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**Datasheet for the decision
of 14 April 2021**

Case Number: T 0350/18 - 3.3.09

Application Number: 08803938.3

Publication Number: 2194795

IPC: A23F5/36, A23F5/34, A23F5/44

Language of the proceedings: EN

Title of invention:
INSTANT DRINK POWDER

Patent Proprietor:
Société des Produits Nestlé S.A.

Opponents:
Wallis, Naomi
GEA Process Engineering A/S

Headword:
Instant drink powder/NESTLÉ

Relevant legal provisions:
EPC Art. 100(a), 54, 56, 83, 100(b), 123(2)
RPBA Art. 12(4)

Keyword:

Amendments - added subject-matter (no)
Sufficiency of disclosure - main request (yes)
Late-filed objection - admitted (no)
Novelty - main request (yes)
Inventive step - main request (yes)
Late-filed evidence - admitted (no)

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0350/18 - 3.3.09

D E C I S I O N
of Technical Board of Appeal 3.3.09
of 14 April 2021

Appellant:
(Opponent 1)

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Respondent:
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Decision under appeal:

**Interlocutory decision of the Opposition
Division of the European Patent Office posted on
5 December 2017 concerning maintenance of the
European Patent No. 2194795 in amended form.**

Composition of the Board:

Chairman A. Haderlein
Members: M. Ansorge
 D. Rogers

Summary of Facts and Submissions

- I. Appeals were filed by opponent 1 (appellant 1) and opponent 2 (appellant 2) against the opposition division's interlocutory decision holding the main request before the opposition division allowable.
- II. With their notices of opposition, both opponents had requested revocation of the patent on the grounds for opposition under Article 100(a) EPC (lack of novelty and lack of inventive step) and Article 100(b) EPC. In addition, opponent 2 had raised an objection under Article 100(c) EPC.
- III. In the present decision, reference is made to the following documents:
- D1: US 5,882,717
D2: WO 2007/097626 A1
D3: CA 984216
D4: Brochure "Anhydro Dosing System"
D5: "FOAM SPRAY DRYING: GENERAL PRINCIPLES", E.J. Crosby and R.W. Weyl, AlChE SYMPOSIUM SERIES No. 163, Vol. 73, pages 82 to 94
D6: US 3,222,193
D7: "FOAM SPRAY DRYING METHODS OF MAKING READILY DISPERSIBLE NONFAT DRY MILK", R.W. Bell et al., Journal of Dairy Science, 1963, Vol. XLVI, No. 12, pages 1352 to 1356
D8: EP 1 627 568 A1
D26: US 5,620,733
D28: Declaration by Mr Welsh
D32: Experimental data
D33: Overview of coffee powder samples
D34: SEM photographs of coffee powder samples

D37: Declaration by Mr Kessler

IV. Claims 1 and 8 of the main request before the opposition division (being also the main request on appeal) read as follows:

(a) Claim 1

"Instant coffee or coffee/chicory mixture powder comprising porous powder particles characterized in that the powder particles have a porosity of at least 65%, and wherein the powder particles have pores having an average diameter D_{50} value of between 10 and 60 microns, and the pores have a size distribution characterised by a distribution span factor of less than 4."

(b) Claim 8

"Method for the manufacture of an instant coffee or coffee/chicory mixture powder comprising the steps of:

- a. Subjecting an instant coffee or coffee/chicory mixture extract to a pressure of 50 to 400 bar, preferably 150 to 400 bar,
- b. Adding gas to the pressurised extract, and
- c. Spraying and drying the extract to form an instant drink powder."

V. The opposition division decided that the subject-matter of the claims according to the this request met the requirements of the EPC. In particular, it held that the invention was sufficiently disclosed and the claimed subject-matter involved an inventive step in view of D1 as the closest prior art.

VI. The parties' relevant arguments are reflected in the reasoning below.

VII. The only claim request relevant in the case at issue entail the claims of the main request. For the wording of claims 1 and 8 of this request, reference is made to point IV above.

Claims 2 to 4 of the main request are dependent on independent product claim 1; claims 5 to 7 of the main request are use claims, directly or indirectly referring back to the product claims; and claims 9 to 13 of the main request are dependent on independent method claim 8.

VIII. Requests

The appellants request that the decision be set aside and that the patent be revoked in its entirety.

The proprietor (respondent) requests that the appeals be dismissed (i.e. that the patent be maintained in the form found by the opposition division to meet the requirements of the EPC, the "main request") or that the patent be maintained on the basis of one of auxiliary requests 1 to 23, all filed with the reply to the grounds of appeal.

Reasons for the Decision

1. Article 123(2) EPC
 - 1.1 Appellant 1 raised an added matter objection against the subject-matter of claim 1 of the main request.
 - 1.2 While appellant 1 did not deny that each of the individual features added into claim 1 is mentioned in claims of the application as filed, it argued that there is no unambiguous disclosure for the specific combination of all these features.

According to appellant 1, a new (undisclosed) combination of features is created by:

- restricting the instant drink powder to an instant coffee or coffee/chicory mixture powder (as mentioned in claim 6 of the application as filed);
- selecting the second broadest of seven porosity ranges (disclosed in claims 1 and 4 of the application as filed);
- taking the fourth broadest of eight preferred D₅₀ ranges (disclosed in claims 2 and 5 of the application as filed); and
- taking the first of four span factor ranges from claim 3 of the application as filed.

- 1.3 For the following reasons, the board cannot accept appellant 1's arguments in this respect.
 - 1.3.1 Limiting the instant drink powder according to claim 1 of the application as filed to an instant coffee or coffee/chicory mixture powder cannot be considered a selection since all the features of claim 6 of the application as filed were added into claim 1. In

addition, there is no doubt that the application as filed is particularly directed to this type of instant drink powder.

- 1.3.2 The board is unable to see that limiting the scope of claim 1 of the application as filed to a porosity of at least 65% (explicitly mentioned in claim 1 as filed), an average diameter D_{50} value of between 10 and 60 microns (explicitly mentioned in claim 5 as filed) and a distribution span factor of less than 4 (explicitly mentioned in claim 3 as filed) might lead to an undisclosed new combination of features. Instead, this combination of features is unambiguously disclosed in claims 1, 3 and 5 of the application as filed, all of which contain back-references. Put differently, there is a clear pointer in the application as filed to the combination of these features.
- 1.3.3 Combining features relating to different levels of preference does not lead to the automatic conclusion that there is added matter. This is particularly true for features directed to numerical ranges defined by a broadest range which converges down towards the most preferred range. In the absence of a contradiction or specific interrelation with respect to the individual features present in claim 1 which would require additional adaptations or modifications, the board is unable to see that claim 1 represents an artificial combination of features created by cherry-picking as alleged by appellant 1.
- 1.3.4 The argument of appellant 1 that there is no pointer towards the combination of features of claim 1 is unconvincing for the reasons set out above. Moreover, the powder according to claim 1 is still in line with

the examples of the patent, exemplified by PI I and PI II.

1.4 In view of the above, the board concludes that the subject-matter of the main request complies with Article 123(2) EPC.

2. Sufficiency

2.1 Appellant 2 raised a sufficiency objection and argued that the powder according to claim 1 as well as the method according to claim 8 could not have been carried out by the skilled person. In particular, it argued that the porosity of the claimed powder and the density of the coffee matrix of the claimed powder could not have been reliably determined. With respect to claim 8, it argued that the claimed method could not have been carried out if the term "gas" were construed to exclude supercritical fluids from the scope of claim 8.

2.2 In its sufficiency objection against claim 1, appellant 2 used experimental data included in D32 to D34 to demonstrate that the skilled person would not have been able to clearly and completely determine the porosity. The respondent requested that these documents not be admitted into the proceedings. Thus, it had to be decided whether D32 to D34 should be admitted into the proceedings.

2.3 The experimental report D32 (as well as documents D33 and D34) were filed by appellant 2 with the statement setting out the grounds of appeal.

While appellant 2 ticked the box for the ground for opposition under Article 100(b) EPC in Form 2300E, it did not comment in its notice of opposition on

sufficiency at all. Even after the opposition division gave its preliminary opinion in the annex to the summons in which it mentioned that no evidence and no verifiable facts were filed in support of the sufficiency objection (thus, giving a favourable opinion on sufficiency), appellant 2 did not react at all in this respect.

In its statement setting out the grounds of appeal, appellant 2, for the first time in these proceedings, sought to substantiate its objections under Article 83 EPC and filed, amongst other things, experimental data (in particular D32) as support for its sufficiency objection. However, it did not give any explanation why these experimental data were only filed in appeal and not before the opposition division and why the board should admit these data into the proceedings. In the board's view, substantiating a ground for opposition only in the appeal stage is contrary to the purpose of appeal proceedings and the fair conducting of it.

As can be taken from Article 12(2) RPBA 2020, the primary purpose of the appeal proceedings is to review the decision under appeal in a judicial manner, and a party's appeal case shall be directed to the requests, facts, objections, arguments and evidence on which the decision under appeal was based. Filing experimental data for the first time during the appeal proceedings, without giving any justification for doing so, is not in line with this provision.

Irrespective of the relevance of D32 to D34, it is contrary to the purpose of appeal proceedings to file evidence in support of a ground of opposition for the first time during the appeal. There is also no apparent reasons why, under the present circumstances,

appellant 2 could not have filed the experimental data previously before the opposition division.

Thus, the board did not admit D32 to D34 into the proceedings (Article 12(4) RPBA 2007).

- 2.4 In the absence of experimental evidence, the sufficiency objection against the porosity measurement fails. The patent explains that the porosity can be determined by standard methods such as mercury porosimetry or x-ray tomographic technique. Thus, the board confirms the opposition division's conclusion in this respect.
- 2.5 With respect to whether the density of the coffee powder matrix could have been determined, the board shares the respondent's view that determining the density of the coffee matrix would have been routine for the skilled person. This is shown for instance in examples 1 and 6 of D8 demonstrating a standard way to measure the density of a coffee matrix after grinding the powder.
- 2.6 The sufficiency objection against the method according to claim 8 is not convincing. Given that the pressure of the extract is defined as being 50 to 400 bar, the gas mentioned in claim 8 does not exclude the supercritical state. This interpretation was not contested by the respondent.

In view of the above, the board concludes that the invention could have been carried out by the skilled person.

3. Novelty

3.1 Appellant 2 contested novelty of the subject-matter of claim 1 of the main request in view of D1 and D2.

3.1.1 Appellant 2 raised the novelty objection against claim 1 in view of D1 only during the oral proceedings before the board. While it is true that such an objection was raised in the first-instance opposition proceedings, it was included neither in the grounds of appeal nor in any other written submission during the appeal proceedings.

This objection is thus an amendment to the appellant's appeal case within the meaning of Article 13(2) RPBA 2020.

There are no exceptional circumstances justified by cogent reasons by the appellant for taking this amendment to the appellant's case into account. Thus, the novelty attack in view of D1 is not taken into account.

3.1.2 D2 describes particles obtainable by a method for preparing edible particles from an aqueous liquid composition which further contains a component to form the particles in which the composition is contacted with a supercritical medium to form the particles. No details are given in D2 with respect to the particular parameters defining the claimed powder.

Appellant 2 did not provide any evidence that D2 discloses an instant coffee or coffee/chicory mixture powder having the combination of all three parameters, i.e. a porosity of the particles of at least 65%, an average diameter D_{50} value of the pores between 10

and 60 microns, and a distribution span factor of the pores of less than 4. Thus, it is a mere unsubstantiated speculation that carrying out the method disclosed in D2 implicitly leads to a coffee powder having all the features of claim 1. In this context, it is noted that the examples of D2 do not relate to a coffee powder but merely a foamer or creamer for coffee beverages.

Thus, the subject-matter of claim 1 of the main request is novel in view of D2.

3.2 Novelty of the subject-matter of claim 8 of the main request was contested in view of D2, D3 and D26.

3.2.1 D2 describes a method for preparing edible particles from an aqueous liquid composition which further contains a component to form the particles in which the composition is contacted with a supercritical medium to form the particles (see claim 1). These edible particles are preferably powdery creamers, in particular cold soluble creamers, coffee powder, in particular cappuccino powder (see page 4, lines 2 to 4, of D2). Page 13, lines 1 to 11, of D2 mentions that the pressure of the supercritical medium during the particle-forming contact with the composition may be chosen within a wide range, typically 500 bar or suitably 200 bar. Page 14, lines 15 to 21, of D2 mentions a preferred method which comprises mixing the particles with the supercritical medium under pressure and then spraying the mixture in which the temperature and pressure of the mixture prior to spraying is at or above supercritical conditions.

The examples of D2 do not relate to a coffee powder but a foamer or creamer for coffee beverages. Thus, they

cannot put in question the novelty of the claimed method.

Also, combining the text passage on page 4 with those on pages 13 and 14 does not unambiguously disclose the combination of all the features of claim 8 either. Even when assuming that the coffee powder mentioned on page 4, line 4, is meant to be a (real) coffee powder and not a powdery creamer for coffee beverages as alleged by the respondent, at least two selections have to be made to arrive at the method of claim 8. Firstly, coffee powder needs to be selected from the list on page 4. Secondly, the extract pressure and the point when gas is added needs to be selected in the text passages of pages 13 and 14. Moreover, there is no pointer in D2 to such a combination because none of the examples relates to coffee powder, as stated above. Thus, also when considering the text passages cited by appellant 1 in combination, the claimed method is novel over D2.

In view of the above, the subject-matter of claim 8 is novel in view of D2.

- 3.2.2 D3 describes a method for producing a foamed coffee extract of controlled density comprising the steps of simultaneously admitting to a two-fluid nozzle a stream of inert gas at a pressure of less than 100 psig. and a stream of aqueous coffee extract at a pressure above 300 psig., intimately mixing the two streams within the nozzle, and discharging, through a spray orifice of the nozzle, a foamy mass of extract into a mixing chamber which is maintained at a pressure of at least 20 psig. and filled with foamed extract and from which the extract is continuously withdrawn.

Since in the method of D3 the stream of inert gas has a lower pressure compared to the stream of coffee extract, no gas is "added" to the pressurised extract as required by claim 8. Instead, according to the method of D3, these two streams are intimately mixed within the nozzle. This is different compared to the claimed method in which gas is added to the pressurised extract before the step of spraying and drying the extract. Thus, D3 does not disclose step b. of claim 8 of the main request.

In view of the above, the subject-matter of claim 8 is novel in view of D3.

3.2.3 D26 describes a process for preparing a product for preparation of a beverage in which a milk product comprising a substance selected from the group consisting of a milk and a milk derivative and combinations of these is heat treated and concentrated to obtain a lactic concentrate, and the lactic concentrate is heat treated and then spray dried. This comprises adding a liquid coffee extract to the lactic concentrate to obtain a mixture and heat treating the mixture to flocculate whey protein and thus obtaining a heat-treated mixture; and spray drying the heat-treated mixture to obtain a spray-dried product.

Example 10 of D26 (which was mentioned by appellant 1 as being novelty-destroying for claim 8 of the main request) relates to a method applying a homogenisation taking place at 50 bar at a first stage and 110 bar at a second stage and pressurised nitrogen being injected into a concentrated mixture of coffee and milk slightly before spray drying at the top of the drying tower.

In the board's view, example 10 of D26 is ambiguous with respect to the exact pressure of the coffee extract, the location of the pump and the exact point where gas is added. For this reason alone, the novelty attack fails.

To try to explain the location of a high-pressure pump and the point gas is added, appellant 1 referred to example 11 of D26. It argued that it was implicit that the same spray drying equipment was used in examples 10 and 11 of D26.

The board cannot accept appellant 1's argument here since examples 10 and 11 of D26, although referring back to example 3, clearly represent independent examples. It is speculation to suppose that examples 10 and 11 of D26 use the same equipment. There is no information in D26 supporting this speculation. In this context, appellant 1 also referred to declaration D28 to try to support its interpretation of the equipment used in example 10 of D26. However, the declaration D28 only contains expectations and the personal understanding of a technical expert with respect to the question of how the equipment used in example 10 of D26 might be constructed. D26 cannot fill the gap of missing information given in example 10 of D26 either. Even when assuming that appellant 1 gave a plausible explanation of how the equipment used in example 10 of D26 might have been constructed, this does not qualify as a direct and unambiguous disclosure, which would be necessary to deny novelty of the claimed method. In this context, the board for instance shares the conclusion given in declaration D37 that it is not possible to conclude that the white coffee extract used in example 10 of D26 has a pressure of 50 to 400 bar when nitrogen is injected into the extract.

Under these circumstances, the subject-matter of claim 8 is considered novel in view of D26.

4. Inventive step

4.1 Inventive step objections were brought forward with respect to the powder of claim 1 in view of D1 and PA II (a commercial coffee powder mentioned only in the patent) as the closest prior art.

4.1.1 There was agreement among the parties that D1 qualifies as a suitable closest prior art document. The board sees no reason to disagree. However, the respondent was of the opinion that PA II does not qualify as closest prior art.

For the following reasons, the board shares the respondent's view in this respect.

The object underlying the patent is to provide an instant coffee powder or instant coffee/chicory mixture powder having improved stability and amount of foam.

While D1 relates to the same purpose of providing a coffee powder having improved in-cup foam, there is no information on file that the prior art coffee product PA II might also be directed to the same or a similar purpose. In this context, appellant 2 referred to paragraph [0042] of the patent mentioning that PA II is a commercial soluble coffee powder marketed as providing an espresso beverage with good crema.

The board observes, however, that there is no information on file concerning the composition of the coffee powder PA II, and there is no document which

contains details about the properties of PA II. Moreover, providing good crema does not necessarily mean that it is intended to have improved foam stability and amount of foam. Thus, the purpose of PA II is not necessarily identical to the one underlying the patent. Conversely, as outlined above, the purpose of D1 is identical to the one underlying the patent. Thus, it is closer than PA II.

In view of these circumstances, the board concludes that D1 is the closest prior art for the subject-matter of claim 1 of the main request.

- 4.1.2 D1 discloses a soluble espresso coffee powder which comprises a moisture content of from about 2.5 to about 4.0%; a density of from about 0.12 to about 0.22 g/cc; and in which this soluble espresso coffee powder comprises an interior void space which consists of a majority of gas bubbles of 10 microns or less and minority void space in excess of 10 microns such that upon reconstitution with hot water, a coffee product with a layer of espresso-type foam is produced (see claim 23 of D1).
- 4.1.3 The powder according to claim 1 of the main request differs from the coffee powder of D1 in that the average diameter D_{50} value of the main request is between 10 and 60 microns. In contrast, the coffee powder particles of D1 has a majority of void space or gas bubbles of 10 microns or less.
- 4.1.4 In the absence of any comparative data, no effect resulting from this difference can be acknowledged. Thus, the objective technical problem is seen in the provision of an alternative coffee powder.

4.1.5 Appellant 2 is of the opinion that the skilled person would have been taught by D1 to provide pores having the required D_{50} value. Appellant 2 draws this conclusion from a calculation using the SEM micrograph of espresso powder particles shown in Figure 9B of D1, allegedly demonstrating that the powder particles shown in Figure 9B might have a D_{50} value of between 15 and 25 microns.

In this context, the board shares the respondent's concerns that evaluating only a part of only one particle shown in Figure 9A and 9B is not representative for the totality of the coffee powder of D1. Thus, the appellant 2's calculation using Figure 9B of D1 is unconvincing.

There is no prompt in D1 to increase the average diameter D_{50} value of the pores. While it is true that D1 does not explicitly mention a D_{50} value of the pores of the coffee powder particles, it is evident from the whole context of D1 that it is directed to coffee powder particles having pores that are smaller compared to the claimed powder. In the board's view, this is derivable from the fact that the majority of void space or gas bubbles of the coffee particles in D1 is 10 micron or less. Increasing the average diameter of the pores would go against the teaching of D1.

Even when considering the documents cited by appellant 1, i.e. D4 to D7 and D26, the skilled person would not have been motivated to modify the coffee powder of D1 in such a way as to arrive at the claimed powder. Documents D4 to D7 and D26 are silent with respect to the average diameter D_{50} value of the coffee powder, and there is no teaching in D4 to D7 or D26

that would have led the skilled person to the claimed product in an obvious manner.

Thus, the subject-matter of claim 1 of the main request involves an inventive step in view of D1 as the closest prior art. The same applies to claims 2 to 7 being directly or indirectly dependent on claim 1.

4.2 Inventive step objections were brought forward in view of D1, D2 and D3 as the closest prior art against the method of claim 8 of the main request.

4.2.1 For similar reasons as outlined above under point 4.1.1, the board is of the opinion that D1 is also the closest prior art for assessing inventive step of the main method claim.

For the following reasons, D2 or D3 do not qualify as the closest prior art.

While D2 mentions the objective of providing a new particulate product having good foam-building properties, which is similar to the purpose of the patent, D2 is focused on providing a foamer or creamer for beverages such as coffee. This is evident from the examples which do not relate to a coffee powder but a foamer or creamer for coffee beverages. When comparing the number of features in common between the examples of D2 - the part of D2 which could possibly represent the closest prior art - and claim 8 of the main request, it is apparent that the method of D1 has more features in common. Thus, D2 is not the closest prior art in the case at issue.

Although D3 discloses a method of producing a foamed coffee extract, it is not directed to the same or a

similar purpose as the patent. For this reason, D3 does not qualify as the closest prior art in the case at hand.

In view of the above, the board concludes that D1 is also the closest prior art for the subject-matter of claim 8 of the main request.

- 4.2.2 D1 discloses a process for making a soluble espresso coffee powder comprising the steps of (1) foaming coffee extract by gas injection; (2) homogenising the foamed extract of step (1) to reduce gas bubble size to five microns or less; and (3) spray drying the homogenised extract of step (2) under drier outlet temperature and spray pressure conditions effective for incorporating and retaining small gas bubbles in the resulting powder such that a majority of void space in the soluble espresso coffee powder is comprised of gas bubbles having a size of 10 microns or less.

Example 1 of D1, which comes closest to the claimed process, relates to a process for producing spray-dried coffee powder comprising a step of adding nitrogen gas at a pressure of 40 to 50 psi to an extract exerted at a pressure of 30 psi. In this example, the addition of gas is carried out before the high-pressure pump. Also, Figure 1 of D1 shows that the gas injection point (10) is before the high-pressure spray dryer feed pump (22).

- 4.2.3 Claim 8 differs from the method of example 1 of D1 in that the coffee extract of claim 8 is subjected to a pressure of 50 to 400 bar, whereas a significantly lower extract pressure of 30 psi (6.9 bar) is disclosed in example 1 of D1. In addition, in example 1 of D1, no gas is added to the pressurised extract. Instead, in example 1 of D1, the gasified extract is pumped to an

in-line homogeniser, and the homogenised extract is then pumped to the spraying nozzle of the spray dryer at 500 psi (34.5 bar).

- 4.2.4 There is no effect resulting from these differences. Thus, the objective technical problem is the provision of an alternative method for manufacturing an instant coffee powder.
- 4.2.5 In the board's view, D1 would not have motivated the skilled person to subject the coffee extract to a pressure of 50 to 400 bar before the step of adding gas to this pressurised extract. Instead, D1 teaches significantly lower pressure conditions (see the examples of D1). In addition, D1 provides no hint to put a gas injection point after the high-pressure pump (see Figure 1). Thus, D1 alone would not have led the skilled person to the claimed method.

Appellant 1 argued that D5 and D6 teach that gas may be added after the high-pressure pump. Thus, in its view, changing the gas injection point as shown in example 1 of D1 (being before the pump) to the downstream location after the pump would have been obvious for the skilled person.

For the following reasons, the board does not share this view.

As can be taken from column 6, lines 51 to 61, of D1 not only the type of gas used, but also the quantity of gas present in the extract was found to influence the amount of in-cup foam generated upon product reconstitution. However, the quantity of gas which can be incorporated in the extract is constrained by bulk density specifications for the finished product.

In the board's view, this passage of D1 would not have encouraged the skilled person to significantly increase the pressure of the coffee extract before the step of adding gas. As can be taken from the examples of D1, the teaching of D1 is rather directed towards using smaller or moderate pressure conditions in pressurising the coffee extract to achieve the smaller gas bubbles in the resulting powder.

Under these circumstances, the board holds the view that the skilled person, even when considering the teaching of D5 or D6, would not have changed the gas injection point to a point downstream of the high-pressure pump. The board is of the opinion that this would have been against the teaching of D1 which describes an optimised process for retaining small gas bubbles in the resulting powder. Changing the gas injection point in D1 would have had an influence on the quantity of gas present in the extract, thus, changing the properties of the resulting coffee powder. The skilled person having knowledge of D1 would not have modified the method described in D1 to arrive at the claimed method.

Thus, the subject-matter of claim 8 of the main request involves an inventive step in view of D1, taken alone or in combination with D5 or D6. The same applies to dependent method claims 9 to 13.

5. In view of the above, the main request is allowable. Thus, there is no need to deal with auxiliary requests 1 to 23.

Order

For these reasons it is decided that:

The appeals are dismissed.

The Registrar:

The Chairman:



A. Nielsen-Hannerup

A. Haderlein

Decision electronically authenticated