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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/443,862	05/19/2015	Cecile Ratschow	3321-P50214	2092
13897	7590	06/22/2020	EXAMINER	
Abel Schillinger, LLP 5929 Balcones Drive Suite 300 Austin, TX 78731			HAVLIN, ROBERT H	
			ART UNIT	PAPER NUMBER
			1639	
			NOTIFICATION DATE	DELIVERY MODE
			06/22/2020	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* CECILE RATSCHOW, CHRISTIANE MEYER,  
JANINA UHLEN, HEIKE LERG, and BENTE NISSEN

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Appeal 2019-005894  
Application 14/443,862  
Technology Center 1600

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Before RICHARD M. LEOVITZ, FRANCISCO C. PRATS, and  
ELIZABETH A. LAVIER, *Administrative Patent Judges*.

PRATS, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 16 and 18–36. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant states that the real party in interest is Beiersdorf AG of Hamburg, Germany. Appeal Br. 3.

## STATEMENT OF THE CASE

The following rejections are before us for review:

(1) Claims 16 and 18–36 under pre-AIA 35 U.S.C. § 112, second paragraph, as being indefinite (Ans. 9–11);

(2) Claims 16, 18, 19, 21, and 24–35 under pre-AIA 35 U.S.C. § 102(b) as being anticipated by Kruse<sup>2</sup> (Ans. 4–5);

(3) Claims 16, 18, 19, 21–24, and 26–35 under pre-AIA 35 U.S.C. § 102(b) as being anticipated by Kallmayer<sup>3</sup> (Ans. 5–6); and

(4) Claims 16 and 18–36 under 35 U.S.C. § 103(a) as being unpatentable over Kallmayer (Ans. 6–9).

Appellant’s claim 16, the sole independent claim on appeal, is representative and reads as follows:

16. A hydrodispersion, wherein the hydrodispersion exhibits at least one melting range between 5° C and 30° C by DSC and comprises, based on a total mass of the dispersion:

- (a) water,
- (b) from 0.05 % to 5 % by weight of at least one thickener,
- (c) from 2 % to 20 % by weight of one or more waxes, at least one wax having a melting point  $T_{\text{onset}}$  below 30°C, and
- (d) from 0 % to 20 % by weight of one or more oils.

Appeal Br. 15.

## INDEFINITENESS

### *The Examiner’s Rejections*

The Examiner determined that Appellant’s claims are indefinite for three reasons: (1) the use of “and/or” in a serial list of ingredients including

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<sup>2</sup> EP 1 889 596 A1 (published July 21, 2001) (as translated).

<sup>3</sup> US 2008/0089913 A1 (published Apr. 17, 2008).

“derivatives thereof” renders the claims unclear, (2) the claims recite open-ended Markush groups, and (3) when the claims are read in light of the Specification, the amount of emulsifiers encompassed by the term “hydrodispersion” is unclear. Ans. 9–11. We reverse these rejections.

“and/or”

The Examiner contends that “the [and/or] language [in claim 18] is unclear if ‘homopolymers or copolymers’ applies only to ‘acrylic acid’ or also ‘acrylamide’. Furthermore, the claim is unclear what ‘derivatives thereof’ refers to.” Ans. 9; *see also id.* at 17–20. We are not persuaded.

Appellant’s claim 18 requires thickener component (b) of claim 16 to include at least one substance selected from a list of specifically enumerated substances. *See* Appeal Br. 20. Among the substances listed in claim 18 are “homopolymers or copolymers of acrylic acid *and/or* acrylamide *and derivatives thereof*.” *Id.* (emphasis added). Claim 19, which depends from claim 18 includes similar language. *Id.*

We find it sufficiently clear that thickener component (b) of claims 18 and 19 may be a homopolymer of acrylic acid, a copolymer that contains acrylic acid as one of the polymer’s components, a homopolymer of acrylamide, a copolymer that contains acrylamide as one of the polymer’s components, homopolymers and copolymers composed of derivatives of either or both of acrylic acid and acrylamide, and derivatives of any of those polymers. Although the “and/or” and “derivatives thereof” language might render the claims fairly broad, it is extremely well settled that “breadth is not to be equated with indefiniteness.” *In re Miller*, 441 F.2d 689, 693 (CCPA 1971).

Accordingly, because we find that claims 18 and 19 are sufficiently clear as to their scope, we reverse the Examiner's indefiniteness rejection of those claims based on the "and/or" and "derivatives thereof" recitations in the claims.

*Open-ended Markush Group*

The Examiner contends that Appellant's claims 18, 19, 24, and 25 recite improper Markush groups that require correction. *See* Ans. 10. We are not persuaded.

Claim 18 recites "[t]he hydrodispersion of claim 16, wherein [thickener component] (b) comprises at least one substance selected from" a list of specifically enumerated substances. Appeal Br. 20. Claim 19 contains essentially the same language, but includes a different list. *See id.*

Claim 24 recites "[t]he hydrodispersion of claim 16, wherein the at least one wax [component (c)] . . . is selected from" a list of specifically enumerated substances, as well as combinations of the listed substances. Appeal Br. 21.

Claim 25 recites "[t]he hydrodispersion of claim 16, wherein the at least one wax [component (c)] . . . comprises at least one of" a list of specifically enumerated substances. Appeal Br. 21.

We find it sufficiently clear that, although the thickener component (b) and wax component (c) may include other substances, components (b) and (c) must contain at least one of the substances enumerated, respectively, in claims 18, 19, 24, and 25. Because we find the scope of claims 18, 19, 24, and 25 clear, we reverse the Examiner's rejection of those claims for indefiniteness.

*“Hydrodispersion”*

In rejecting Appellant’s claims for indefiniteness, the Examiner determined that when the claims are read in light of the Specification, the amount of emulsifiers encompassed by the term “hydrodispersion” is unclear. Ans. 10–11. We are not persuaded.

As the Examiner found, Appellant’s Specification states as follows:

Hydrodispersions are dispersions of a liquid, semisolid or solid inner (discontinuous) lipid phase in an outer aqueous (continuous) phase. Hydrodispersions - like emulsions too, which feature a similar phase arrangement - are metastable systems and therefore have a tendency to be converted to a state with two intrinsically coherent discrete phases. In a conventional O/W [oil-in-water] emulsion, the choice of a suitable emulsifier prevents phase separation. In contrast to conventional emulsions, hydrodispersions, however, contain only very small amounts of emulsifier (up to 2% by weight) or may even be entirely free of emulsifiers.

Spec. 1.

As the Examiner found, Appellant’s Specification also states that “[t]hickeners, which may under some circumstances also have emulsifying properties, however, are not counted among the emulsifiers that are to be excluded, since the main function thereof is not that of an emulsifier.” Spec. 12.

As noted above, Appellant’s representative claim 16 recites a hydrodispersion that contains from 0.05% to 5% by weight of at least one thickener. Appeal Br. 20.

Thus, viewing claim 16 in light of the Specification, we conclude that the broadest reasonable interpretation, consistent with the Specification, of the term “hydrodispersion” is a composition that contains a liquid, semisolid, or solid inner discontinuous lipid phase dispersed in an outer

aqueous continuous phase, the composition containing no more than 2% by weight of an emulsifier, or no more than 5% by weight of an emulsifier that also has thickening properties.

Accordingly, because we find that viewing the claims in light of the Specification informs skilled artisans of the scope of “hydrodispersion” with reasonable certainty and clarity, the Examiner does not persuade us that the claims are indefinite based on that term. *See Nautilus, Inc. v. Biosig, Instruments, Inc.*, 572 U.S. 898, 910 (2014) (“[A] patent’s claims, viewed in light of the specification and prosecution history, [must] inform those skilled in the art about the scope of the invention with reasonable certainty. The definiteness requirement, so understood, mandates clarity, while recognizing that absolute precision is unattainable.”); *In re Packard*, 751 F.3d at 1310, 1314 (Fed. Cir. 2014) (A claim does not comply with 35 U.S.C. § 112, second paragraph, “when it contains words or phrases whose meaning is unclear.”). We therefore also reverse the Examiner’s rejection for indefiniteness based on the term “hydrodispersion.”

#### ANTICIPATION—KRUSE

The Examiner found that Kruse describes “non emulsifier cosmetic oil-in-water compositions (a hydrodispersion)” that contain the following ingredients:

“water . . . corresponding to claim 16 limitation (a)”;

“0.5 or 0.3 wt.% of the thickener xanthan gum . . . corresponding to claim 16 limitation (b)”;

“waxes, e.g., hydrogenated coco-glycerides and shea butter . . . within the range of 1-10 wt% . . . corresponding to claim 16 limitation (c)”;

“light oils . . . within the range 5-15 wt.% and preferably 10-12 wt.% based on the total weight . . . corresponding to claim 16 limitation (d)”

Ans. 5.

Appellant contends that the Examiner erred in determining that Kruse’s compositions are hydrodispersions as recited in Appellant’s representative claim 16. Appeal Br. 8–9; Reply Br. 2–3. In particular, Appellant contends that because Kruse (1) never mentions hydrodispersions, (2) uses the term “emulsion” instead of “hydrodispersion” in connection with its compositions, and (3) discloses that its exemplified compositions include emulsifiers, the compositions described by Kruse are emulsions rather than hydrodispersions. Appeal Br. 8–9; Reply Br. 2–3. We are not persuaded.

A prior art reference can anticipate a claimed invention even though it describes the claimed subject matter using terminology different than used in the claims. *See In re Gleave*, 560 F.3d 1331, 1334 (Fed. Cir. 2009) (Although “the reference must disclose each and every element of the claimed invention . . . arranged or combined in the same way as in the claim, the reference need not satisfy an *ipsissimis verbis* test.”) (internal quotations and citation omitted).

In the present case, it is undisputed that Kruse describes compositions that have each and every ingredient recited in claim 16, in the amounts claimed. In addition, Kruse describes its compositions as “oil-in-water formulations” (Kruse ¶ 1), a structural arrangement of the lipid and aqueous components of the composition that is the same as the arrangement of those components in a hydrodispersion. *See Spec. 1* (hydrodispersions have an “inner (discontinuous) lipid phase in an outer aqueous (continuous) phase”).

And, while Kruse in certain instances describes its compositions as “emulsions” (Kruse ¶ 10), and discloses that its compositions may “[a]dvantageously” include emulsifiers (*id.* ¶ 25), it is undisputed that Kruse’s examples include compositions containing no more than 2% of an emulsifier. *See* Appeal Br. 8 (noting that Kruse’s examples include compositions with “at least 2 % by weight” emulsions). As noted above, Appellant’s Specification states that hydrodispersions can include up to 2% emulsifiers. *See* Spec. 1.

Thus, on the current record, Kruse describes compositions that have each and every ingredient recited in claim 16 which are present in the amounts recited in claim 16, and where the ingredients have the structural arrangement required by claim 16. Accordingly, the fact that Kruse does not use the term hydrodispersion to describe its compositions, and in certain instances describes its compositions as emulsions, does not persuade us that the Examiner erred in finding that Kruse’s compositions anticipate the compositions of Appellant’s claim 16. *See Gleave*, 560 F.3d at 1334 (“[T]he reference need not satisfy an *ipsissimis verbis* test.”).

Appellant contends that the Examiner “has not identified a single composition, let alone a single specific composition, encompassed by the disclosure of KRUSE which can reasonably be assumed to necessarily be a hydrodispersion, and in particular, a hydrodispersion which exhibits at least one melting range between 5° C and 30° C by DSC.” Reply Br. 3.

We are not persuaded. As our reviewing court has explained, “a reference need not always include an express discussion of the actual combination to anticipate. Instead, a reference may still anticipate if that reference teaches that the disclosed components or functionalities may be

combined and one of skill in the art would be able to implement the combination.” *Blue Calypso, LLC v. Groupon, Inc.*, 815 F.3d 1331, 1344 (Fed. Cir. 2016) (citation omitted); *see also Gleave*, 560 F.3d at 1334 (“As long as the reference discloses all of the claim limitations and enables the subject matter that falls within the scope of the claims at issue, the reference anticipates—no actual creation or reduction to practice is required.”) (internal quotations omitted); *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1369 n.5 (Fed. Cir. 2008) (The inquiry is “not constrained to proceed example-by-example when reviewing an allegedly anticipating prior art reference. Rather, the [reviewer] must, *while looking at the reference as a whole*, conclude whether or not that reference discloses all elements of the claimed invention arranged as in the claim.”) (emphasis added).

Appellant also does not persuade us that the Examiner erred in finding that the compositions described in Kruse necessarily meet claim 16’s requirement that the claimed hydrodispersions exhibit at least one melting range between 5° C and 30° C by DSC. *See* Appeal Br. 9–10; Reply Br. 3.

As stated in *In re Best*, 562 F.2d 1252, 1254–55 (CCPA 1977) (quoting *In re Swinehart*, 439 F.2d 210, 212–13 (CCPA 1971)):

[W]here the Patent Office has reason to believe that a functional limitation asserted to be critical for establishing novelty in the claimed subject matter may, in fact, be an inherent characteristic of the prior art, it possesses the authority to require the applicant to prove that the subject matter shown to be in the prior art does not possess the characteristic relied on.

In the present case, as noted above, Kruse describes compositions that have each and every ingredient recited in claim 16, in the amounts recited in claim 16, the ingredients having the structural arrangement required by claim 16. Appellant does not persuade us, therefore, that the Examiner

lacked a reasonable basis for finding that Kruse's compositions inherently exhibit a melting range encompassed by claim 16.

Appellant does not persuade us, moreover, that it has met its burden of proving that Kruse's compositions do not have a melting range encompassed by claim 16. In particular, Appellant's exemplified compositions that meet claim 16's melting range have a number additional ingredients beyond those recited in claim 16. *See* Spec. 9–10 (Examples 1 and 2); *see also id.* at 16–17 (disclosing UV filters and other cosmetic auxiliaries suitable for inclusion in compositions of Appellant's invention). Thus, the fact that Kruse's exemplified compositions contain a significant number of ingredients in addition to those specified in claim 16 does not persuade us that Kruse's compositions do not have a melting range encompassed by claim 16. *See* Appeal Br. 10. Appellant did not establish that such additional ingredients would change the melting point, when their own examples suggest that they would not.

In sum, Appellant does not advance any specific persuasive evidence demonstrating that the Examiner was unreasonable in finding that Kruse's compositions inherently exhibit a melting range encompassed by claim 16. Appellant does not persuade us, therefore, that the Examiner erred in finding that Kruse's compositions meet claim 16's melting range limitation.

Appellant also does not persuade us that the Examiner erred in looking to Appellant's definition of hydrodispersion on page 1 of the Specification to determine whether claim 16 encompasses Kruse's compositions. *See* Appeal Br. 10–11; *see also In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997) (During examination the PTO interprets terms in a claim using “the broadest reasonable meaning of the words in their ordinary

usage as they would be understood by one of ordinary skill in the art, *taking into account whatever enlightenment by way of definitions* or otherwise that may be afforded by the written description contained in the applicant's specification.”) (emphasis added).

In the present case, as discussed above, Appellant's Specification states expressly that “[h]ydrodispersions are dispersions of a liquid, semisolid or solid inner (discontinuous) lipid phase in an outer aqueous (continuous) phase” which can contain “very small amounts of emulsifier (up to 2% by weight).” Spec. 1. As discussed above, Kruse describes compositions that meet the requirements of the definition of hydrodispersion set forth on page 1 of Appellant's Specification. And, as also discussed above, Kruse describes compositions that have each of the ingredients recited in the hydrodispersion of Appellant's claim 16, in the amount required by the claim. Appellant does not persuade us, therefore, that the Examiner erred in finding that Kruse's compositions anticipate the hydrodispersions recited in Appellant's claim 16.

Accordingly, we affirm the Examiner's rejection of claim 16 as being anticipated by Kruse. Claims 18, 19, 21, and 24–35 fall with claim 16. *See* 37 C.F.R. 41.37(c)(1)(iv).

#### ANTICIPATION—KALLMAYER

The Examiner cited Example 6 of Kallmayer as anticipating Appellant's claims 16, 18, 19, 21–24, and 26–35. Ans. 5–6.

Example 6 of Kallmayer is reproduced below:

Example 6

Hydrodispersion/Gel Cream

[0275]

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Cetyl alcohol	2
Shea butter	1
Caprylic/capric triglyceride	2
Octyldodecanol	1
Octamethyltetrasiloxane (cyclomethicone)	5
Dimethylpolysiloxane (dimethicone)	1
Polydecene	2
Ethylhexyl methoxycinnamate	3
Bisethylhexyloxyphenol methoxyphenyltriazine	0.5
Sodium ascorbyl phosphate	0.05
Iminodisuccinate	0.2
Ubiquinone	0.05
Phenoxyethanol	0.3
p-Hydroxybenzoic alkyl ester (parabens)	0.4
Crosslinked alkyl acrylate (alkyl acrylate crosspolymer)	0.2
Glycerol	5
Perfume	q.s.
Water	ad 100

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Appellant does not dispute that Kallmayer's Example 6 is a hydrodispersion, nor does Appellant dispute that Kallmayer's Example 6 contains all of the ingredients recited in Appellant's representative claim 16, in the amounts required by claim 16. Rather, Appellant contends that the Examiner erred in finding that the hydrodispersion of Kallmayer's Example 6 necessarily meet claim 16's requirement for the claimed hydrodispersion to exhibit at least one melting range between 5° C and 30° C by DSC. *See* Appeal Br. 12–13. We are not persuaded.

Because Example 6 of Kallmayer describes a hydrodispersion that has each and every ingredient recited in claim 16, in an amount encompassed by

claim 16, the Examiner had a reasonable basis for finding that Kallmayer's hydrodispersion inherently has a melting range encompassed by claim 16. Because the Examiner had a reasonable basis for finding that Kallmayer's hydrodispersion inherently meets claim 16's melting range limitation, the burden shifted to Appellant to prove that Kallmayer's hydrodispersion does not meet that limitation. *See In re Best*, 562 F.2d at 1254–55.

We are not persuaded that Appellant has met that burden. In particular, Appellant's exemplified compositions that meet claim 16's melting range have a number additional ingredients beyond those recited in claim 16. *See Spec. 9–10* (Examples 1 and 2); *see also id.* at 16–17 (disclosing UV filters and other cosmetic auxiliaries suitable for inclusion in compositions of Appellant's invention). Thus, the fact that the hydrodispersion of Kallmayer's Example 6 contains a significant number of ingredients in addition to those specified in claim 16 does not persuade us that Kallmayer's hydrodispersion does not have a melting range encompassed by claim 16. *See Appeal Br. 12*. Appellant did not establish that such additional ingredients would change the melting point, when their own examples suggest that they would not.

We acknowledge that none of comparative hydrodispersions A, B, and C described at page 9 of Appellant's Specification meet the melting range limitation of claim 16. *See Appeal Br. 13*. Unlike the hydrodispersion of Example 6 of Kallmayer, however, none of comparative hydrodispersions A, B, and C has all of the ingredients recited in claim 16, in the amounts recited in the claim. Thus, the fact that comparative hydrodispersions A, B, and C described at page 9 of Appellant's Specification do not meet claim

16's melting range limitation does not persuade us that the hydrodispersion of Example 6 of Kallmayer does not meet that limitation.

In sum, for the reasons discussed, Appellant does not persuade us of error in the Examiner's finding that Kallmayer anticipates Appellant's representative claim 16. We therefore affirm the Examiner's rejection of claim 16 as anticipated by Kallmayer. Claims 18, 19, 21–24, and 26–35 fall with claim 16. *See* 37 C.F.R. 41.37(c)(1)(iv).

#### OBVIOUSNESS—KALLMAYER

In rejecting claims 16 and 18–36 for obviousness in view of Kallmayer, the Examiner again cited Example 6 of Kallmayer as the focus of the rejection. Ans. 7. In addition to the ingredients in the hydrodispersion of Example 6, the Examiner cited Kallmayer as teaching “polyacrylates (which generically include sodium polyacrylate) ([0183]) and coco butter ([0080]) as within the scope of the invention and that the hydrodispersion filling may comprise ‘all substances . . . known in cosmetics’ and ‘additives which are naturally known to the person skilled in the art’ ([0081]-[0083]).” *Id.* at 7–8.

The Examiner found that Kallmayer differs from the claims rejected for obviousness in “the specific selection of excipients.” Ans. 8.

The Examiner concluded that compositions encompassed by the rejected claims nonetheless would have been obvious because a skilled artisan “would routinely optimize the components to improve the physical properties including melting point to match the cosmetic utility such as by substituting coco butter and sodium polyacrylate.” Ans. 8; *see also id.* at 9 (“Because optimizing the components of a skin cream is routinely employed

in implementing pharmaceutical compositions similar to those claimed here, the application of the same technique is obvious.”).

Appellant contends, for a number of reasons, that the Examiner erred in concluding that the hydrodispersion of claim 16 would have been obvious in view of Kallmayer. Appeal Br. 13–15; Reply Br. 4–5.

As discussed above, however, we agree with the Examiner that Example 6 of Kallmayer anticipates claim 16. We therefore affirm the Examiner’s rejection of claim 16 for obviousness over Kallmayer. *See In re McDaniel*, 293 F.3d 1379, 1385 (Fed. Cir. 2002) (“It is well settled that ‘anticipation is the epitome of obviousness.’”) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983)). Because they were not argued separately, claims 18, 19, 21–24, and 26–35 fall with claim 16. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Appellant contends that the Examiner erred in concluding that a skilled artisan would have considered it obvious to include sodium polyacrylate, as recited in Appellant’s claims 20 and 36, in Kallmayer’s hydrodispersion compositions. Appeal Br. 16; Reply Br. 5. We are not persuaded.

As the Examiner found, Kallmayer teaches that “polyacrylates” may be included in the filler component of its compositions, which corresponds to the hydrodispersion of Example 6. Kallmayer ¶¶ 183, 194.

Appellant’s Specification discloses that sodium polyacrylate was a commercially available polyacrylate. *See* Spec. 6 (“Very particular preference is given to polyacrylates having the INCI name Sodium Polyacrylate, for example that obtainable under the Cosmedia SP trade name from Cognis.”).

Given Kallmayer's teaching that polyacrylates in general were useful to include in the filler component of its compositions, Appellant does not persuade us that the Examiner erred in concluding that it would have been obvious to use known polyacrylates, including sodium polyacrylate, in Kallmayer's hydrodispersion compositions. *See KSR Int'l v. Teleflex Inc.*, 550 U.S. 398, 421 (2007) ("When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp.").

Accordingly, because Appellant does not persuade us that the Examiner erred in concluding that it would have been obvious to include sodium polyacrylate, as recited in Appellant's claims 20 and 36, in Kallmayer's hydrodispersion compositions, we affirm the Examiner's rejection of those claims over Kallmayer.

Appellant contends that the Examiner erred concluding that it would have been obvious to include at least one of the waxes recited in Appellant's claim 25 in Kallmayer's hydrodispersion compositions. *See Appeal Br. 16.*

The Examiner responds that "Kallmayer teaches shea butter in the hydrodispersion of Example 6 and one of ordinary skill in the art would reasonably consider alternative 'natural fats and waxes' such as coco butter and cetearyl alcohol and arrive at the claimed invention." *Ans. 16.*

In its Reply Brief, Appellant does not assert error in the Examiner's determination that it would have been obvious to substitute alternative natural fats and waxes for the shea butter component of the hydrodispersion of Kallmayer's Example 6. As the Examiner found, moreover, Kallmayer discloses including fats, oils, and waxes in the filling of its preparation

(Kallmayer ¶ 83) and includes cocobutter, as recited in Appellant’s claim 25, alongside shea butter as a natural fat useful in its invention. *See id.* ¶ 80.

We note, moreover, that Kallmayer discloses including cetearyl alcohol and hydrogenated cocoglycerides, both recited in claim 25, as a wax ingredient of the filler component of its cosmetic preparations. *See id.* ¶ 274. Because Appellant does not persuade us, therefore, that the Examiner erred in concluding that the hydrodispersion recited in Appellant’s claim 25 would have been obvious in view of Kallmayer, we affirm the Examiner’s rejection of claim 25 over Kallmayer.

## CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
16, 18–36	112, second paragraph	Indefiniteness		16, 18–36
16, 18, 19, 21, 24–35	102(b)	Kruse	16, 18, 19, 21, 24–35	
16, 18, 19, 21–24, 26–35	102(b)	Kallmayer	16, 18, 19, 21–24, 26–35	
16, 18–36	103(a)	Kallmayer	16, 18–36	
<b>Overall Outcome</b>			16, 18–36	

Appeal 2019-005894  
Application 14/443,862

**TIME PERIOD FOR RESPONSE**

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

**AFFIRMED**