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Datasheet for the decision of 6 December 2022

Case Number: T 0232/19 - 3.3.07

Application Number: 10702089.3

Publication Number: 2393469

IPC: A61Q5/02, A61K8/41, A61K8/02

Language of the proceedings: EN

Title of invention:
Process of treating hair

Patent Proprietor:
RHODIA OPERATIONS

Opponent:
Henkel AG & Co. KGaA

Headword:
Process of treating hair/Rhodia Operations

Relevant legal provisions:
RPBA Art. 12(4)
RPBA 2020 Art. 13(1)
EPC Art. 83, 54, 56

Keyword:
Admission of new evidence (No)
Main Request - Sufficiently disclosed, novel and inventive

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Case Number: T 0232/19 - 3.3.07

D E C I S I O N
of Technical Board of Appeal 3.3.07
of 6 December 2022

Appellant: (Opponent)	Henkel AG & Co. KGaA Henkelstrasse 67 40589 Düsseldorf (DE)
Representative:	Henkel AG & Co. KGaA CLI (Patente) 40191 Düsseldorf (DE)
Respondent: (Patent Proprietor)	RHODIA OPERATIONS 9 rue des Cuirassiers Immeuble Silex 2 Solvay 69003 Lyon (FR)
Representative:	Lederer & Keller Patentanwälte Partnerschaft mbB Unsöldstraße 2 80538 München (DE)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 21 November 2018 rejecting the opposition filed against European patent No. 2393469 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chair	A. Jimenez
Members:	D. Boulois
	J. Lécaillon

Summary of Facts and Submissions

I. European patent No. 2 393 469 was granted on the basis of a set of 14 claims.

Independent claim 1 as granted read as follows:

"1. A process for improving hair treatment by deposition of an oil onto hair comprising the step of applying onto hair an aqueous composition comprising:
a) a structured surfactant system comprising:
- non cationic surfactant(s), and
- a cationic co-surfactant
b) an oil, being
b1) a silicone oil, or
b2) an oil of mineral origin, and
c) optionally a cationic or ampholytic polymer."

II. An opposition was filed under Article 100 (a) and (b) EPC on the grounds that its subject-matter lacked novelty and inventive step and was not sufficiently disclosed.

III. The appeal lies from the decision of the opposition division to reject the opposition.

IV. The documents cited during the opposition proceedings included the following:
D1: WO-A-95/20641
D1a: Akzo Nobel, Product Information "Arquad® 2HT-75", 02.12.2002,
D1b: WO-A-00/59454
D2: DE-U1-203 01 831

D2a: Dow Corning, Product Information "Dow Corning® 949 - Kationische Emulsion", 14.09.1998
D2b: Croda, Product Information "Incroquat Behenyl TMC-25", 02.06.2003
D2c: Cognis, Datasheet "Dehyquart® A-CA", 17 December 2001
D3: W0-A-03/060046
D4: WO-A-2004/073665
D5: US-A-5,965,500
D6: WO-A-2006/023591
D7: WO-A-2006/042175
D8: WO-A-03/055455
D9: Rhodia, Data sheet "Miracare® SLB-365/N", April 2008
D10: Personal Care Products Council, Online Infobase - Ingredient Database, "Polyquaternium-47"

V. According to the decision under appeal, the claimed invention was sufficiently disclosed. The passage from the paragraph [0014] to the paragraph [0067] of the opposed patent described the claimed structured surfactant system, which could be prepared by the skilled person in the art, since the specification contained not only examples of concrete systems prepared and a process for preparing the composition, but also further examples of surfactant combinations which can be used to prepare them.

None of the documents D1-D4 disclosed structured surfactant systems and they were not relevant for novelty for this reason.

The opposition division considered D6 to represent the closest prior art, instead of D5, D7 or D8. The difference between the subject-matter of claim 1 of the opposed patent and the teaching of document D6 was the

presence of a cationic co-surfactant in the structured surfactant system. From the experimental results of in particular example 3 of the patent, it could be concluded that it had been convincingly shown that adding a cationic surfactant to an aqueous composition comprising a structured surfactant system improved the amount of oil deposited on hair compared to a non-structured system whilst also improving the targeting of the deposition on damaged hair. The technical problem to be solved vis-à-vis document D6 could thus be formulated as being the provision of an improved hair treatment process, namely to selectively improve the deposition of oil on hair, meaning providing more improvement to damaged hair than to virgin hair. The solution was not obvious in view of D3 or D6.

VI. The opponent (hereinafter the appellant) filed an appeal against said decision.

VII. With the statement setting out the grounds of appeal dated 27 March 2019 the appellant submitted the following items of evidence:
D11: JP 2004-307463A, published on 4 November 2004
D12: English human translation of D11.

VIII. With a letter dated 10 April 2019, the appellant submitted further items of evidence:
D13: Polarization microscope shot from example 1 of D2
D14: F. Caboi, M. Monduzzi, Langmuir 1996, 12, pages 3548-3556

IX. With a letter dated 24 November 2021 the patent proprietor (hereinafter the respondent) filed auxiliary requests 1 to 4.

X. A communication from the Board, dated 14 June 2022, was sent to the parties. In it the Board expressed its preliminary opinion that none of documents D11, D12, D13 and D14 could be admitted into the proceedings, and that the claimed invention was sufficiently disclosed, novel and inventive.

XI. With a letter dated 22 June 2022, the appellant informed the Board and the respondent that it will not take part to the oral proceedings and withdrew its request for oral proceedings.

XII. The written arguments of the appellant relevant to the decision may be summarised as follows:

Admission of D11/D12

The appellant only recently became aware of document D11, which could not be found earlier. The translation did not disclose explicitly the term "lamellar phase". Therefore, D11/D12 could not be submitted in the first instance.

Admission of D13/D14

Example formulation No. 1 disclosed in D2 on pages 5-6 was reproduced in D13. For comparison, the appellant submitted document D14. Comparing the images from document D13 with the images from D14 confirmed the presence of multilamellar vesicles in the composition according to example 1 of D2. Example 1 from citation D2 was thus "structured" in the sense of claim 1 of the patent in suit.

Main request - Sufficiency of disclosure

The expert was not given specific instructions on how to specifically produce a "structured surfactant system". Tables 1 and 2 of the patent in suit disclosed shampoo compositions B and D, which hardly differed from each other with regard to the mandatory ingredients according to claim 1. The person skilled in the art could conclude from Table 1 that only the addition of a cationic surfactant led to a structured surfactant composition. However, this was contradicted by the teaching of Table 2, where despite the addition of a cationic surfactant, no structure was formed, only micelles.

The breadth of the claim was disproportionate to the specifically disclosed teaching of the patent in suit. Claim 1 of the patent in suit did not contain all the necessary features that enabled the person skilled in the art to produce a structured surfactant system from any desired non-cationic surfactant and any cationic surfactant in any quantity in a targeted manner and without unreasonable effort. In the absence of any selection rule in the patent the person skilled in the art had to rely solely on the principle of trial and error in the course of experimentally testing arbitrarily selected mixtures of cationic surfactant and non-cationic surfactant in arbitrary proportions in order to determine the presence of the claimed "structure". The skilled person had to carry out a research program which represented an unreasonable burden.

Main request - Novelty

Examples 7, 8 and 9 of D1 disclosed all the components claimed in claim 1 of the main request. The surfactant system was therefore implicitly also a lamellar surfactant system as in the present invention. The claimed subject-matter was therefore not novel over D1.

D2, D3 and D4 were relevant for novelty for the same reasons (Cf. D2, examples 1 and 2; see D3, example 13; see D4, examples 1 and 2).

Main request - Inventive step

D5, D6, D7 and D8 were all possible starting points for the assessment of inventive step.

D6 disclosed compositions which, in addition to an oil phase, contained spherulite. According to page 1, last paragraph, spherulite-based formulations contain lamellar surfactant phases that form structured systems. On pages 2-4, D6 explained the properties of surfactant systems with lamellar phases. According to page 6, the compositions contained:
a) 6-10% by weight of sodium trideceth sulfate, corresponding to a non-cationic surfactant,
b) 1.8-3% by weight of a structuring ingredient,
c) 1.1-3% by weight of a foam booster,
d) water,
e) 0.2 - 0.8% by weight of cationic guar polymer,
f) sodium chloride and
g) up to 15% by weight of oil, which is preferably chosen among vegetable oils, mineral oils and silicon oil.

The subject matter of the patent differed from the teaching of D6, in that D6 did not disclose a cationic co-surfactant (M7). According to the patent, the presence of a cationic co-surfactant improved the deposition of silicon oil on the hair and thus improved the cosmetic properties of the hair. The objective technical problem was the provision of an improved hair treatment method with improved oil separation.

The solution was known from D3, which disclosed that imidazoline quaternary compounds and quaternary mixtures improved the separation of hydrophobic ingredients such as silicones or vitamin E, on the hair. Experimental proof of this was given in D3 in Examples 14 and 16.

XIII. The written arguments of the respondent may be summarised as follows:

Admission of D11/D12

The late-filed documents D11 and its translation D12 should be considered inadmissible, since they could have been produced during the opposition proceedings. The justification according to which the available translation did not include the term “lamellar Phase”, and was not supposedly “accessible” via this term, is irrelevant, since the appellant had succeeded to identify the document D11 later at the stage of the appeal proceedings.

Admission of D13/D14

The documents D13 and D14 could have been produced during the opposition proceedings. The Opposition Division had indicated that the document D2 did not

directly and unambiguously describe a structured surfactant system such as required according to claim 1 at issue, and that the opponent had not shown that there are lamellar surfactant systems formed in D2.

Main request - Sufficiency of disclosure

In Table 1, the two formulations described, namely Shampoo "Structured A" Comparative and Shampoo "Structured B", were both structured within the meaning of the present invention. The fact that composition A was indicated as "comparative" only resulted from the fact that it did not contain a "cationic co-surfactant" as required in this patent. The ingredient Miracare SLB365 was present in each of the two formulations and contributed to obtaining the “structured surfactant system” required according to the present invention.

Main request - Novelty

None of documents D2, D1, D3 and D4 showed a structured surfactant system.

Main request - Inventive step

Document D6 was considered being the closest prior art document. The difference between document D6 and the patent was that according to the patent the structured surfactant system included a cationic surfactant. As demonstrated in the examples of the patent, the use of cationic surfactant resulted in an improvement of the selectivity to deposit an oil on damaged hair in comparison to the deposit on virgin hair. None of the prior art documents disclosed that a combination of a structured surfactant system including a cationic surfactant improved the deposition on the hair. In

particular, document D3 was concerned with emulsion for personal care and cosmetic which are not based on structured surfactant system. Hence, the claimed subject matter of the main request was based on an inventive step.

XIV. Requests

The appellant requested that the decision under appeal be set aside and the patent be revoked.

The respondent requested that the appeal be dismissed, alternatively that the decision under appeal be set aside and the patent be maintained according to the sets of claims filed as auxiliary request 1-4 with letter dated 24.11.2021. The respondent also requested that documents D11-D14 not be admitted into the appeal proceedings. If documents D11-D14 were admitted, the respondent requested a remittal to the opposition division and a different apportionment of costs.

Reasons for the Decision

1. Admission of D11 and D12 into the appeal proceedings

1.1 These documents were filed by the appellant with its statement of grounds of appeal, D12 being an English translation of D11.

1.2 According to the appellant, D11/D12 are *prima facie* relevant for novelty. The appellant explains that it only recently became aware of document D11, since this Japanese document has no parallel foreign applications and was only accessible in the form of the English translation. This translation does not explicitly

disclose the term "lamellar phase" and was therefore not accessible for searching for this term. Therefore, D11/D12 could not already be submitted in the first instance.

1.3 The document D11/D12 is not admitted into the appeal proceedings for the following reasons.

1.3.1 This document has apparently been the result of a new documentary search performed by the appellant. The Board notes that a search for the patent as granted could easily have been carried out within the opposition period or at the latest during the opposition proceedings. The appeal procedure is not an additional opportunity, in the event of failure of an objection or an argument conducted at first instance, to try again to challenge the validity of the patent with new evidence.

The Board does furthermore not see any sound reason to succeed to identify this document only at the stage of the appeal proceedings. The first reason is that it was publicly available in 2004, i.e. much earlier than when the notice of opposition has been filed in 2017. Secondly, the appellant's argument that the translation of D11 did not explicitly use the term "lamellar phase" is in particular difficult to follow, since the translation D12 makes a constant reference to a "liquid crystal structure" (see for instance D12, the Abstract, par. [0002], [0007], [0032]), which is presented in the contested patent as a "structured surfactant system" (see specification, par. [0015]).

This document constitutes furthermore undeniably a fresh case at the stage of the appeal proceedings and

should also have been filed earlier to be discussed during the opposition proceedings.

1.3.2 Moreover, on a technical point of view, the structured surfactant system of D11 appears to be formed from the association of an oil and a cationic surfactant and not by an association of a cationic surfactant and non cationic surfactant(s) as it is claimed in claim 1 of the main request (see D12 par [0008] and [0032]). It therefore appears that D11 is not *prima facie* relevant for novelty.

1.4 Consequently, the Board decides to not admit D11/D12 into the appeal proceedings (Article 12(4) RPBA 2007).

2. Admission of D13 and D14 into the appeal proceedings

2.1 These documents have been filed by the appellant by letter of 10 April 2019 after the time limit for filing the statement of grounds of appeal has expired. Accordingly, the provisions of Article 13(1) RPBA 2020 are relevant for assessing whether these documents should be admitted into the appeal proceedings (see transitional provisions Article 25 RPBA 2020).

2.2 D13 is a reproduction of Example formulation No. 1 disclosed in D2 on pages 5-6, which was examined with a polarizing microscope for showing the presence of lamellar structures. Document D13 shows two photographs with a magnification of 20x. According to the appellant, the diffraction patterns seen in polarized light, commonly referred to as "Maltese crosses", confirm the presence of multilamellar vesicles. The appellant has submitted document D14 for comparison.

2.3 In the present case, the summons of the opposition division already pointed out that none of the cited documents, including D2, disclosed the presence of specific surfactant structures; the opponent did however not take the opportunity to file D13 in response to the summons of the opposition division, an opportunity that it could and should have taken.

Moreover, when filing D13 and D14 in the appeal proceedings, the appellant did not give any reason why they have been filed only in the appeal proceedings and why they were not filed earlier during the opposition proceedings.

2.4 The technical content of D13 appears to be also questionable. Example 1 of D2 does not mention the formation of a special surfactant structure, does neither give any technical information on how the composition was prepared nor that the process is selected to produce a special structure; the only information given in D2 is that the components were mixed in the "usual way" (see pages 5,6 of D1). D13 does not give any further detail with regard to the process of preparation used and it is not possible to exclude that a special process of preparation was used in D13, as argued by the respondent; such a process is given in paragraphs [0110] and [0111] of the specification and is different from an usual and simple mixing process. This point would necessitate a thorough discussion, which adds complexity to the case and is against the principle of economy of procedure.

Moreover, there is no indication in D13 of the constituent(s) of the shown cross structure, in particular whether the cationic surfactant used in example 1 of D2 is involved in the formation of said

structure, as it is claimed in claim 1 of the main request. It therefore questionable whether D13 is *prima facie* relevant for showing a lack of novelty over D2. In any case, this point adds again an undeniable further complexity to the appeal proceedings.

2.5 Consequently, the Board decides not to admit these documents into the appeal proceedings (Article 13(1) RPBA 2020).

3. Main request - Sufficiency of disclosure

3.1 Claim 1 of the main request relates to a process for improving hair treatment by the use of a composition comprising in particular a "structured surfactant system" comprising non-cationic surfactant(s) and a cationic surfactant.

3.2 According to the appellant, the skilled person is not given specific instructions on how and with which components to specifically produce a "structured surfactant system".

3.3 The description of the contested patent mentions in paragraphs [0024] and [0025] that some commercially available blends of surfactants associated with structurants and/or electrolytes can participate in forming structured domain, and gives the specific example of Miracare® SLB, as such commercial blend of surfactant. The product Miracare® SLB corresponds to the claimed definition of "non cationic surfactant(s)", and comprises a surfactant blend of sodium trideceth sulfate, disodium lauroamphoacetate and cocamide MED (see example 1 of the specification, par. [0124]). Hence, the existence of such commercial products confirms that a skilled person would be able to prepare

the claimed "structured surfactant system" without undue burden.

A process for preparing the claimed "structured surfactant system" is furthermore given explicitly in paragraphs [0110]-[0111] of the specification. The description of the specification gives also a list of possible cationic surfactant that can be associated with the non-cationic surfactant(s) in paragraphs [0040] and [0041].

This disclosure is confirmed by the teaching of example 1 of the patent. Example 1 of the patent shows in Table 1 that the preparation of a composition comprising Miracare® SLB365 provides a "structured surfactant system". Said example shows that the further addition of a cationic surfactant (See "Shampoo "Structured B"") lowers the amount of salt and reduces potential irritancy in comparison to a composition without cationic surfactant (see "Shampoo "Structured A" Comparative").

The disclosure of the contested patent is also confirmed by the teaching of document D6, which was cited by the appellant and considered to represent the closest prior art. This document discloses indeed the preparation of compositions in the form of structured surfactant systems prepared with the product Miracare® SLB 365.

Finally, "structured surfactant systems" were well known at the priority date of the patent, as demonstrated for instance by the citation of numerous prior art documents in paragraph [0026] of the contested patent.

Consequently, the skilled person is given sufficient instructions with regard to "structured surfactant system", in particular on how and which components to use in order to produce a "structured surfactant system".

3.4 The Board could furthermore not see any contradiction between Table 1 and 2 of the examples.

Table 1 shows the preparation of structure surfactant system with the product Miracare® SLB365 with and without the presence of a cationic surfactant. In said Table 1, the two formulations described, namely Shampoo “Structured A” Comparative and Shampoo “Structured B”, are both structured within the meaning of the present invention. The fact that composition A is indicated as "comparative" results only from the fact that it does not contain a "cationic co-surfactant" as required in the present claimed invention.

Table 2 of Comparative Example 2 shows the preparation of composition comprising a mixture of surfactants different from Miracare® SLB 365 and a cationic surfactant. All the obtained composition are micellar compositions, and not compositions presenting a "structured surfactant system", which confirms the teaching of the description that only some surfactant, and not any surfactant(s), can participate in the formation of structured domains (see par. [0024] and [0025]). There is therefore no contradiction in view of the disclosure of Comparative example 2.

3.5 Consequently, the requirements of Article 83 EPC are met.

4. Main request - Novelty

4.1 According to the appellant, documents D1-D4 are relevant for novelty (see D1, examples 7-9; see D2, examples 1 and 2; see D3, example 13; see D4 examples 1 and 2).

4.2 The cited passages and examples of D1-D4 relate to compositions comprising all the components of claim 1 of the main request, namely non cationic surfactant(s), a cationic co-surfactant, an oil, being a silicone oil, or an oil of mineral origin.

4.3 However, none of said documents mentions that said surfactants form a "structured surfactant system" as claimed. It is in particular not possible to conclude that, as argued by the appellant, a "structured surfactant system" is inevitably formed in all these documents in view of the presence of analog products. It is indeed shown in comparative example 2 of the contested patent, that a simple association of non cationic surfactant(s), a cationic co-surfactant, an oil, being a silicone oil, or an oil of mineral origin does not necessarily form a special structure, since micellar shampoos are obtained in said comparative example 2. In view of the disclosure of the contested patent, the formation of a "structured surfactant system" depends on the surfactant and process used. In the present case, there is no convincing teaching in D1-D4 that "structured surfactant systems" may be formed. For these reasons, the arguments of the appellant remain an unfounded allegation.

4.4 Consequently, the main request meets the requirements of Article 54 EPC.

5. Main request - Inventive step

5.1 The claimed invention relates to a process for improving hair treatment by the deposition of an oil onto the hair.

5.2 The opposition division considered D6 to represent the closest prior art, while the appellant also considers D5, D7 or D8.

5.2.1 Document D6 relates to compositions for enhancing the delivery of oil to a substrate such as hair, skin or wool (see page 4, lines 25-26). The compositions comprise spherulites, therefore structured surfactant systems, and oil, whereby the oil is incorporated into the spherulite formula at a later stage in the manufacturing process; such composition may comprise Miracare® SLB 365 with water, an electrolyte, a cationic polymer and an oil (see page 6 or the examples). No cationic surfactant is used in the compositions.

5.2.2 Document D5 relates to high lathering aqueous liquid cleansing compositions containing a high oil/emollient load which is stable and which still maintain good lather. A structured surfactant system is not explicitly disclosed and the compositions disclosed therein are intended as body washes, not as shampoos, and therefore the purpose of D5 is skin treatment and not hair treatment.

5.2.3 Document D7 pertains to a multi-phase personal care composition for topical application to the skin, and therefore not to the hair (see page 3, lines 25-26), which is intended to provide cleansing with increased lather longevity and improved lathering characteristics

and deposit benefit agents, which might be a silicone or a mineral oil; the selection of some anionic surfactants provides increased deposition, good skin conditioning and good lather (see page 2, lines 11-16). Cationic surfactants may be used, but are less preferred, and none of the examples show a composition comprising a cationic surfactant (see page 9, lines 11-12 and the examples). The aqueous phase may be structured, whereby the structurant is typically polymeric (pages 19-20) or based on fatty alcohols, fatty acids or fatty esters (pages 21-22).

5.2.4 Document D8 describes stable hair compositions comprising anionic cleansing surfactants and cationic conditioning agents, which association may form a lamellar structure (see page 9, lines 4-18). D8 mentions that "it is desirable to include water insoluble particles or partially insoluble components in the free flowing composition" (see D8, page 25, lines 7-8). Such water insoluble particles which are liquids comprise mineral oils and silicone oils (see D8, page 26, lines 1-2). D8 discloses furthermore that it may be desirable to add one or more benefit agents to the free-flowing composition which facilitate delivery of the benefit agent onto the hair or the skin, said benefit agent possibly being a hair conditioner such as silicone (see page 26 line 22 to page 27 line 4; page 32, lines 10-12; page 40, lines 4-5 and page 41, lines 8-18). The compositions disclosed in D8 do not explicitly contain an oil and D8 does not address the problem of oil deposition.

5.2.5 Consequently, the disclosure of D5, D7 and D8 is technically more remote from the claimed subject-matter, while D6 clearly relates to the same purpose and presents the most features in common with the

claimed invention. Therefore the Board does not see any reason to deviate from the decision of the opposition division as regards the choice of the closest prior art, which is document D6.

5.3 According to the appellant, the problem is the provision of a method of treatment of the hair with improved silicone oil deposition, since it could be considered that, in view of the examples of the contested patent the deposition of silicone oil was improved. Regarding the specifically claimed "oil of mineral origin", the appellant considers the problem to be solved as the provision of an alternative hair treatment method, since there was no evidence of any improvement with regard to mineral oil.

According to the respondent, the problem is the provision of a method of improvement of deposition of oil onto hair, in particular to improve its selectivity, meaning providing more improvement of damaged hair than of virgin hair.

5.4 Example 3 of the patent shows an improved selectivity with the shampoo composition B comprising a cationic surfactant in comparison to a shampoo A without cationic surfactant or to micellar shampoos A-D. The problem as defined by the respondent appears therefore to be solved. Moreover, there does not appear to be any evidence, technical argumentation or indication that these results obtained with a silicone cannot be extrapolated to another oil, such as mineral oil, as argued by the appellant.

The Board considers therefore that the problem to be solved is as defined by the respondent.

5.5 The appellant considered the solution to be obvious in view of D3, in particular in view of examples 14 and 16, which show an increased deposition of vitamin E onto hair, when used with a mixture of two quaternary compounds.

5.5.1 As mentioned by the opposition division in its decision, there is no teaching in D3 that the solution disclosed therein is transferable to surfactant structured systems. This is confirmed by the experimental results of example 3 of the patent, which show that the addition of a cationic surfactant to micellar shampoos had a negative effect in terms of deposition and selectivity of deposition on damaged hair, whereas there is an improvement when the cationic surfactant is added to a structured shampoo. Thus, depending on the structure of the composition, an opposite behaviour which could not have been foreseen, is observed.

5.5.2 Neither document D6 nor document D3 teaches or suggests that adding a cationic surfactant to structured shampoos improves the efficiency in silicone oil deposition on hair as well as the deposition selectivity on damaged hair. From the experimental study performed in example 18 of document D3, it can even be concluded that no difference was observed in terms of hair conditioning properties on virgin and damaged hair.

5.5.3 There does furthermore not appear to be any evidence that such result cannot be extrapolated to another type of oil, such as mineral oil, since the oil phase appears to be incorporated into the structured surfactant system.

5.5.4 Consequently, the claimed solution is not obvious in view of D6 combined with D3, and the main request meets the requirements of Article 56 EPC .

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

B. Atienza Vivancos A. Jimenez

Decision electronically authenticated