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Datasheet for the decision of 27 November 2014

Case Number: T 1510/11 - 3.3.06

Application Number: 03814873.0

Publication Number: 1578895

IPC: C11D3/02, C11D3/20, C11D3/33, C11D3/37

Language of the proceedings: EN

Title of invention:
RINSE AID COMPOSITION CONTAINING WATER-SOLUBLE METAL SALT FOR USE IN AUTOMATIC DISHWASHING FOR METAL CORROSION AND RUST FORMATION PROTECTION

Patent Proprietor:
THE PROCTER & GAMBLE COMPANY

Opponent:
Henkel AG & Co. KGaA

Headword:
Rinse aid/PROCTER&GAMBLE

Relevant legal provisions:
EPC Art. 100(c), 123(2), 52(1), 56, 114(2)
RPBA Art. 13(3)

Keyword:
Late-filed auxiliary requests - admitted (yes)
Extension beyond the content of the application as filed - Mainr Request (yes) - Auxiliary Request (no)
Inventive step - (yes)

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Catchword:

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Case Number: T 1510/11 - 3.3.06

D E C I S I O N
of Technical Board of Appeal 3.3.06
of 27 November 2014

Appellant: (Opponent)	Henkel AG & Co. KGaA Henkelstrasse 67 40589 Düsseldorf (DE)
Representative:	Henkel AG & Co. KGaA Patente (FJI) 40191 Düsseldorf (DE)
Respondent: (Patent Proprietor)	THE PROCTER & GAMBLE COMPANY One Procter & Gamble Plaza Cincinnati, OH 45202 (US)
Representative:	Clarke, Lionel Paul Gill Jennings & Every LLP The Broadgate Tower 20 Primrose Street London EC2A 2ES (GB)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 4 May 2011 rejecting the opposition filed against European patent No. 1578895 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman	B. Czech
Members:	G. Santavicca
	U. Lokys

Summary of Facts and Submissions

I. The appeal lies from the decision of the opposition division rejecting the opposition against European patent No. 1 578 895.

II. The sole independent claim of the patent in suit as granted reads as follows:

"*1. A rinse aid composition for reducing metal corrosion and rust formation characterized by comprising:*
a) from about 0.01% to about 70% by weight of at least one water-soluble metal salt;
b) from about 0.01% to about 25% by weight of an acid;
c) from about 0.01% to about 60% by weight of a non-ionic surfactant;
d) a dispersant polymer, and
e) optionally at least one component selected from the group consisting of acid, dispersant polymer, perfume, hydrotrope, binder, carrier medium, antibacterial active, dye, and mixtures thereof;

wherein said rinse aid composition has a pH of less than about 5 when measured at a 10% concentration in an aqueous solution and wherein said at least one water-soluble metal salt comprises zinc and wherein said water-soluble zinc salt is selected from the group consisting of zinc acetate, zinc chloride, zinc gluconate, zinc formate, zinc malate, zinc nitrate, zinc sulfate, zinc benzoate, zinc borate, zinc bromide, zinc lactate, zinc laurate, zinc perforate [sic], *zinc sulfamate, zinc tartrate and mixtures thereof and wherein said dispersant polymer is a low molecular weight modified polyacrylate copolymer, wherein said copolymer contains as monomer units:*

a) from about 90% to about 10% by weight acrylic acid or its salts, and
b) from about 10% to about 90% by weight of a substituted acrylic monomer or its salt and have the general formula:

$$-[(C(R^2)C(R^1)(C(O)OR^3)]-$$

wherein the incomplete valencies inside the square braces are hydrogen and at least one of the substituents R^1, R^2 or R^3 is a 1 to 4 carbon alkyl or hydroxyalkyl group, and wherein R^1 or R^2 can be hydrogen and R^3 can be a hydrogen or alkali metal salt".

III. The patent had been opposed in its entirety on the grounds of Article 100(c) EPC) and Article 100(a) EPC (lack of an inventive step).

The following documents were *inter alia* relied upon:
D1: EP 0 070 587 A1;
D4: US 5,545,346 A; and
D5: US 5,545,352 A.

IV. In the decision under appeal, the Opposition Division *inter alia* came to the following conclusions:
- The patent as granted was not objectionable under Article 100(c) EPC.
- Novelty not being in dispute was acknowledged.
- D1 was the closest prior art.
- In the absence of data showing an effect, the technical problem was merely the provision of an alternative rinse aid composition.
- The subject-matter of claim 1 was inventive "in view of D1 in combination with D4 or D5".

V. In its statement setting out the grounds of appeal, the Appellant maintained that the patent as granted contained subject-matter extending beyond the content

of the application as filed and that the the claimed subject-matter did not involve an inventive step.

VI. With its reply, the Respondent submitted four sets of amended claims as Auxiliary Requests 1 to 4, as well as some comparative data. It rebutted the objections raised by the Appellant.

VII. By letter dated 5 May 2014, the duly summoned Appellant announced that it would not attend the set oral proceedings.

VIII. Oral proceedings were held on 27 November 2014 in the absence of the Appellant.

The debate focussed on questions regarding issues under Article 100(c) and regarding inventive step.

The Respondent submitted a further set of amended Claims 1 to 10 as its new First Auxiliary Request.

IX. Compared to claim 1 as granted, Claim 1 according to this First Auxiliary Request is more limited in respect of the definition of the zinc salt and reads as follows:

"*1. ... wherein said water-soluble zinc salt is selected from the group consisting of zinc acetate, zinc chloride, zinc gluconate, zinc formate, zinc malate, zinc nitrate, zinc sulfate,* ~~*zinc benzoate, zinc borate, zinc bromide, zinc lactate, zinc laurate, zinc perforate [sic], zinc sulfamate, zinc tartrate*~~ *and mixtures thereof ...* ".

Claims 2 to 10 are identical to claims 2 to 10 as granted and are directed to more specific embodiments of the rinse aid according to claim 1.

X. The Appellant requested in writing (in its statement of grounds) that the decision under appeal be set aside and that the patent be revoked.

The Respondent requested that the appeal be dismissed, or that the patent be maintained on the basis of the claims according to the First Auxiliary Request submitted during oral proceedings.

XI. The arguments of the Appellant submitted in respect of the claims as granted can be summarised as follows:

As regards the ground under Article 100(c) EPC), there were two objections:

(i) The subject-matter of the claims as granted was the result of a selection from two lists: the dispersant from the list of dispersant, perfume and mixtures thereof; the zinc salt from the list of the water-soluble metal salts defined in Claim 3 as originally filed. The latter selection arose because Claim 4 as filed, albeit referring back to any preceding claims, could only refer back to Claim 3, as in Claims 1 and 2 zinc salts were not mentioned. The selection of the zinc salts had been concretised by the salts listed in Claim 4 as originally filed and by those mentioned on page 4 of the description as filed. For the latter salts, it was even more apparent that a selection among the water-soluble salts of Claim 3 in order to pick the zinc salts was necessary before concretisation.

(ii) The definition of the amount of nonionics in granted claim 1 was an intermediate generalization, as an amount of from 0.01 to 60% by weight was disclosed, in the application as filed, only in respect of "*low-foaming*" nonionics. The incorporation into claim 1 of zinc salts mentioned only in the description of the application as filed likewise amounted to an intermediate generalisation.

As concerns inventive step, D1 was a possible closest prior art for assessing inventive step, but each of D4 or D5 was a more appropriate starting point, and in particular the composition according to Example 1F described in both, which contained the highest number of features in common with the claimed subject-matter, such as acidic pH and dispersant copolymer. The fact that neither D4 nor D5 disclosed water-soluble zinc salts was not essential. There were no data backing up any effects, so that the technical problem was merely to be seen in the provision of alternative rinse aid compositions. The use of water-soluble metal salts was known form D1 and would be combined by the skilled person with the teaching of D4 or D5, in order to attain protection from glass corrosion. Hence, the claimed subject-matter was obvious.

XII. The arguments of the Respondent of relevance here can be summarised as follows:

Main Request (Claims as granted)

With regard to the objections under Article 100(c) EPC the Respondent stressed that Claim 4 of the application as filed concerned preferred zinc salts, and on Page 4, (first paragraph) thereof further preferred zinc salts

were listed. A clear preference for water-soluble zinc salts was expressed in the application as filed. Also as regards the dispersant polymer a clear preference was expressed in the application as filed for combining water-soluble salts and nonionics. Hence, the objections under Article 100(c) EPC should be rejected.

First Auxiliary Request

The new First Auxiliary Request was filed in reaction to the negative provisional opinion expressed by the Board at the oral proceedings. Given the circumstances, it was appropriate that an opportunity to delete the objected to zinc salts be given to the Respondent. The First Auxiliary Request was clearly allowable.

Claim 1 thereof found basis in interdependent Claims 1, 3, 4 and 10 of the application as filed. As concerns the alleged intermediate generalization of the amount of nonionics, it had to be considered that Claim 1 as granted was identical to Claim 1 of the application as filed. Hence, the amended claims of the First Auxiliary Request met the requirements of Article 123(2) EPC.

As regards inventive step, the Respondent emphasised that none of the documents invoked by the Appellant addressed the problem of metal corrosion. D1 was the closest prior art and disclosed a combination of water-soluble zinc salts and nonionics. The claimed subject-matter was distinguished therefrom by the additional presence of a dispersant copolymer and by the specified pH, not mentioned in D1.
The comparative data submitted with letter of 22 December 2011 showed that the claimed combination of water-soluble metal salt, nonionic and dispersant copolymer solved the problem of protecting metal

surfaces from corrosion and rust formation. No evidence to the contrary had been submitted by the Opponent, or introduced by the Opposition Division, which could have brought the solution of the technical problem into question. Hence, if it were considered that no meaningful comparison over the compositions of D1 was possible, the technical problem could be seen in providing an alternative rinse composition being suitable for use with metal ware.

D1, the teaching of which was apparent from its page 3, lines 3-4, did not contain any suggestion as regards the importance of the pH and the addition of a dispersant copolymer as claimed, let alone in connection with the washing of metal ware. In fact, in Experiments 13 and 14 of D1, the citric acid content was reduced, which implied an increase of the pH. Moreover, in D1, the citric acid was a used for its chelating properties. Finally, D1 did not motivate the skilled person to additionally use a dispersant copolymer as claimed.

D4 concerned the reduction of calcium deposits, and taught the use of an amino phosphonic acid in the solution therefor. This had nothing to do with reducing corrosion and rust formation when washing metal ware. Also, in Example 1 of D4, Composition B was taken for a comparison with Composition A, none of them containing a copolymer as required according to claim 1 at issue. From the results of the comparison shown in the first table of Column 16, it was apparent that preferred Composition B was worse than Composition A in respect of silver ware. D4 did not consider Composition F, containing a copolymer, as being better than Composition B, let alone in respect of silver ware. Hence, D4 did not hint at using the claimed copolymer in a rinse aid composition with reduced corrosion and rust formation.

Summing up, the claimed compositions were not obvious in view of D1 or its combination with D4.

Reasons for the Decision

Appellant's Main request

Subject-matter of the claims as granted extending beyond the content of the application as filed

1. Insofar as it is directed to rinse aid compositions comprising, in combination, both a water-soluble zinc salt and a dispersant polymer as defined therein, Claim 1 as granted finds some basis in dependent Claims 4 (water-soluble zinc salts) and 10 (specific dispersant polymer) of the application as filed (published under the PCT as WO 2004/061069 A1), claim 10 referring back to the rinse aid composition according to any preceding claim.

1.1 The further zinc salts, i.e. zinc benzoate, zinc borate, zinc bromide, zinc lactate, zinc laurate, zinc perforate *[sic]*, zinc sulfamate, zinc tartrate listed in Claim 1 as granted but not listed in Claim 4 of the application as filed are only mentioned on page 4, first paragraph of the application as filed. These further zinc salts are merely presented as being suitable salts, in the very same manner in which salts of further metals, e.g. aluminum, magnesium, calcium, and other undefined water-soluble metal salts were also presented as being suitable for making the rinse aid composition (page 4, header "*Aluminium Salt*" and following paragraph; page 5, header "*Magnesium Salt*" and following paragraph; page 5, header "*Calcium Salt*"

and following paragraph; page 6, header "*Other Water-soluble Salts*" and following paragraph).

Hence, for the Board, the application as filed does not disclose that they were more preferred than the zinc salts defined in original Claim 4 or than the salts of other metals mentioned in the description.

1.2 The use of a combination of any of these further zinc salts with the copolymer component required by claim 1 as granted is neither expressly disclosed nor even suggested in the description or in the claims of the application as filed.

1.3 Therefore, insofar as claim 1 as granted is directed to rinse aid compositions comprising, in combination, any of said further zinc salts and the specific polymer dispersant defined therein, the patent as granted contains subject-matter extending beyond the content of the application as filed.

1.4 Hence, in the Board's judgement, the ground of opposition under Article 100(c) EPC (first clause) prejudices the maintenance of the patent as granted.

The Appellant's Main Request is thus not allowable.

First Auxiliary Request

Admissibility of the request

2. The amended set of claims according to the First Auxiliary Request at issue was submitted during the oral proceedings before the Board.

2.1 As regards the specific circumstances of the late filing of the request at issue, the following is noted:

The request was filed in reaction to an objection concerning the further zinc salts listed in Claim 1 as granted raised by the Appellant in its statement of grounds but taken up in a more detailed manner by the Board at the oral proceedings (points 1.1 to 1.3 *supra*).

The amendment made to Claim 1 by the Respondent, i.e. the deletion of said further zinc salts, is a straightforward reaction of the Respondent not raising any new, surprising and/or complex issue.

3. Taking the above aspects into account, the Board decided to admit this new claim request into the proceedings despite its late filing (Articles 114(2) EPC and 13(3) RPBA).

Allowability of the amendments

4. The Board is satisfied that Claim 1 according to the First Auxiliary Request filed during oral proceedings is fairly based on the application as filed.

4.1 The combination of Claims 1, 3, 4 and 10 as originally filed arises as such at least implicitly from the multiple dependencies defined in said claims (Claim 10 refers to any preceding claims, hence also to Claims 1, 3 and 4; Claim 4 refers back to Claims 3 and 1; and, Claim 3 refers back to Claim 1).

4.2 As concerns the definition of the amount of the nonionic surfactant, Claim 1 as granted and Claim 1 as

originally filed are identical. Hence, nothing was inserted in Claim 1 as granted in this respect.

4.3 Therefore, the claims of the First Auxiliary Request meet the requirements of Article 123(2) EPC.

Inventive step

The invention

5. The invention concerns a rinse aid composition for use in automatic dishwashing (Paragraph [0001], Claim 1).

The compositions according to the invention are supposed to effectively prevent metal corrosion and rust formation on metal components, flatware and dishware, including stainless steel components of automatic dishwashing appliances, during the automatic dishwashing operation (Paragraph [0007] of the patent in suit).

The closest prior art

6. The Respondent shared the view of the Opposition Division that D1 was to be considered as the closest prior art for the assessment of inventive step, and not D4 or D5 as was argued by the Appellant.

6.1 It is not in dispute that none of the invoked documents expressly deals with metal corrosion and rust formation during automatic dishwashing, in particular during rinsing cycles thereof, as addressed in the patent in suit. Since none of the invoked documents addresses the same objectives and problems as the patent in suit, it is appropriate, when identifying the closest prior art, to at least consider what features of Claim 1 are

supposed to produce the effects aimed for according to the patent in suit.

In this respect, it can be gathered from paragraph [0005], first sentence, of the patent in suit, that a composition supposed to effectively achieve the sought-for metal corrosion and rust formation protection must contain both a water-soluble metal salt and a nonionic surfactant. Hence, for the Board, maintaining a minimum of objectiveness and avoiding hindsight, a composition containing this essential combination of features may qualify as the closest prior art.

6.2 Among D1, D4 and D5, only D1 discloses a rinse aid composition expressly comprising the combination of a water-soluble metal salt and a nonionic surfactant.

6.3 Therefore, for the Board, D1 constitutes the closest prior art.

6.4 The disclosure of D1

6.4.1 D1 (Claim 1) discloses a liquid rinse aid composition for use in an automatic dishwashing machine consisting essentially of
a) from 1% to 40% by weight of a low foaming ethoxylated nonionic surfactant,
b) from 0 to 30% by weight of an organic chelating agent,
c) from 0.1% to 10% by weight of polyvalent metal ions selected from Mg^{++}, Zn^{++}, Sn^{++++}, Bi^{+++}, Sn^{++}, Ti^{+++} and mixtures thereof, said ions being present in the form of a water soluble salt thereof, and
d) a hydrotrope-water solubilising system.

6.4.2 Still according to D1 (Claims 2 and 3), the composition preferably comprises 2-5% by weight of Mg or Zn ions, wherein the magnesium or zinc is added as the chloride. Although the chelating agent can be any one of a wide range of organic or inorganic sequestering agents, citric or tartaric acid are preferred chelating agents, in particular in an amount in the range from 5% to 20% by weight. The highly preferred compositions use from 5% to 10% by weight of chelating agent in order to minimise any attack by the chelating agent on the glass (paragraph bridging pages 5 and 6).

6.4.3 Example I of D1 *inter alia* concerns rinse aid product "RAI", comprising:
20.0% by weight of nonionic;
20.0% by weight of citric acid monohydrate;
4.0% by weight of sodium cumene sulphonate; and,
56.0% by weight of water & miscellaneous.
The pH of RAI is not mentioned.

According to Experiments 13 and 14 of D1 (page 9, second paragraph and Table), this RAI was modified by reducing the citric acid monohydrate level to 10% by weight and by adding 5 or 10%, respectively, by weight of zinc chloride, thereby improving the resistance of the glass to corrosion caused by the rinsing aid.

Technical problem

7. At the oral proceedings, the Board pointed out that D1 was not acknowledged in the application as filed, that the patent in suit did not contain any example, and that the comparative data submitted with letter dated 22 December 2011 did not concern a comparison with the products of D1. Thereupon, the Respondent submitted that in the light of D1 the technical problem solved by

the invention according to the patent in suit could in any case be seen in providing an alternative rinse aid composition being suitable for use with metal (see also paragraph [0005]).

The solution

8. As a solution to said technical problem, the patent in suit proposes the "*rinse aid composition for reducing metal corrosion and rust formation*" according to claim 1 of the First Auxiliary Request which is characterized in particular in that it "*has a pH of less than 5 when measured at a 10% concentration in an aqueous solution*", and comprises a "*dispersant polymer*" which is "*a low molecular weight modified polyacrylate copolymer, wherein said copolymer contains as monomer units:*
a) from about 90% to about 10% by weight acrylic acid or its salts, and
b) from about 10% to about 90% by weight of a substituted acrylic monomer or its salt and have the general formula:

$$-[(C(R^2)C(R^1)(C(O)OR^3)]-$$

wherein the incomplete valencies inside the square braces are hydrogen and at least one of the substituents R^1, R^2 or R^3 is a 1 to 4 carbon alkyl or hydroxyalkyl group, and wherein R^1 or R^2 can be hydrogen and R^3 can be a hydrogen or alkali metal salt".

The success of the solution

9. The Appellant did not submit any item of evidence showing that the technical problem posed (point 7 *supra*) was not solved by rinse aid compositions as defined in claim 1. Moreover, the comparative data submitted by the Respondent show that a rinse aid as

claimed, comprising a combination of water-soluble salt, dispersant polymer, nonionic surfactant and acid is indeed suitable for being used with metal ware, since corrosion and rust formation on metal surfaces is successfully suppressed.

Non-obviousness

10. It remains to decide whether the claimed solution was obvious in the light of the state of the art.

10.1 Document D1 taken alone

10.1.1 D1 (*supra*) (in particular page 3, lines 1-9) addresses the corrosion of glass arising from treatment with a solution of chelating agent in water of low mineral hardness and close to neutral pH, such as the one taking place when a conventionally formulated rinse aid was added to the final rinse stage of an automatic dishwashing machine cycle, and proposes to use Zn or Mg salts in the said final rinse to substantially eliminate this soft water corrosion. Hence, D1 gives no hint on how to protect metal surfaces from corrosion and rust formation.

10.1.2 Moreover, D1 does not disclose the use of a dispersant polymer and is silent on the pH of the rinse aid composition. Citric acid is described as a preferred chelant and used in the examples of D1. D1 suggests a reduction of the chelant amount to, preferably, 5 to 10 % without, however, paying particular attention to possible consequences of the corresponding change in pH.

10.1.3 Hence, D1 taken alone does not induce the skilled person to add a dispersant polymer to the exemplified rinse aid compositions whilst ascertaining that the pH

(as defined in claim 1 at issue) is below 5. Hence, D1 does not lead the skilled person in an obvious way to the claimed subject-matter.

10.2 Combination of D1 with D4 and/or D5

10.2.1 D4 (Claim 1) discloses a rinse aid composition in liquid or gel form which is especially suitable for preventing or reducing formation of deposits on tableware during the rinse cycle of an automatic dishwashing process, said composition comprising :
A) from 0.5% to 40% by weight of the composition of a nonionic surfactant;
B) from 0.5 to 20% by weight of the composition of a hydrotrope selected from xylene sulfonate and cumene sulfonates;
C) from 35% to 94% by weight of the composition of a liquid carrier selected from water and mixtures of water and organic solvents; and
D) from 0.5% to 20% by weight of the composition of an organo aminophosphonic acid or its salts or complexes selected from the group consisting of amino alkylene poly(alkylene phosphonic acid) or nitrilo trimethylene phosphonic acid or mixtures thereof;
E) from 0.0005% to 20% by weight of the composition of an organic polymer containing acrylic acid or its salts, having an average molecular weight of less than 15,000;
said composition providing a pH of from 1.0 to 5.0 in a 1% solution with distilled water at 20°C.

10.2.2 According to D4 (Column 5, lines 9-19), the preferred low molecular weight acrylic acid containing organic polymer is a copolymer containing as monomer units:

a) from about 90% to about 10%, preferably from about 80% to about 20% by weight acrylic acid or its salts and
b) from about 10% to about 90%, preferably from about 20% to about 80% by weight of a substituted acrylic monomer or its salts having the general formula

$$-[CR_2-CR_1(CO-O-R_3)]-$$

wherein at least one of the substituents R_1, R_2 or R_3, preferably R_1 or R_2 is a 1 to 4 carbon alkyl or hydroxyalkyl group, R_1 or R_2 can be a hydrogen and R_3 can be a hydrogen or alkali metal salt.

10.2.3 Hence, D4 appears to disclose an acidic rinse aid composition comprising a copolymer as defined in Claim 1 at issue.

10.2.4 Such a composition is also illustrated in Example 1, Composition F, of D4, which has a pH of 3.3 (in a 1% solution), and which *inter alia* comprises:
6.5% by weight of citric acid;
12% by weight of a nonionic surfactant; and
5% by weight of a random copolymer of acrylic acid and methacrylic acid in a weight ratio of approximately 30:70 with a molecular weight of about 3500 (column 15, lines 1-3).

This specific composition was invoked by the Appellant.

10.2.5 However, Composition F is the only composition of Example 1 comprising a AA/MA copolymer. In fact, all of the other illustrated compositions, apart from prior art Composition A, comprise an organo aminophosphonic acid DETPMP (diethylene triamine penta(methylene phosphonic acid)) but not an AA/MA copolymer.

10.2.6 Furthermore, in D4, Composition B is compared with Composition A, and the results (Column 16, first table,

lines 18-20) show that Composition B gives rise to reduced formation of deposits, compared to Composition A. However, for silverware, Composition B behaves worse than Composition A.

10.2.7 It follows from the foregoing, that D4 only addresses formation of calcium carbonate deposits on the surface of different substrates, and that it does not hint at using the illustrated AA/MA copolymer as an essential component of rinse aid compositions with reduced metal corrosion and rust formation.

10.2.8 Hence, the allegedly obvious incorporation of this copolymer of Composition F of Example 1 of D4 into the compositions illustrated in Experiments 13 and 14 of D1 can only result from a retrospective approach.

10.2.9 D5 (see column 14) is similar to but not more relevant than D4, as it comprises the same Example 1 as D4, but not the comparison between Compositions A and B.

10.3 From the above, the Board concludes that the subject-matter of claim 1 and of claims 2 to 10 dependent thereon is not obvious and therefore involves an inventive step (Articles 52(1) and 56 EPC).

10.4 Therefore, the claims according to the First Auxiliary Request are allowable.

Description to be adapted

Before the application can proceed to grant, the description of the patent still needs to be brought in conformity with the allowable claims according to the First Auxiliary request filed at the oral proceedings. For instance, paragraph [0006] is not in line with

Claim 1, and the paragraphs dealing with the dispersant polymer appear to contain references to polymers disclosed in documents which could not be checked by the Board and to polymers other than the copolymer defined in Claim 1 (paragraphs [0058] to [0063]).

Order

For these reasons it is decided that:

The case is remitted to the Opposition Division with the order to maintain the patent on the basis of the claims according to the First Auxiliary Request submitted during oral proceedings and a description to be adapted thereto.

The Registrar: The Chairman:

D. Magliano B. Czech

Decision electronically authenticated