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**Datasheet for the decision  
of 13 April 2015**

**Case Number:** T 1756/13 - 3.3.06

**Application Number:** 10155225.5

**Publication Number:** 2226379

**IPC:** C11D3/22, C11D3/37, C11D17/06

**Language of the proceedings:** EN

**Title of invention:**  
Dissolvable laundry detergent sheet

**Applicant:**  
Dizolve Group Corporation

**Headword:**  
Dissolvable laundry sheet/DIZOLVE

**Relevant legal provisions:**  
EPC Art. 84, 114(2)  
EPC R. 115(2)  
RPBA Art. 12(4), 15(3)

**Keyword:**  
Clarity (no) - main and auxiliary request -  
ambiguous wording of claim  
Oral proceedings - held in absence of appellant

**Decisions cited:**  
T 2006/09

**Catchword:**



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Case Number: T 1756/13 - 3.3.06

**D E C I S I O N  
of Technical Board of Appeal 3.3.06  
of 13 April 2015**

**Appellant:** Dizolve Group Corporation  
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**Representative:** Gaunt, Robert John  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 11 March 2013  
refusing European patent application No.  
10155225.5 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** B. Czech  
**Members:** E. Bendl  
I. Beckedorf

## Summary of Facts and Submissions

- I. The appeal lies from the decision of the examining division to refuse the European patent application no. 10155225.5.
- II. In the contested decision the examining division came to the conclusion that the claims according to then pending main request were objectionable for (*inter alia*) lack of clarity (Article 84 EPC).
- III. With its statement of grounds of appeal, the appellant (applicant) filed two sets of amended claims as main and auxiliary requests, which, in its view, overcame all the objections of the examining division.
- IV. Claims 10 and 11 according to said **main request** read as follows:

*"10. A mixture to form a dissolvable laundry sheet for use in cleaning clothes in a laundry machine, comprising the following components:*

- a) rice starch;*
- b) alpha ( $\alpha$ ) olefin sulfonate;*
- c) water;*
- d) polyvinyl alcohol;*
- e) sodium laureth sulfate;*
- f) sulfonic acid;*
- g) one or more parabens;*
- h) fluorescent brightener;*
- i) sodium hydroxide;*
- j) EDTA tetrasodium;*
- k) sodium butyl naphthalene sulphate;*
- l) cocamide DEA; and*
- m) sodium chloride*

*wherein said components are mixed together and dried, to form a sheet."*

*"11. The sheet of claim 10, wherein*

*a) the rice starch constitutes between 25 - 60% of the mixture;*

*b) alpha ( $\alpha$ ) olefin sulfonate constitutes 15 - 40% of the mixture;*

*c) water constitutes 10 - 40% of the mixture; and*

*d) polyvinyl alcohol constitutes 5 - 15% of the mixture."*

The wording of claim 7 according to the **auxiliary request** is identical to the one of claim 10 according to the main request.

- V. The appellant was summoned to oral proceedings in accordance with its auxiliary request to this end. In preparation for the oral proceedings the board issued a communication setting out its preliminary opinion regarding *inter alia* the clarity of claims 10 and 11 of the main request and claim 7 of the first auxiliary request, reading as follows:

*"3.2.1 The wordings of claim 10 of the main request and of claim 7 of the auxiliary request are ambiguous since it is not clear whether they are supposed to define "a mixture to form ... a sheet" (see first line of each claim) of raw materials which after mixing is supposed to be dried to form a sheet, or whether they are directed to the sheet so obtained (see last line of the claims).*

*3.2.2 Claim 11 of the main request, depending on claim 10 relates to the "sheet of claim 10" although said claim relates to "a mixture to form a sheet"."*

- VI. The appellant did not submit any amendments or comments in response to the board's communication.
- VII. Oral proceedings took place on 13 April 2015. The duly summoned appellant did not attend the oral proceedings, as previously announced by letter of 9 April 2015. In accordance with Rule 115(2) EPC and Article 15(3) RPBA, the Board handed down its decision despite the absence of the party.
- VIII. As indicated in the Board's communication, it can be gathered from the written submissions that the appellant requested
- that the decision under appeal be set aside and
  - that a patent be granted on the basis of the claims according to the main request or, in the alternative, on the basis of the claims according to the auxiliary request, both requests submitted with the statement setting out the grounds of appeal dated 19 July 2013.

## **Reasons for the Decision**

### *Admissibility of the appellant's claim requests*

1. The new amended claim requests at issue were both filed with the statement of grounds of appeal, in reaction to the reasons given by the examining division for refusing the application. They constitute an attempt to overcome all the objections of the examining division.

The Board thus decided to admit them despite their late filing (Article 114(2) EPC and 12(4) RPBA).

*The requirement of clarity (Article 84 EPC)*

2. According to established jurisprudence of the boards of appeal of the EPO the wording of a claim has to be clear in itself when read by the person skilled in the art, without any reference to the content of the description (see e.g. T 2006/09 of 8 July 2011, point 4 of the reasons). In the present case this requirement is not met.

*Main request - Claims 10 and 11 - Lack of clarity*

- 2.1 In its communication issued in preparation of the oral proceedings the board had *inter alia* informed the appellant that the wording of claims 10 and 11 of the main request did not appear to be clear (see point V *supra*). In particular reference was made to the following wording of claim 10 "A **mixture to form a dissolvable laundry sheet ... comprising the following components ... wherein said components are mixed together and **dried to form a sheet****" (emphasis added by the board).
- 2.2 As pointed out in the communication, it is not unambiguously derivable from the quoted wording whether claim 10 is supposed to refer
  - to the "**mixture to form a dissolvable laundry sheet**", i.e. the composition before it is shaped and dried, referred to in the introductory part of the claim, or
  - to the final **formed "sheet"**, obtained **after** shaping and drying said "**mixture**", as referred to at the end of the claim.
- 2.3 Said "**mixture**" and said "**sheet**" obviously differ from each other at least in their relative water content, in

their shape and and their consistency (fluid versus solid). As indicated by the appellant, the aqueous "mixture" contains the ingredients in a dissolved state and is therefore in the form of an aqueous solution, whereas the final (shaped) "sheet" (after drying) is in the solid state (see statement of grounds of appeal, page 3, first paragraph).

2.4 Due to this ambiguity as regards the subject-matter for which protection is sought, claim 1 lacks clarity.

2.5 Claim 11, being dependent on claim 10, does not resolve the identified ambiguity, but rather makes the lack of clarity even worse, as it refers to the "**sheet** of claim 10", whereas, as stated *supra*, the introductory part of claim 10 refers to a "**mixture to form a dissolvable laundry sheet**", i.e. an aqueous mixture of starting materials intended to be processed into a sheet.

2.6 The appellant did not reply to the board's communication and did not attend the oral proceedings. Hence, the Board, after having re-considered all relevant aspects of the case, has no reason to deviate from its preliminary opinion expressed in the communication issued in preparation for the oral proceedings.

2.7 Thus, in the board's judgement, claims 10 and 11 do not meet the clarity requirements of Article 84 EPC.

2.8 Therefore, the main request is not allowable.

3. Auxiliary request

3.1 Claim 7 of the auxiliary request at issue is identical in its wording to claim 10 of the main request.

3.2 Thus, for the reasons given above under point 2.2 to 2.4, claim 7 also lacks clarity (Article 84 EPC).

3.3 Therefore, the auxiliary request is not allowable either.

## Order

### For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



D. Magliano

B. Czech

Decision electronically authenticated