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**D E C I S I O N**  
**of 8 March 2005**

**Case Number:** T 0429/01 - 3.3.6

**Application Number:** 92202764.4

**Publication Number:** 0534525

**IPC:** C11D 17/06

**Language of the proceedings:** EN

**Title of invention:**

Detergent powders and process for preparing them

**Patentee:**

UNILEVER N.V., et al

**Opponent:**

The Procter & Gamble Company

**Headword:**

Effervescent detergent powders/UNILEVER

**Relevant legal provisions:**

EPC Art. 54, 56

**Keyword:**

"Inventive step - yes"

**Decisions cited:**

-

**Catchword:**

-



Case Number: T 0429/01 - 3.3.6

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.6  
of 8 March 2005

**Appellant:** The Procter & Gamble Company  
(Opponent) One Procter & Gamble Plaza  
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**Representative:** -

**Respondents:** UNILEVER N.V.  
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and

UNILEVER PLC  
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**Representative:** Waldren, Robin Michael  
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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
30 March 2001 concerning maintenance of  
European patent No. 0534525 in amended form.

**Composition of the Board:**

**Chairman:** P. Krasa  
**Members:** P. Ammendola  
J. H. Van Moer  
G. Dischinger-Höppler  
U. J. Tronser

## Summary of Facts and Submissions

I. This appeal is from the interlocutory decision of the Opposition Division concerning the maintenance in amended form of European patent No. 0 534 525 according to the then pending main request of the Patent Proprietors.

II. The Opponent had sought revocation of the patent in suit on the grounds of lack of novelty and of inventive step (Article 100(a) in combination with Articles 52(1), 54 and 56 EPC) and insufficiency of disclosure (Article 100(b) and 83 EPC). During the opposition proceedings it cited, *inter alia*, the following documents:

Document (1) = English translation of JP 62 62899,

Document (7) = "*Low temperature Bleaching Systems*" A. Smith *et al.*, in "*Proceedings of the Second World Conference on Detergents*", AOC-Society, 1987, pages 177-180,

Document (8) = GB-A-1 515 299,

and filed several pieces of evidence referring to two alleged prior uses.

III. The Opposition Division had found *inter alia* that the subject-matter of the then pending main request of the Proprietors was sufficiently disclosed in view of Article 83 EPC, novel and non-obvious for the skilled person aiming at improving the dispensability of the compositions of the prior art disclosed in Document (1).

IV. The Opponent (hereinafter Appellant) lodged an appeal against this decision. During the appeal proceedings it filed, *inter alia* the two sets of experimental data D16 and D19. Those labelled D16 refer to dispensability tests carried on freshly prepared and stored detergent compositions comprising *inter alia* citric acid (hereinafter CA), carbonate and a perborate bleach, whereby the compared compositions differ only in the size of the used CA particulate. In the experiments of D19 the dispensability tests have been carried out instead on compositions comprising as bleach sodium percarbonate (hereinafter SPC) as well as CAs of different particle size, carbonate and other ingredients.

V. The Proprietors (hereinafter Respondents) filed

- under cover of a letter dated 22 April 2002 three sets of amended claims as main request and first and second auxiliary request and
- under cover of a letter dated 21 January 2005 further five sets of amended claims as third to seventh auxiliary requests.

They also filed experimental data, labelled as D20 referring to dispensability tests carried on freshly prepared and stored detergent compositions comprising *inter alia* CA, carbonate and SPC bleach and differing only in the size of the CA particulate used.

VI. The main request of the Respondents comprises eight claims. The independent claims 1 and 8 read:

"1. Granular detergent composition having a bulk density of from 650 to 1100 kg/m<sup>3</sup> and comprising anionic and/or nonionic surfactants, from 5 to 30% by weight of sodium carbonate and/or -bicarbonate and/or -sesquicarbonate, other builder material, a bleach component which is sodium percarbonate, and from 2 to 15% by weight of particulate citric acid as a separate granular component, whereby more than 80% by weight of the citric acid has a particle size which is in the range of from 350 to 1500  $\mu$ m."

"8. Process for preparing the composition of Claim 1, wherein the citric acid is added as a separate granular component to a granular detergent base composition."

The dependent claims 2 to 7 refer to preferred embodiments of claim 1.

VII. At the oral proceedings held before the Board on 8 March 2005, the Appellant, after having initially indicated that the subject-matter of claim 1 of the Respondents' main request could be anticipated by the prior art disclosed in Document (1), eventually confined himself to maintain that the skilled person starting from this prior art would have arrived at the claimed invention without exercising inventive activity.

In its reasoning on inventive step it referred initially also to the alleged prior uses, in particular for demonstrating that high bulk density detergent compositions comprising CA in combination with carbonate were already known to the skilled person at the priority date of the patent in suit. However, after the Respondents' indication at the oral proceedings that this was already acknowledged in the patent in suit, the Appellant no longer referred to these prior uses.

It presented the following arguments against the credibility of the disclosure in the patent in suit in respect of the technical advantage actually provided by the subject-matter of the claims of the present main request vis-à-vis the prior art.

- a) The dispensability of the detergent compositions disclosed in the examples of the patent in suit had been evaluated by an unreliable testing method, as was evident from the fact that the percentages of undissolved composition varied extremely during storage and/or after even minimal compositional changes. Therefore, the examples of the patent in suit could not provide any sound information as to the advantage of the invention and had to be disregarded.
  
- b) The examples of the patent in suit were contradicted by the comparison among the experimental data of D16 and D19 demonstrating that the dispensability achieved using compositions comprising perborate bleach would be

at least equivalent to that observed when using SPC bleach.

- c) The Respondents had admitted in paragraph 5.1.4 of their letter dated 22 April 2002 that the low dispensability according to the data of D16 would be commercially unacceptable, thereby implicitly recognising that perborate-containing compositions embraced by the claims of the patent as granted would not display the advantageous dispensability after storage mentioned in the patent in suit. This was also confirmed by the fact that the Respondents had finally limited the subject-matter of the main request to SPC-containing compositions, with the evident intention of depriving the relevance of these experimental data.
- d) In view of the Respondents' own evaluation that the dispensability values of D16 were commercially unacceptable, the data of example 32 in D20 additionally suggested that the technical advantage alleged in the patent in suit would not be achieved over the whole range of claimed compositions.
- e) The patent in suit provided no explicit indication that the SPC bleach could additionally contribute to the achievement of the improved dispensability after storage of the composition of the invention, the only disclosed reason for preferring SPC being environmental protection (see page 4, line 30). Nor could the unreliable results of the examples of the patent in suit represent credible evidence

for the SPC contributing to an improved dispensability. Nor could the data of D20 be considered a comparison vis-à-vis the compositions disclosed in Document (1). Hence, the Respondents had provided no credible evidence that the presently claimed compositions would actually display the alleged superior dispensability after storage vis-à-vis the prior art.

The Appellant agreed with the Respondents, however, that no standard method for testing dispensability was generally recognised in the technical field of detergents and, therefore, that each producer had freely selected a testing apparatus and developed its own protocol for evaluating this property. It conceded, therefore, that dispensability values measured according to different protocols could not be directly compared.

The Appellant, having maintained that the improved dispensability of the claimed compositions alleged in the patent in suit would not be credible, argued that the subject-matter of claim 1 of the Respondents' main request amounted to an arbitrarily selected group of further embodiments of the compositions generically defined in Document (1).

It further argued that a skilled person would have in any case preferred SPC, rather than e.g. perborate, among the possible bleaches disclosed in Document (1), because of its notorious solubility in cold water, as evident also from Documents (7) and (8).



It also presented several arguments aiming at demonstrating that a skilled person carrying out the explicit teachings of Document (1) would have arrived at detergent compositions comprising a commercially available CA free from fines without exercising any inventive activity.

VIII. The Respondents stressed that dispensability values measured on samples prepared for a laboratory test would not be representative of the actual level of dispensability of the optimised commercial detergent compositions corresponding to such samples, and maintained that their own statement in paragraph 5.1.4 of the letter dated 22 April 2002 would not deserve much attention.

They conceded that the use of carbonate and CA in high bulk density detergent compositions was already known at the priority date of the patent in suit and that the data of D20 would not represent a comparison in respect of the compositions actually disclosed in Document (1).

The Respondents maintained, however, also that the experimental evidence provided by the Appellant would not encompass embodiments of the prior art actually disclosed in Document (1). They concluded, therefore, that the data of D16 and D19 would also be irrelevant.

The Respondents refuted the Appellant's objections as to the credibility of the advantage of the invention stated in the patent in suit and concluded that the skilled person could not foresee that the dispensability after storage of the compositions of Document (1) could be improved selecting within the

generic teachings in this citation the CA of a specific particle size distribution as organic acid and the SPC as bleach.

- IX. The Appellant requested that the decision under appeal be set aside and the patent be revoked.
- X. The Respondents requested that the decision under appeal be set aside and that the patent be maintained on the basis of any of the sets of amended claims filed as main request and first and second auxiliary request with letter of 22 April 2002 and filed as third to seventh auxiliary requests with letter of 21 January 2005.

## **Reasons for the decision**

### *Main request of the Respondents*

1. *Articles 83 and 100(b) EPC*

The Board is satisfied that the invention defined in the claims of this request complies with the requirements of Article 83 EPC. Since the Appellant has not further pursued the ground of opposition of Article 100(b) EPC, no reasons need to be given in this respect.

2. *Admissibility of the amendments in view of Articles 84 and 123(2) and (3) and of Rule 57a EPC*

The Board is satisfied that the amendments to the claims of the patent as granted resulting in the set of

claims of the present main request produce a clear restriction of the claimed subject-matter and are supported by the patent application as originally filed. The Board thus finds this request formally admissible.

Since the Appellant has raised no objection in these respects, no further reasons need to be given.

3. *Novelty of the subject-matter of claim 1*

3.1 The granular detergent compositions of present claim 1 (see above item VI) comprise *inter alia*:

- SPC bleach and
- particulate CA of given particle size distribution as a separate component.

3.2 The novelty of this claim has only been contested in respect of the prior art disclosed in Document (1).

3.3 According to the established jurisprudence of the Boards of Appeal (see the Case Law of the Boards of Appeal of the EPO, Fourth Edition, I.C.4.1.1(b)) a generic definition of a chemical composition in terms of classes of ingredients, for which individual entities in each class are exemplified in two or more lists of some length, does not render available to the skilled reader the detergent compositions resulting from the combination of several distinct selections out of these lists.

The Board notes that Document (1) mentions SPC exclusively in the (non-exhaustive) list given at page 7, lines 1 to 2, encompassing three other preferred bleaches, and CA only in the (non-exhaustive) list given in the paragraph bridging pages 4 and 5, encompassing eight other preferred organic acids as well as the anhydrides thereof. The examples in this citation contain succinic or glycolic acids as organic acid particulate and no bleach.

Therefore the Board finds that Document (1) does not disclose directly and unambiguously detergent compositions simultaneously containing both SPC and CA and, hence, that the claimed subject-matter represents a previously undisclosed selection within the group of detergent compositions generically defined in Document (1).

3.4 Accordingly, the Board concludes that the subject-matter of claim 1 is novel over the prior art and, thus, that it complies with the requirements of Article 54 EPC.

4. *Inventive step for the subject-matter of claim 1*

4.1 The Board observes that in the section headed "*Background of the invention*" at page 2 of the patent in suit it is acknowledged that high bulk density detergent compositions containing ingredients producing effervescence upon contact with water, such as carbonate and CA, were known to be dispensable from the dispensing drawer of washing machines or from in-drum detergent dosing devices. Therefore, the Board finds it unnecessary to take into consideration the alleged

prior uses referred to by the Appellant for demonstrating that these detergent compositions containing CA and carbonate were conventional (see also above item VII).

This section of the patent in suit further indicates that it was well-known that the capability of these ingredients to produce effervescence was reduced upon storage, in particular as a consequence of deactivation catalysed by ambient moisture. Therefore the technical problem underlying the invention is defined in the patent in suit (see page 2, lines 43 to 44 in combination with the preceding discussion at lines 34 to 42) as that of rendering available high bulk density effervescent detergent compositions which dispense well not only when freshly prepared, but also after prolonged storage. The parties have not disputed this.

- 4.2 The Board notes that Document (1) discloses high (bulk) density effervescent detergent compositions with improved "*dispensability-solubility*" based on alkaline carbonate and an organic acid or anhydride thereof (see page 3, lines 18 to 21, in combination with page 4, lines 4 to 8 and with the sentence bridging pages 11 and 12). Moreover, this citation explicitly indicates that the "*storage stability*" of the detergent compositions may be enhanced by using less hygroscopic and more stable organic acids, such as succinic acid, as a separate (and preferably coated) powder or granulate, (see page 5, lines 2 to 4 and 7 to 13). Since a higher "*storage stability*" can only reasonably aim at a more prolonged maintenance of the capability of the organic acid and of the carbonate to produce the effervescence aimed at, Document (1) implicitly

discloses also how to achieve a more prolonged maintenance of the "*dispensability-solubility*".

Hence, the Board concurs with the parties that the prior art disclosed in Document (1) represents the most reasonable starting point for the assessment of inventive step, because it addresses substantially the same technical problem considered in the patent in suit.

4.3 As indicated already in item 3 above, the claimed detergent compositions represent a novel selection within the group generically defined in Document (1), from which the presently claimed compositions differ at least in the selection of SPC as bleach and of CA of a given particle size distribution as organic acid.

4.4 With regard to the technical effect vis-à-vis the prior art disclosed in Document (1) possibly produced by the combination of these selections, the Board notes the statements in the granted patent (see e.g. page 2, lines 39 to 48) that the compositions of the invention display better dispensability after storage than the effervescent prior art compositions based on carbonate and CA.

Finally, the examples 3 and 4 in the patent in suit show that the compositions according to present claim 1 based on SPC display the best dispensability upon storage in comparison not only with comparative examples having the same (or even a slightly higher) content of CA of much finer particle size (i.e. comparative examples D, E, G, H and I) but also in comparison with the corresponding compositions of

examples 6 and 7 based on perborate bleach that were initially encompassed in claim 1 of the patent as granted. The Board wishes to stress that the examples 3 and 4 based on SPC and the examples 6 and 7 based on perborate are comparable, since they are all obtained from the same base powder, contain the same kind of postdosed CA, TAED, silicone and carbonate in the same amounts, as well as the same amount of the respective bleach. Hence, the observed differences of dispensability can only be attributed to the different kind of bleach present, i.e. SPC or perborate.

The Board concludes, therefore, that the disclosure of the patent in suit as a whole clearly indicates that the dispensability after storage of the granular detergent compositions according to present claim 1 is superior to that of the effervescent detergent compositions of the prior art and that this improved dispensability is due to the presence of the CA of the appropriate particle size distribution and of the SPC bleach.

- 4.5 The Appellant has maintained instead that the compositions of the invention would display no improvement of dispensability vis-à-vis the prior art disclosed in Document (1).

In this respect the Board notes that none of the samples used in the experiments of D16 and D19 are representative of the prior art disclosed in this citation, because they all correspond to previously undisclosed multiple selections within the generic teachings of Document (1), as evident already from the simultaneous presence in these examples of SPC or

perborate as bleach and of CA (cf. above item 3.3). Therefore, it is apparent that the Appellant has presented no direct experimental comparison between the composition of the present invention and those of the relevant prior art.

4.6 Moreover, the Board does not find convincing for the following reasons the Appellant's objections (see above item VII "a)" to "e)") regarding the credibility of the disclosure in the patent in suit identified above at item 4.4 in respect of the technical advantage actually provided by the claimed subject-matter.

4.6.1 In respect of the argument "a)", referring to the alleged lack of credibility of the dispensability testing protocol used in the examples of the patent in suit, the Board observes that all examples of the patented invention display better dispensability after storage than the corresponding comparative examples. Hence, the description of the experimental data in the patent in suit is found *per se* consistent with the rest of the patent disclosure.

The Appellant has therefore derived the alleged lack of reliability of the dispensability testing protocol used in the examples of the patent exclusively from the fact that the variation of dispensability upon storage observed in these examples (in particular in the comparative examples) was allegedly much more pronounced than that observed in its own data reported in D16 and D19 and in the Respondents' data of D20.



However, the Appellant has provided no evidence that such pronounced variability went beyond what would be acceptable for the notional skilled person in this technical field and would shed doubt on the conclusions drawn in the patent in suit in respect of the dispensing properties after storage of the compositions defined in the granted claims. Indeed, the Appellant has not demonstrated that dispensability measurement methods yielding less variable results were generally known to those skilled in the art. Rather to the contrary, both parties admitted that each detergent producer has selected a different testing apparatus and freely developed its own method for evaluating this property. Nor has the Appellant demonstrated that its normally used testing protocol actually provides less variable results when applied to the examples of the patent in suit, since it performed no tests according to its own protocol replicating the examples of the patent in suit (the base composition and additives used in all samples of D16 and D19 are manifestly different from those in the examples of the patent in suit).

In conclusion, the Appellant has provided no unambiguous evidence that the values observed in the examples of the patent in suit would be too variable to be reliable. Accordingly, the objection "a)" amounts to an unproven allegation which has been disputed by the Respondents and, thus, must be disregarded.

- 4.6.2 In respect of the argument "b)" (see above item VII), referring to the alleged contradictions between the examples of the patent in suit and the data of D16 and D19, the Board notes that the dispensability values reported in the patent in suit and those of the

Appellant's data have been measured according to different protocols and, therefore, cannot be **directly** compared. This has been eventually conceded also by the Appellant at the oral proceedings.

Moreover, the perborate-containing examples of D16 and the SPC-containing examples of D19 (whose dispensability have been tested by the Appellant according to the same testing protocol) are undisputedly different from each other, aside from the kind of bleach, in several other aspects, e.g. the presence of Zeolite 4A exclusively in the examples of D19 and the substantially different amounts of sodium sulphate. Hence, it is not possible to attribute the different dispensability values observed in D16 and in D19 necessarily to the presence of perborate rather than SPC.

Moreover, the Board wishes to stress that even the overall teachings derivable from the comparison of the dispensability results **within** each set of the data of D16 and of D19 taken *per se*, are not in contradiction with those of the examples of the patent in suit.

As a matter of fact the analysis of the results provided by the Appellant in D16 *per se* confirms the patent's teaching that the compositions based on perborate encompassed by the claims of the patent as granted display better dispensability upon storage than corresponding comparative samples containing much finer CA. The only further relevant information derivable from the data of D16 is that an even superior dispensability after storage is possibly obtained when the particle size of the CA is intermediate between

that required in the patent in suit and that obtained when using a very fine CA powder. However, the existence of further compositions, which do not belong to the prior art and which provide even better dispensability results than the patented compositions, does not imply that the dispensability observed in the examples of the patent in suit is equal to or worse than that of the compositions already disclosed in Document (1), or represent any other manifest contradiction with the teachings in the patent in suit as to the advantage of the invention vis-à-vis the prior art.

The same reasoning applies to the data in D19 referring to SPC-containing detergent compositions.

It is apparent, therefore, that the additional experimental data provided by the Appellant in D16 and D19 may neither be directly compared with the examples of the patent in suit, nor with each other, nor demonstrate *per se* facts contrary to the statements in the patent in suit that the dispensability after storage found e.g. in the invention examples is superior to that of the effervescent detergent compositions of the prior art.

- 4.6.3 In respect of the argument "c)" (see above item VII), referring to the Respondents' alleged concession that embodiments of the invention as defined in the granted patent would display commercially unacceptable dispensability, the Board observes that section 5.1.4 of the Respondents' letter of 22 April 2002 generically states *"It may be useful to comment briefly that the data filed by the appellant does not solve this*

*technical problem, in that the residues even before storage are much too high to be considered commercially acceptable.*", wherein the "data filed by the appellant" can only reasonably apply to the new data contained in D16 (i.e. those referring to samples 16 to 31) and the "technical problem" could possibly be that defined in the preceding paragraphs 5.2 and 5.3 as: "*achieving and maintaining an acceptable dispensing performance*".

The Respondents have afterwards argued orally that such written statement should not deserve much attention and expressed the contrary opinion that the dispensability value measured on a sample prepared for a laboratory test would not be representative of the actual level of dispensability of the optimised commercial detergent composition corresponding to that sample.

Be that as it may, a concession that only a part of all the compositions claimed in the patent as granted actually displays (commercially) "acceptable" dispensability also after storage and the corresponding limitation of the claimed subject-matter to SPC-containing compositions according to present claim 1 does not imply that the no longer claimed compositions would necessarily have worse dispensing properties than the compositions disclosed e.g. in example 2 of Document (1).

Therefore, this objection of the Appellant is not sufficient to deprive the disclosure in the patent as granted of credibility that the dispensability after storage of all the detergent compositions of the invention as claimed in the granted patent, i.e. including those no longer claimed based on perborate

bleach as well as those containing PC which are also encompassed by present claim 1, is superior to that of the effervescent compositions of the prior art.

4.6.4 Substantially the same reasoning applies of course also to the Appellant's argument "d)" (see above item VII), referring to the dispensability values of example 32 in D20, values which were even lower than some of those of D16 and, hence, that the Respondents would have defined as "*commercially unacceptable*".

4.6.5 In respect of the argument "e)" (see above item VII), referring to the fact that the patent in suit mentions explicitly only that SPC-containing compositions are preferable from the environmental point of view, the Board observes that this fact does **not** contradict or deprive of relevance the disclosure implicit in the invention examples of the patent in suit that the SPC bleach contributes to improve the dispensability after storage of the patented compositions (see above item 4.4).

Therefore, the Board has no reason to disregard any portion of the overall disclosure of the patent in suit in respect of the technical advantage of the invention, including the teaching implicit in the examples, and, thus, no further experimental evidence is necessary for confirming that the SPC contributes to the level of dispensability of the claimed compositions and/or that this level is actually superior to that of the prior art compositions.

4.7 For all the above reasons, the Board has no doubts that the compositions defined in present claim 1 (similarly to all other compositions embraced by claim 1 of the patent as granted) have solved the technical problem addressed in the patent in suit, i.e. that of **improving the dispensability after storage of the well-dispensing effervescent high bulk density detergent compositions of the prior art** also in view of Document (1).

4.8 Therefore, the assessment of inventive step boils down in the present case to establish, *inter alia*, whether or not the notional skilled person would have expected that the dispensability after storage of the compositions disclosed in Document (1) could be improved by using CA of a certain particle size distribution as organic acid and the SPC as bleach.

4.8.1 The Board finds it appropriate to establish firstly whether or not it was obvious to use the SPC bleach to solve the existing technical problem and observes in this respect that Document (1) presents this ingredient exactly on the same footage as the other three bleaches mentioned in the first paragraph of page 7.

The Board notes also that the other available documents do not mention explicitly or implicitly that SPC-containing detergent compositions display improved dispensability after storage.

4.8.2 These facts have not been disputed by the Appellant. It argued, however, that the skilled person would have in any case used SPC as bleach ingredient for realising further embodiments of the compositions disclosed in Document (1). This would be due to the well-known

solubility and ecological acceptability of this ingredient as evident from the disclosure in Documents (7) (see page 177, left column, lines 16 to 24) and (8) (see page 1, lines 12 to 26).

4.8.3 The Board observes that the cited passages in these documents actually indicate explicitly also **some disadvantages** of the SPC in comparison to the other bleaches such as e.g. perborate. For instance, both passages indicate that it is well-known that SPC is unstable, in particular in the presence of ambient moisture. Therefore, for this reason alone it is not evident that a skilled person would have used SPC bleach for realising further embodiments of the generic teachings in Document (1).

4.8.4 Moreover, the Board considers that the notional skilled person searching for a solution to the existing technical problem would have expected that in general the more the chemical structure of the detergent composition remains unchanged upon storage the less would be possibly affected also its initial dispensability and, thus, would rather avoid selecting among the lists of possible optional ingredients in Document (1) those which are well-known to be less stable, such as the SPC.

The Board concludes, therefore, that the skilled person would neither have reasons for preferring in general SPC among the bleach ingredients mentioned in Document (1), nor for expecting that this bleach could specifically improve the dispensability after storage of high bulk density detergent compositions, but would rather have reasons for avoiding using the obviously

unstable SPC when preparing in particular effervescent detergent compositions whose dispensability is not substantially deteriorated during storage.

Thus, and independently as to whether or not the notional skilled person would have had any reasons to use CA free from fines as organic acid, it was not obvious to try the SPC bleach in the high bulk density effervescent detergent compositions of Document (1) to improve the dispensability after storage of the latter.

Therefore, for this reason alone the Board concludes that the subject-matter of claim 1 of the present main request involves an inventive step and, hence, complies with the requirements of Article 56 EPC.

5. Novelty and inventive step for the subject-matter of claims 2 to 8

Claims 2 to 7 refer to preferred embodiments of the detergent composition of claim 1 on which they depend and, hence, the Board finds that their subject-matter is novel and based on an inventive step for the same reasons indicated above.

The same applies also to the process of claim 8 (see above item VI), which is directed exclusively to the production of the composition of claim 1.



**Order**

**For these reasons it is decided that:**

1. The decision under appeal is set aside.
  
2. The case is remitted to the first instance with the order to maintain the patent on the basis of the claims of the main request (claims 1 to 8) and a description to be adapted thereto.

The Registrar:

The Chairman:

G. Rauh

P. Krasa