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Aktenzeichen / Case Number / N^o du recours : T 41/89 - 3.3.1

Anmeldenummer / Filing No / N^o de la demande : 83 302 847.5

Veröffentlichungs-Nr. / Publication No / N^o de la publication : 0 095 322

Bezeichnung der Erfindung: Process for the production of either an alkaline
Title of invention: earth metal alkyl phenate or a sulphurised alkaline
Titre de l'invention : earth metal alkyl phenate

Klassifikation / Classification / Classement : C10M 1/20

ENTSCHEIDUNG / DECISION

vom / of / du 21 May 1990

Anmelder / Applicant / Demandeur : Orabis Limited

Patentinhaber / Proprietor of the patent /
Titulaire du brevet :

Einsprechender / Opponent / Opposant :

Stichwort / Headword / Référence : Remittal/ORABIS

EPÜ / EPC / CBE Articles 109(1) and 111(1)

Schlagwort / Keyword / Mot clé : "Claims amended on appeal to meet decision of refusal" - "Remittal" - "Interlocutory revision"

Leitsatz / Headnote / Sommaire

Europäisches
Patentamt

Beschwerdekammern

European Patent
Office

Boards of Appeal

Office européen
des brevets

Chambres de recours



Case Number : T 41/89 - 3.3.1

D E C I S I O N
of the Technical Board of Appeal 3.3.1
of 21 May 1990

Appellant : Orabis Limited
Belgrave House
76 Buckingham Palace Road
London SW1W 0SU (GB)

Representative : Richardson, D. Dr.
BP International Limited
Patents and Agreements Division
Chertsey Road
Sunbury-on-Thames
Middlesex TW16 7LN (GB)

Decision under appeal : Decision of Examining Division 029
of the European Patent Office dated
19 August 1988 refusing European
patent application No. 83 302 847.5
pursuant to Article 97(1) EPC

Composition of the Board :

Chairman : K.J.A. Jahn
Members : R.W. Andrews
J. Stephens-Ofner

Decision

1. This is an appeal from a Decision of the Examining Division in which it was held that the claimed subject-matter did not involve an inventive step. Prior to issuing its Decision, the Examining Division had issued two communications under Article 96(2) EPC giving its grounds against the grant of the European patent and inviting amendment of the application. In reply, the Appellants submitted observations and amendments, but these did not overcome the objections of the Examining Division.

2. In the grounds of appeal, the Appellants have not attempted to contest the Decision of the Examining Division refusing the application with text as previously proposed, but have filed an amended statement of claim which is clearly intended to meet the objections to grant which have previously been raised by the Examining Division, and have also filed arguments in support of the allowability of the presently proposed claims. In this circumstance, following the principles set out in Decision T 47/90 dated 20 February 1990, the case is remitted to the Examining Division under Article 111(1) EPC for further examination as to whether the proposed amendments are allowable under Article 123(2) EPC and if so, as to whether the amended text meets the requirements of the EPC.

Order

For these reasons, it is decided that:

The case is remitted to the first instance for further prosecution.

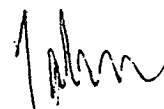
The Registrar:



M. Beer

01931

The Chairman:



K.J.A. Jahn