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Datasheet for the decision of 7 September 2006

Case Number: T 0288/05 - 3.3.06

Application Number: 99870039.7

Publication Number: 1035197

IPC: C11D 17/00

Language of the proceedings: EN

Title of invention:
Production process for detergent tablet

Patentee:
THE PROCTER & GAMBLE COMPANY

Opponent:
Henkel KGaA

Headword:
Detergent tablet/PROCTER & GAMBLE

Relevant legal provisions:
EPC Art. 123(2), 54, 56, 114

Keyword:
"Added subject-matter (main request): yes"
"Added subject-matter (first auxiliary request): no"
"Novelty and inventive step (first auxiliary request): yes"
"Admissibility of documents filed for the first time with the grounds of appeal: yes"

Decisions cited:
T 0190/99

Catchword:
-

Europäisches Patentamt | European Patent Office | Office européen des brevets

Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T 0288/05 - 3.3.06

D E C I S I O N
of the Technical Board of Appeal 3.3.06
of 7 September 2006

Appellant: (Opponent)	HENKEL KGaA VTP (Patente) D-40191 Düsseldorf (DE)
Representative:	-
Respondent: (Patent Proprietor)	THE PROCTER & GAMBLE COMPANY One Procter & Gamble Plaza Cincinnati, OH 45202 (US)
Representative:	Samuels, Lucy Alice GILL JENNINGS & EVERY Broadgate House 7 Eldon Street London EC2M 7LH (GB)
Decision under appeal:	**Interlocutory decision of the Opposition Division of the European Patent Office posted 5 January 2005 concerning maintenance of European patent No. 1035197 in amended form.**

Composition of the Board:

Chairman: P. Ammendola
Members: L. Li Voti
J. Van Moer

Summary of Facts and Submissions

I. The present appeal is from the decision of the Opposition Division concerning the maintenance in amended form of European patent No. 1 035 197, concerning a process for making a detergent tablet.

II. In its notice of opposition the Opponent sought revocation of the patent on the grounds of Article 100(a) EPC, because of lack of novelty and inventive step of the claimed subject-matter.

The following documents were referred to in course of the opposition proceedings:

(1): WO-A-00/50548;
(2): EP-A-711827;
(3): "The Manufacture of Modern Detergent Powders", W. Herman de Groot et al.; Herman de Groot Academic Publisher, Wassenaar, 1995; pages 113 to 127.

As regards the amended claims filed by the Patent Proprietor during the proceedings, the Opponent submitted that the then pending requests did not comply with the requirements of Article 123(2) EPC.

III. In its decision, the Opposition Division found that the amended claims according to the then pending main request complied with the requirements of Article 123(2) EPC.

Moreover, the cited prior art did not disclose directly and unambiguously a process for making a detergent tablet from a particulate material comprising a

sprayed-on non-gelling binder, including, before tabletting, a step of cooling the detergent composition to a temperature below the ambient temperature, which was defined in the patent in suit as the ambient temperature on the production side in the tabletting area. The claimed subject-matter was thus novel.

A comparison of example 2 of the patent in suit, relating to a process as claimed, with example 1, relating to a similar process not comprising such a cooling step before tabletting, showed that such a cooling step would bring about an improvement of the dissolution properties of the obtained tablet while maintaining its mechanical integrity.

Since the prior art did not suggest that the dissolution properties of a tablet could be improved and its mechanical integrity maintained by adding, before tabletting, a cooling step as required in claim 1, the claimed subject-matter also involved an inventive step.

IV. An appeal was filed against this decision by the Opponent (Appellant).

The Appellant referred in the grounds of appeal *inter alia* to the following additional documents:

(4): EP-B-522766;
(5): Product information sheet "Alcalase" by Novo Nordisk, November 1998;
(6): Safety data sheet "Sodiumcarbonate peroxyhydrate" by Kemira Chemicals Oy, 18 August 1995;
(7): DE-A-4010533.

The Respondent (Patent Proprietor) filed under cover of the letter dated 23 September 2005 two sets of claims to be considered as first and second auxiliary requests, respectively.

Oral proceedings were held before the Board on 7 September 2006.

During the oral proceedings the Respondent replaced the set of claims according to the second auxiliary request on file with a new set of claims.

V. The set of 9 claims according to the Respondent's main request corresponds with the set of claims found by the first instance to comply with the requirements of the EPC and comprises an independent claim 1 reading as follows:

"1. A process for making a detergent tablet, the process comprising a first step of providing a detergent composition, a second step of forming a particulate material comprising the detergent composition which comprises a sprayed-on non-gelling binder, and a third step of compressing the particulate material in a tablet form, the process being characterised in that it further comprises a step of cooling the detergent composition below ambient temperature between the first and the third step."

The remaining dependent claims 2 to 9 relate to particular embodiments of the claimed process.

The set of claims according to the first auxiliary request differs from that according to the main request insofar as the wording "which comprises a non-gelling binder" in claim 1 is replaced by the wording "**wherein a mix of some or all of the components of the particulate material are sprayed with non-gelling binder**".

VI. The Appellant submitted in writing and orally that

- claim 1 contravened the requirements of Article 123(2) EPC;

- the example of document (1), a document cited under Article 54(3) EPC, disclosed the preparation of a tablet from a detergent particulate prepared by wet granulation in a Lödige Ploughshare mixer and cooled after granulation to a temperature of 9°C; the particulate material comprised an acrylic/maleic acid copolymer, i.e. a non-gelling binder according to the patent in suit, which, according to the teaching of document (1) could be added as a solid or as an aqueous liquid; liquids were added in a Lödige Ploughshare mixer by spraying them separately from the solids, as explained in document (3); therefore, the subject-matter of claim 1 lacked novelty over the disclosure of document (1);

- moreover, the process disclosed in example 2 of document (2) related to a process wherein the formed detergent particulate material comprising a sprayed-on non-gelling binder had a temperature below the ambient temperature on the tabletting production side; thus also this disclosure took away the novelty of claim 1.

As to the inventiveness of the claimed subject-matter the Appellant submitted that

- it was obvious for the skilled person to cool the detergent particulate material prepared in document (4) to a temperature below ambient before tabletting because of the presence of sensitive materials like enzymes and percarbonate which, as suggested in documents (5) and (6), would be decomposed at an ambient temperature of, e.g., 30°C;

- document (7) disclosed a process for preparing a tablet wherein a particulate material was prepared by extrusion and the extrudate was shock cooled before further processing and tabletting in order to improve its properties. Thus, it was obvious for the skilled person to apply such a cooling step also to the process of document (4);

- furthermore, it was obvious to the skilled person, by following the teaching of document (7), to cool the extrudate by shock cooling to a temperature below ambient in order to further improve its properties; even though this document did not disclose the addition of a sprayed-on non-gelling binder, this feature did not bring about any advantage with respect to the technical problem solved by the patent in suit; therefore, this difference could not support the presence of an inventive step and the claimed subject-matter thus lacked an inventive step in the light of the teaching of document (7);

- moreover, the process of example 1 of the patent in suit, leading to the formation of tablets having poor dissolution properties, was according to the claimed invention, since the particulate material had been cooled also in this example to a temperature below ambient; it was also not credible that an improvement would be obtained by cooling the detergent composition just below any ambient temperature; furthermore, according to the wording of claim 1, the ambient temperature in the tabletting area could be different during the cooling step and at the time of tabletting;

- therefore, tablets having improved dissolution properties could not be obtained throughout the whole scope of the claims;

- the claimed subject-matter thus lacked an inventive step.

As regards the admissibility of documents (4) to (7), filed for the first time with the grounds of appeal, the Appellant submitted that their introduction had been rendered necessary in the light of the reasoning in the appealed decision.

VII. The Respondent submitted in writing and orally that

- documents (4) to (7), filed for the first time during the appeal proceedings, were not more relevant then the documents filed at first instance and considered in the appealed decision and should not be admitted into the proceedings;

- claim 1 complied with the requirements of Article 123(2) EPC;

- the claimed subject-matter was novel over document (1) since the cited example did not specify if the copolymer, which had been used as a builder and not as a binder, had been added as a solid or as an aqueous liquid; moreover, even if the skilled person would have decided to add the copolymer as an aqueous liquid, it could have been premixed with other solids and thus not added separately as a liquid in the Ploughshare mixer; therefore, document (1) did not disclose directly and unambiguously a process as claimed in the patent in suit;

- the claimed subject-matter was novel over document (2) since this document did not disclose any cooling step below ambient temperature before tabletting;

- as regards inventive step, the prior art did not suggest a step of cooling a detergent composition to a temperature below ambient before tabletting and did not suggest that such a cooling step would bring about an improvement of the dissolution properties of the tablet as shown by a comparison of example 2 of the patent in suit with example 1; moreover, this effect was already noticeable by slightly cooling the detergent composition below ambient temperature (see page 3, lines 30 to 31 of the patent in suit); therefore, improved dissolution properties were achieved throughout the scope of the claims;

- furthermore, even the presence of sensitive ingredients in the detergent particulate processed in

document (4) would have not rendered obvious a cooling step below ambient temperature, since the skilled person knew how to protect the sensitive ingredients before their incorporation into a detergent composition;

- moreover, the shock cooling step disclosed in document (7) was not carried out to a temperature below ambient and for improving the dissolution properties of the prepared tablets but only for cooling and drying superficially the extrudate in order to avoid clumping and improve its processing properties;

- therefore, the cited prior art did not suggest that a cooling step as required by claim 1 would improve the dissolution properties of the obtained tablet while maintaining its mechanical integrity;

- the claimed subject-matter thus involved an inventive step.

VIII. The Appellant requests that the decision under appeal be set aside and that the patent be revoked.

The Respondent requests as a main request that the appeal be dismissed or in the alternative that the patent be maintained on the basis of the first auxiliary request filed with letter of 23 September 2005 or the second auxiliary request filed at the oral proceedings.

Reasons for the Decision

1. Respondent's main request

1.1 *Article 123(2) EPC*

1.1.1 Claim 1 according to the main request differs from claim 1 according to the application as originally filed insofar as it comprises the additional wording "**which comprises a sprayed-on non-gelling binder**" after the wording "a second step of forming a particulate material comprising the detergent composition" (see point V above).

Therefore, the amended claim 1 requires that the sprayed-on non-gelling binder is part of the detergent composition which, according to the wording of claim 1, is provided in a first step distinct from the second step (see point V above). The wording of claim 1 thus does not require, in the Board's view, that a non-gelling binder is sprayed on necessarily during the second step of formation of the particulate material but it encompasses also an embodiment wherein it is added during the first step of providing separately a detergent composition before formation of the particulate material.

Moreover, claim 1 requires only that the detergent composition **comprises** the binder and does not require that the detergent composition provided in the first step is sprayed on with it. Therefore, claim 1 encompasses an embodiment wherein only one of the components of the detergent composition is sprayed on

with such a binder before formation of the whole detergent composition and of the particulate material.

1.1.2 The application as originally filed discloses some methods of preparation of the particulate material (second step) (page 5, lines 4 to 18 of the published A1 publication; all references hereinafter concerning the compliance with Article 123(2) being also related to the A1 publication) and specifies in this part of the description that "non-gelling binder can be sprayed on to the mix of some or all of the components of the particulate material" (line 14), i.e. during formation of the particulate material; thus, this passage does not contain any support for a step of spraying the binder before the second step and of spraying it in the first step on only one single component of the detergent composition.

The part of the description relating to the non-gelling binders (page 10, lines 18 to 36) teaches that non-gelling binders can be integrated in detergent compositions to further facilitate dissolution (line 18). However, this statement relates, in the Board's view, to the general use of non-gelling binders as known in the art and not to the specific use of the non-gelling binders in the claimed invention. Therefore, it cannot provide any support for the wording of claim 1.

Furthermore, the description teaches that non-gelling binder materials are preferably sprayed on (line 27) without specifying in which step of the process or on which material they can be sprayed.

The Board thus concludes that the application as originally filed supports only a step of spraying a non-gelling binder onto a mix of components during the second step of formation of the particulate material but not all embodiments encompassed by the wording of claim 1.

Claim 1 according to the main request thus contravenes the requirements of Article 123(2) EPC.

The Respondent's main request is thus rejected.

2. Respondent's first auxiliary request

2.1 *Article 123(2) EPC*

Claim 1 according to this request differs from claim 1 according to the main request insofar as the wording "which comprises a non-gelling binder" is replaced by the wording "**wherein a mix of some or all of the components of the particulate material are sprayed with non-gelling binder**".

The latter wording requires that the non-gelling binder is sprayed on during the second step of formation of the particulate material on a mix of components of the particulate material and is supported by the disclosure of the application as originally filed (see point 1.1.2 above).

The Appellant objected additionally that the application as originally filed would only support a step of spraying on molten non-gelling binders having a specific melting point.

The application as originally filed discloses that the non-gelling binders are **preferably** sprayed-on and hence have an appropriate melting point temperature below 90°C (page 10, line 27); moreover, it specifies that "**most preferred** are non-aqueous liquid binders (i.e. **not in aqueous solution**) which may be sprayed in molten form" (page 10, line 29).

The Board finds thus that these passages teach to use a binder in molten non-aqueous form only as a most preferred embodiment of the invention; less preferred, but equally disclosed, is thus the alternative of adding them in aqueous form as an aqueous solution. The non-gelling binder thus has not necessarily to be in molten form and does not need to have a specific melting point.

Claim 1 according to the first auxiliary request thus complies with the requirements of Article 123(2) EPC.

2.2 *Admissibility of documents (4) to (7)*

Documents (4) to (7) were filed for the first time with the grounds of appeal.

The Board notes that documents (4) and (7) relate to the same technical field as the claimed invention and documents (5) and (6) have been cited for supporting an objection based on document (4).

The Board is thus convinced that they have been filed to support the Appellant's arguments as a reaction to the reasoning in the appealed decision.

The Board thus finds that these documents should be admitted into the proceedings.

2.3 *Novelty*

2.3.1 Claim 1 according to the first auxiliary request relates to a process for making a detergent tablet comprising the following four steps:

- a first step of providing a detergent composition;

- a second step of forming a particulate material comprising the detergent composition and spraying onto a mix of some or all components a non-gelling binder;

- a third step of compressing the particulate material in a tablet form;

- and a step of cooling the detergent composition below ambient temperature between the first and the third step, wherein the ambient temperature is defined in the patent in suit as being the ambient temperature on the production side in the tabletting area outside the tabletting machine (page 2, lines 41 to 43).

Neither claim 1 nor the description indicates precisely when the ambient temperature in the tabletting area should be measured.

However, it is established jurisprudence of the Boards of Appeal of the EPO that a claim should be read applying common sense thus ruling out interpretations

which are illogical or do not make technical sense (see T 190/99, point 2.4 of the reasons for the decision).

The Board thus finds that the only common sense logical interpretation of claim 1 is that the detergent composition is cooled between the first and the third step of the process to a temperature below the ambient temperature existing at the moment of cooling in the tabletting area and that this ambient temperature in the tabletting area should remain the same throughout the process until tabletting occurs.

2.3.2 Document (1), which is a document cited under Article 54(3) EPC, discloses in its example a process comprising the steps of providing a detergent composition, forming a particulate material comprising the detergent composition by wet granulation in a Lödige Ploughshare mixer, cooling the particulate material to a temperature of 9°C, which is thus certainly below the ambient temperature in the tabletting area, and compressing the particulate material in a tablet form (see page 36, lines 2 to 14).

Both parties agreed that the Lödige Ploughshare mixer used in this example has separate entrances for the solid and the liquid components and that a wet granulation in such a mixer required that at least part of the liquid components be sprayed, as shown in document (3) (page 118, lines 1 to 6 below figure 54 and figure 55 on page 119).

Moreover, the particulate detergent composition of the example of document (1) comprises an acrylic/maleic acid copolymer (page 37, line 2), i.e. a non-gelling

binder within the meaning of the patent in suit, which copolymer is added as a builder in solid or in aqueous liquid form (see page 15, lines 3 to 6 in combination with page 16, lines 12 to 13 and lines 18 to 19).

However, even though the skilled person, following the teaching of document (1), could envisage adding this copolymer as an aqueous liquid, the cited example fails to teach if this copolymer, which is not used in this document as a binder but just as a builder, is added together with the other liquids to be sprayed on or is premixed, for example, with other solid components, e.g. with other builders, and thus added together with the other solids, separately from the liquids, into the mixer.

The Board thus concludes that document (1) does not disclose directly and unambiguously the claimed process.

2.3.3 Document (2) discloses in example 2 a process wherein a detergent composition is granulated in a high-speed mixer, the resulting particulate material, having a temperature of 35°C, is sprayed-on with PEG, i.e. a non-gelling binder, at 70°C and then compressed to a tablet at 40°C, this temperature being the temperature inside the tabletting machine (see page 9, lines 41 to 53).

According to the teaching of this document, tabletting can be carried out at ambient temperature or above, in which case the particulate material is supplied to the tabletting machinery at elevated temperature, e.g. by conveying the particulate material through a tunnel heated to the temperature chosen for tabletting.

Moreover, the preparation of the particulate material may itself generate heat and may serve to bring the material to the desired temperature for tabletting (see page 7, lines 8 to 11 and 15 to 18).

This passage of the description thus describes a process as carried out in said example 2, wherein the granulated material has a temperature of 35°C, which is possibly still increased by the coating step with PEG at 70°C, and then is tabletted at 40°C.

Document (2) does not contain any teaching that the particulate material should be cooled after granulation or that the ambient temperature in the tabletting area should be greater than the temperature reached by the granulated material outside the mixer.

Therefore this document does not disclose a cooling step as required in claim 1.

2.3.4 The subject-matter of the claims according to the first auxiliary request is thus novel over the cited prior art.

2.4 *Inventive step*

2.4.1 The technical problem underlying the claimed invention is reported in the patent in suit as the provision of a detergent tablet having improved dissolution characteristics while maintaining mechanical integrity (page 2, lines 18 to 20).

According to the jurisprudence of the Boards of Appeal of the EPO, the most suitable starting point to be

selected for assessing inventive step of a claimed subject-matter is, if possible, a technically realistic starting point contained in a document dealing with the same technical problem as the claimed invention and disclosing a subject-matter having a similar use and effect as the subject-matter claimed in the patent in suit and having the most relevant technical features in common (see Case Law of the Boards of Appeal of the EPO, 4th edition 2001, point 3.1 on page 102).

All of documents (2), (4) and (7) deal with the technical problem mentioned above (see document (2), page 2, lines 11 to 13 and 18 to 19 in combination with page 9, line 57 to page 10, line 1; document (4), page 2, lines 38 to 42 in combination with the table on page 10; document (7), column 3, lines 10 to 24). The most suitable starting point for the assessment of inventive step among these documents is thus the one having the most relevant technical features in common with the subject-matter of claim 1.

Document (4) describes a process wherein a detergent composition is granulated in a high-speed mixer, sprayed on with a non-gelling binder and then tabletted (page 8, lines 18 to 53 and page 9, lines 35 to 41). This document does not disclose any cooling step of the detergent composition to a temperature below the ambient temperature in the tabletting area.

Therefore, both of the processes disclosed in documents (4) and (2) differ from the claimed one only insofar as they do not describe the step of cooling the detergent composition before tableting to a temperature below the

ambient temperature in the tabletting area (see also point 2.3.3 above).

Document (7) describes a process wherein a detergent granulate is prepared by extrusion, the extrudate is at least superficially dried by shock cooling and the granulate is pressed in the form of a tablet (see claims 1 in combination with claim 11, column 9, lines 41 to 46; column 10, lines 5 to 13 and column 11, lines 42 to 48).
Following the extrusion at a temperature of, for example, from 40 to 70°C, the extrudate is at least superficially cooled to a temperature which is not specified in document (7); the following tabletting step occurs either at an ambient temperature from 18 to 30°C or at elevated temperatures of up to 50°C (see column 9, lines 25 to 31 and column 11, lines 42 to 48).
Thus this document does not disclose clearly and unambiguously a step of cooling the detergent composition before tabletting to a temperature **below** the ambient temperature in the tabletting area.

Moreover, document (7) does not describe a step of spraying a non-gelling binder on the particulate material.
The process disclosed in this document thus fails to disclose two essential technical features of the subject-matter of claim 1.

Therefore, the most suitable starting point for the assessment of inventive step has to be selected between documents (2) and (4) which have more relevant technical features in common with the subject-matter of claim 1.

2.4.2 Since document (2) suggests and exemplifies a process wherein the particulate material is gradually heated to the tabletting temperature (see point 2.3.3 above), i.e. a process step which is contrary to the cooling step required in claim 1, the Board takes document (4), not comprising such a heating step, as the most suitable starting point for the evaluation of inventive step.

2.4.3 The technical problem underlying the claimed invention, defined in the light of the teaching of document (4), can thus be seen, in accordance with the patent in suit, as the provision of a similar process for improving the dissolution properties of a detergent tablet while maintaining its mechanical integrity.

Example 2 of the patent in suit relates to a process including a step of cooling the particulate detergent composition and storing it at 9°C for 24 hours, i.e. a step of cooling it certainly below the ambient temperature in the tabletting area (page 16, lines 50 to 55). Therefore, this example represents an embodiment of the claimed invention.

2.4.4 Example 1 of the patent in suit relates to a process wherein the particulate detergent material is stored at 23°C for 24 hours and then tabletted at a temperature going from 23 to 27°C (page 15, lines 29 to 33). The prepared tablet is then dipped in a coating bath and dried at an ambient temperature of 25°C (page 15, lines 34 to 36). This ambient temperature outside the coating bath is, however, on a reading of the text applying common sense, not to be considered to be identical with the ambient temperature in the

tabletting area. In fact, the description of the patent in suit explains that the prepared tablets can be coated by dipping them into a bath of a material solid at **ambient temperature**, defined as a temperature of 25°C (page 8, lines 16 to 17; 27 to 31; 36 to 37 and 44 to 45). This is thus the definition adopted in example 1 for the coating step of the tablet, which is not a process step mentioned in claim 1. The definition of the ambient temperature during this coating step is thus not identical with that of the ambient temperature in the process of claim 1, which is the ambient temperature on the tabletting production side (see point 2.3.1 above).

The Board concludes that the process of example 1 does not comprise any step of cooling the detergent composition to a temperature below the ambient temperature in the tabletting area and that therefore example 1 does not relate to a process according to the claimed invention.

2.4.5 The tablet prepared in example 2 has good mechanical integrity (tensile strength of 10 kPa before coating and of 30 kPa after coating) and shows only 8% residue in the tablet dispensing test of the patent in suit carried out with water at 8°C and therefore shows improved dissolution properties while maintaining mechanical integrity (see page 16, line 55 and page 17, lines 2 to 15).
On the contrary, the tablet prepared in example 1, though having the same tensile strength as the tablet of example 2, shows a 50% residue in said dispensing test and thus has poor dissolution properties (page 15, lines 32 and 37 and page 17, line 14).

Thus the comparison of the tablets prepared in these examples shows that the cooling of the detergent composition before tabletting to a temperature below the ambient temperature in the tabletting area brings about improved dissolution properties while maintaining the mechanical integrity of the tablet.

Moreover, the patent in suit suggests that the improved disintegration of the tablet may be due to a morphological change of some ingredients due to the temperature difference below cooling temperature and ambient temperature and that, preferably, the temperature of the detergent composition after cooling is of at least 2°C below ambient temperature (page 3, lines 26 to 31). It is thus also reasonable to assume that a step of cooling the detergent composition just below the ambient temperature in the tabletting area already brings about a technical advantage.

Furthermore, the Appellant's argument that the ambient temperature could vary between the moment of cooling and the tabletting step cannot be accepted by the Board, since this is contrary to a logical interpretation of the claim as explained hereinbefore (see point 2.3.1 above).

The Board concludes that the technical problem underlying the claimed invention has been successfully solved throughout the scope of the claim by means of the claimed process.

2.4.6 Neither document (4) nor document (2) suggests that a step of cooling the detergent composition before

tabletting to a temperature below the ambient temperature in the tabletting area could bring about any improvement as to the dissolution properties of the tablet.

Moreover, the shock cooling step described in document (7) (see point 2.4.1 above) is carried out only for drying at least superficially the extrudate and for avoiding clumping in further processing and not for improving the dissolution properties of the subsequently prepared tablet. Therefore, it would have not been obvious for the skilled person to apply this step to the process of document (4) in order to obtain tablets having improved dissolution properties.

Furthermore, even though the detergent composition processed in document (4) contains sensitive ingredients such as bleaches or enzymes, the skilled person would have not needed to cool the prepared particulate detergent composition to low temperatures below ambient since the characteristics of bleaches and enzymes were known, as described e.g. in documents (5) and (6), and it was known to the skilled person how to protect sensitive ingredients before their incorporation into a detergent product (see for example document (4), lines 38 to 40).
Furthermore, even though the skilled person would have decided to control the temperature of the detergent composition because of such sensitive ingredients, the temperature would have had to be controlled also in the tabletting area. The skilled person would thus have had no incentive for cooling the detergent composition to a temperature below that of the ambient temperature in the tabletting area.

2.4.7 The Board concludes that the prior art did not suggest that a cooling step as required in claim 1 could be useful for obtaining a tablet having better dissolution properties while maintaining mechanical integrity.

Therefore, the subject-matter of the claims according to the first auxiliary request involves an inventive step.

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 with the following documents:

- claims 1 to 9 according to the first auxiliary request;

- a description to be adapted.

The Registrar: The Chairman:

G. Rauh P. Ammendola