing the composition in an aqueous solution (paragraph 0071) thus forming an initial liquid coating composition [as claimed]” (*id.* at 3).

Appellants do not dispute that Cinoman teaches mixing a powder composition with solvent but argue that “[t]he solvent borne mixture of Cinoman, however, is not a liquid coating composition” (App. Br. 3) and that “[o]ne skilled in the art would appreciate that a powder coating composition and a liquid coating composition are quite distinct” (*id.*).

Appellants’ argument is not persuasive because insufficient evidence has been offered in support thereof. For example, Appellants do not identify any disclosure in their Specification that supports interpreting the claim 1 phrase “liquid coating composition” as excluding Cinoman’s “aqueous or solvent dispersion or suspension” (Cinoman ¶ 71). On the other hand, an opposite interpretation is supported, for example, by the Specification teachings that “[t]ypically, the coating composition will contain a diluent, such as water, or an organic solvent or a mixture of water and organic solvent to dissolve or disperse the resinous binder and the phosphated polyester” (Spec. ¶ 37) and that “the resulting phosphatized polyester resin was then dissolved in the 2-butoxyethanol and monobutyl ether of diethylene glycol to produce a composition that was about 50% by weight solids” (*id.* at ¶ 54).

In the alternative rejection of claim 1 based on Cinoman, Groen, and Sadvary, the Examiner concludes that it would have been obvious to formulate the coating composition of Cinoman as a liquid coating composition in view of Sadvary's teaching that their compositions can be formulated as liquid or powder coating compositions (Non-final Action 8 (citing Sadvary ¶ 209)).

Appellants contest this rejection by contending "[t]hat Sadvary teaches his coating components are suitable for formulation into either liquid or powder coatings does not mean that the Cinoman components could be, as suggested by the Examiner" (App. Br. 5).

Appellants' contention is not embellished with any explanation why Cinoman's composition could not be formulated as a liquid coating composition by one having ordinary skill in this art. For this reason, Appellants' unembellished contention fails to reveal reversible error in the Examiner's obviousness conclusion.

Finally, concerning dependent claims 19 and 20, the Examiner finds that Cinoman teaches bisphenol A and its derivatives are optional additives and therefore, would have suggested compositions that are substantially free or completely free of such additives as required by these claims (Non-final Action 6, 11).

Appellants argue "[n]either Cinoman nor the other cited references appreciate the significance of having coating composition substantially free

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or completely free of BPA and its derivatives, and as such none of the references teach or anticipate such a coating composition” (App. Br. 5).

Appellants do not dispute the Examiner’s finding that Cinoman teaches bisphenol A and its derivatives are optional additives, and do not explain why this teaching fails to suggest compositions without such additives. Under these circumstances, Appellants’ argument does not show error in the Examiner’s rejection of claims 19 and 20.

The decision of the Examiner is affirmed.

#### TIME PERIOD

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED