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Datasheet for the decision of 8 June 2026

Case Number: T 0249/24 - 3.3.03

Application Number: 16893242.4

Publication Number: 3428232

IPC: C08L67/02, C08K5/156, C08G63/183

Language of the proceedings: EN

Title of invention:
PBAT RESIN COMPOSITION

Patent Proprietor:
Tianjin Kingfa New Material Co., Ltd.

Relevant legal provisions:
RPBA 2020 Art. 13(2)
EPC Art. 83, 54, 56

Keyword:
Amendment after summons - deletion of claim - taken into account (yes)
Sufficiency of disclosure - (yes)
Novelty - public prior use (no) - insufficient evidence
Inventive step - unexpected improvement shown - non-obvious modification

Decisions cited:
T 2920/18

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Case Number: T 0249/24 - 3.3.03

D E C I S I O N
of Technical Board of Appeal 3.3.03
of 8 June 2026

Appellant: (Patent Proprietor)	Tianjin Kingfa New Material Co., Ltd. A2-179 No. 166 Weft three Road Airport Logistics Processing Zone Tianjin 300301 (CN)
Representative:	dompatent Partnerschaft von Patentanwälten und Rechtsanwälten mbB Deichmannhaus am Dom Bahnhofsvorplatz 1 50667 Köln (DE)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted/electronically transmitted on 15 December 2023 revoking European patent No. 3428232 pursuant to Article 101(3)(b) EPC.**

Composition of the Board:

Chairman	D. Semino
Members:	M. Barrère
	W. Ungler

Summary of Facts and Submissions

I. The appeal of the patent proprietor lies against the decision of the opposition division revoking European patent No. 3 428 232.

II. The contested decision was based on:

- the patent as granted as the main request,

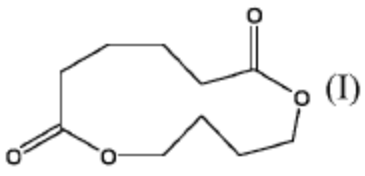
- auxiliary requests I to IX filed during oral proceedings before the opposition division on 22 November 2023.

III. The main request (granted patent) comprised 8 claims, whereby claims 1, 7 and 8 read as follows:

"1. A PBAT resin composition characterized by comprising the following components:

(a) Poly (butyleneadipate-co-terephthalate);

(b) a cyclic esterified product having a structure represented by the formula (I)


(I)

Wherein the content by weight of the cyclic esterified product is from 10 ppm to 2000 ppm, based on the total weight of the PBAT resin composition, wherein the content by weight of the cyclic esterified product is

measured by the following method: Weigh accurately 1.2000 g of the PBAT resin composition, put it into a 25 ml volumetric flask, dissolve it by chloroform, dilute it to 25ml after the PBAT resin composition is completely dissolved, measure the peak area of the cyclic esterified product in the above solution by GC-MS, calculate the content of the cyclic esterified product of the PBAT resin composition according to the peak area of the cyclic esterified product and the cyclic esterification standard curve, which may be calibrated by the cyclic esterified product / chloroform solution."

"7. A PBAT resin composition according to any one of claims 1 to 6, characterized in that the PBAT resin composition has a half-life or more than 50 days after hot and humid aging at a temperature of 60 °C and humidity of 60% in a box with a constant temperature and a constant humidity, wherein the half-life is measured as disclosed in the present specification."

"8. A PBAT resin composition according to any one of claims 1 to 6, characterized in that the PBAT resin composition has a ΔL value ≤ 0.60 after having been boiled for 240 hours in 95% ethanol at 40°C and then been placed in a temperature of 21 to 24 °C and humidity of 45 to 55 % for 48 hours. hours [sic], wherein the ΔL is measured as disclosed in the present specification."

IV. The following documents were *inter alia* cited in the decision:

D1: WO 2012/152820 A1
D6a: Safety Data Sheet for ecovio® F23B1

D6b: Invoice dated 27 August 2015 (for ecovio® F23B1)
D6c: Shipping list dated 26 August 2015
D6d: Statement by weltplast d.o.o. dated 13 December 2021
D6e: Declaration by Dr. Jens-Uwe Schierholz dated 26 August 2021
D6f: Analysis of ecovio® F23B1
D6g: ^{1}H-NMR spectrum of ecovio® F23B1
D9: D. Bankmann *et al.*, "Cyclic Ester as NIAS in Adhesives and Coatings", Henkel AG & Co. KGaA, Düsseldorf, Germany, February 2018
D15: Order letter no. 116234 from Barbier et Cie, 31 January 2014
D16: Declaration by Mr. Christophe Doukhi-Baucheron de Boissoudy dated 15 June 2020
D17: Document of transport and invoice issued by Novamont S.p.A, 4 February 2014
D18: Declaration by Mr. Hugo Baralon dated 12 June 2020
D19: Declaration by Dr. Sebastia Gesti Garcia dated 24 June 2020
D20: Production data sheet of EF51V batch 273111411, produced on 14 November 2013
D21: Declaration by Dr. Robert Loos dated 13 March 2023

V. The contested decision, as far as it is relevant to the present appeal, can be summarised as follows:

- The claimed invention was insufficiently disclosed to be carried out over the whole scope of granted claim 7 (Article 100(b) EPC). Moreover granted claim 8 contained subject-matter extending beyond the content of the application as originally filed (Article 100(c) EPC).

- The subject-matter of claim 1 of auxiliary request I lacked novelty in view of prior use products ecovio® F23B1 and MaterBi EF51V. The same conclusion applied to claim 1 of auxiliary requests II, IV, V and IX.

- The subject-matter of claim 1 of auxiliary request III lacked an inventive step starting from the public prior use product ecovio® F23B1 as the closest prior art. The same conclusion applied to claim 1 of auxiliary requests VI, VII and VIII.

VI. The patent proprietor (appellant) lodged an appeal against said decision.

VII. With the statement of grounds of appeal, the appellant submitted thirteen sets of claims as main request and auxiliary requests I to XII as well as the following piece of evidence:

D24: experimental report "Polymer composition according to WO 2011/054896 A1", dated 17 June 2020

VIII. While opponent 2 filed a rejoinder to the statement of grounds of appeal dated 13 August 2024, they withdrew their opposition on 8 August 2025 and are no longer party to the proceedings. Opponent 1 did not file any substantive submission and withdrew their opposition with letter dated 14 January 2026. Therefore, the appellant is the only remaining party to this proceedings.

IX. In a communication under Article 15(1) RPBA, the Board indicated that the only convincing objection against

the claims of the pending main request concerned claim 8.

X. With letter dated 11 May 2026, the appellant filed an amended set of claims as new main request in which claim 8 was deleted and withdrew their request for oral proceedings.

XI. Thereafter the oral proceedings were cancelled.

XII. The appellant's new main request comprises 7 claims which are identical to claims 1 to 7 as granted. Reference is made to point III. for the wording of claims 1 and 7. Since the Board found this request allowable, it is unnecessary to mention any other requests in the present decision.

XIII. The appellant's submissions, in so far as they are relevant, can be derived from the reasons for the decision set out below. They essentially concerned the following issues:

- the question of sufficiency of disclosure (point 3. of the reasons);

- the novelty of the subject-matter of claim 1 of the main request in view of prior use products ecovio® F23B1 and MaterBi EF51V (point 4. of the reasons) and

- the inventive step of claim 1 of the main request starting from the prior use product ecovio® F23B1 as the closest prior art (point 5. of the reasons)

Reasons for the Decision

Main request (as filed with letter dated 11 May 2026)

1. Admittance

The present main request was filed after issuance of the Board's communication pursuant to Article 15(1) RPBA.

Notwithstanding its late filing, the amendment made in the main request corresponds directly to the Board's indication in point 12 of that communication, namely the deletion of claim 8 as granted.

This amendment resolves the outstanding issue identified by the Board (see point 9 of the communication) without giving rise to any new objections. As a result, the Board is in a position to decide on the maintenance of the patent on the basis of this request without the need to hold oral proceedings. The main request is therefore consistent with the principles of procedural economy and of fair proceedings and the circumstances of the case can be seen as exceptional circumstances (see T 2920/18, points 3.10-3.16 of the reasons).

Accordingly, the Board finds it appropriate to exercise its discretion under Article 13(2) RPBA by admitting the main request into the appeal proceedings.

2. Contested decision

In the decision under appeal, the opposition division considered that the following objections prejudiced the maintenance of the patent as granted or in amended form:

(a) Claim 8 as granted contained subject-matter extending beyond the content of the application as originally filed (contested decision, pages 5 and 6, point 3.1.5).

(b) The claimed invention was insufficiently disclosed to be carried out over the whole scope of granted claim 7 (contested decision, page 7, point 3.2.2 to page 8, point 3.2.2.4).

(c) The subject-matter of claim 1 of former auxiliary request I lacked novelty in view of prior use products ecovio® F23B1 and MaterBi EF51V (contested decision, page 11, point 4.2.2.2 to page 15, point 4.2.2.3.5).

(d) The subject-matter of claim 1 of former auxiliary request III lacked an inventive step starting from the public prior use product ecovio® F23B1 as the closest prior art (contested decision, page 16, point 4.4.4 to page 17, point 4.4.12).

Finding (a) does not apply to the present main request because claim 8 as granted was deleted from the set of claims.

However, findings (b) to (d) apply *mutatis mutandis* to claims 1 and 7 of the main request and the Board will address them consecutively in what follows.

3. Sufficiency of disclosure (finding (b))

3.1 In the decision under appeal, the opposition division held that the claimed invention was insufficiently disclosed to be carried out over the whole scope of claim 7 as granted (i.e. claim 7 o the present main request) because the patent did not provide enough information to determine the "half-life" of the poly(butyleneadipate-co-terephthalate) (PBAT) composition in a reliable and reproducible manner (contested decision, page 7, point 3.2.2). Although paragraph [0027] described that tear properties of moulded articles were to be tested every three days, the patent failed to specify essential details, in particular:

- the dimensions and thickness of the moulded samples, and

- the specific method used to measure the tear properties.

The term "longitudinal and transverse tear properties" was vague and could refer to various different test methods, which could yield very different results depending on test conditions and sample geometry. The skilled person could therefore not determine unambiguously how the test was to be performed.

As a consequence, the skilled person would be unable to reliably establish whether a composition fell within the scope of claim 7 with the consequence that the requirement of sufficient disclosure was not met.

3.2 In that respect, the Board concurs with the appellant for the following reasons (see statement of grounds of

appeal, page 4, first paragraph to page 5, first paragraph):

3.2.1 Claim 7 of the main request is limited in that the composition is characterised by "a half-life or more than 50 days after hot and humid aging at a temperature of 60 °C and humidity of 60%". According to paragraph [0027] of the opposed patent, the half-life is defined by the relative decay of the initially measured tear properties.

3.2.2 The Board does not dispute that the nature of the tear property to be considered and the measurement method to determine the "half-life" are not disclosed in the opposed patent. It is also not contested that the absolute measurement values for a given tear property would depend on the specimen dimension and on the measurement method. However, the appellant states that the existence of different possible test methods would not prevent obtaining reliable and meaningful "half life" results. In other words the appellant contends that the skilled person could take any known method as well as any sample morphology to measure the tear properties and nevertheless obtain similar half-life results.

3.2.3 While this statement was contested by former opponents 1 and 2 (and ultimately by the opposition division), no evidence was provided for the contention that half-life would be (strongly) dependent on the measurement method. It is, however, pointed out that a successful objection of insufficient disclosure presupposes that there are serious doubt substantiated by verifiable facts (Case Law of the Boards of Appeal, 11th edition 2025, in the following "Case Law", II.C.9.1). Moreover, in the Board's view, the appellant's argument does not

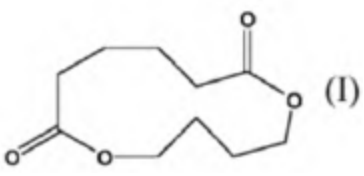
seem unreasonable. Since the half-life is determined by measuring a given tear property over time, it is conceivable that the time taken to reach 50% of the initial value is not significantly affected by the specific tear property and method in question. In the absence of concrete evidence for the opponents' contention (and in particular for the effect of the sample morphology or the method to measure the tear properties on the half-life values), the opponents' objection is a mere allegation without firm basis. In addition, it has not been shown that possible variations in the results which be such as to prevent the skilled person from preparing a composition according to claim 7.

3.3 Under these circumstances, the Board has no reason to consider that the claimed invention would be insufficiently disclosed to be carried out over the whole scope of claim 7.

4. Novelty (finding (c))

4.1 Key issue

A central point of dispute between the appellant and former opponents 1 and 2 was whether PBAT compositions of the prior art could be considered to comprise between 10 and 2000 ppm of a cyclic esterified product having a structure represented by formula (I):


(I)

This compound, referred to as the "cyclic ester" below, is a by-product formed during the synthesis of PBAT.

Therefore, it can be assumed that this compound is implicitly present in nearly all PBAT resins (see D9, page 3, final paragraph). However, for the prior art relied upon for novelty and inventive step, no measurement of the cyclic ester content was carried out before the filing date of the patent.

Accordingly, in the context of novelty, the Board must assess whether it can be assumed that the PBAT compositions of the prior art inherently contained the cyclic ester in an amount falling within the range of 10–2000 ppm.

4.2 Prior use ecovio® F23B1 (D6a to D6g and D21)

4.2.1 In the decision under appeal (point 4.2.2.2 on pages 11 to 13), the opposition division concluded that the subject-matter of claim 1 was not novel in view of a batch of ecovio® F23B1 (batch number 89540068E0). This conclusion was based on a measurement of the cyclic ester content of 660 ppm, performed in 2021 — six years after production of this batch and five years after the filing dated of the opposed patent (see D6f and D21).

4.2.2 In agreement with the appellant (statement of grounds of appeal, page 9, fourth paragraph to page 10, last paragraph), the Board holds that the decisive question is whether the composition of batch 89540068E0 of ecovio® F23B1 contained 10-2000 ppm of cyclic ester at the time of its delivery to a client (in August 2015). While a content of 660 ppm was measured in 2021, it is not unreasonable to assume that the cyclic ester content may have changed during storage, meaning that the content of cyclic ester prior to the patent filing date (30 August 2016) may have been outside the range of claim 1.

4.2.3 In that regard, former opponent 1 provided a declaration in which it was stated that the analysed sample of batch 89540068E0 had been properly stored in a sealed aluminium bag, so that essentially no cyclic ester could have been lost during storage (see D21, page 1, point 4).

4.2.4 In order to question this statement, the appellant filed D24, an experimental report produced by former opponent 2 in parallel proceedings. This document shows that the storage of a PBAT based composition leads to a significant drop in the content of cyclic ester over time: about 60% loss in only 3 months (see D24, pages 9 and 10, tables 2 and 3). Although the storage conditions are not specified in D24, the Board nevertheless concludes that the amount of cyclic ester can decrease significantly over time.

4.2.5 While former opponent 1 disputes this fact in relation to the sample from batch 89540068E0, no direct evidence has been provided to show that this decrease did not occur for the retained sample stored in the aluminium bag.

4.2.6 Under these circumstances, based on D24 as the only direct evidence concerning the effect of storage on the cyclic ester content (with a content loss of 60% in only 3 months), the Board comes to the conclusion that the content of 660 ppm measured for batch 89540068E0 in 2021 (after at least 5 years of storage) cannot be regarded as representative of the cyclic ester content of the same batch before the filing date of the patent (30 August 2016).

4.2.7 Accordingly, it has not been established beyond any reasonable doubt that the prior use ecovio® F23B1 anticipated the subject-matter of claim 1 (in particular in view of the cyclic ester content) and the Board concludes that the subject-matter of present claim 1 is novel over that product.

4.3 Prior use MaterBi EF51V (D15-D20)

4.3.1 The opposition division concluded that the subject-matter of claim 1 was not novel over the product MaterBi EF51V. In particular, the opposition division considered that the cyclic ester content of this prior-use product had been reliably established through the experimental reproduction reported in D19. Although the reproduction was carried out at lab scale and with minor differences in extrusion settings compared to the industrial process disclosed in D20, the operating conditions were essentially equivalent and technically incapable of causing significant changes in cyclic ester levels, notably because processing temperatures were far below the boiling point of the cyclic ester and further processing steps were shown not to affect this parameter. On this basis, the measured value of 210 ppm in the reproduced material was accepted as representative of the commercially sold product, demonstrating that MaterBi EF51V contained 10–2000 ppm of cyclic ester as required by claim 1 (contested decision, point 4.2.2.3 on pages 13 to 15).

4.3.2 In agreement with the appellant (statement of grounds of appeal, page 12 to page 13, second paragraph), the Board holds that the decisive question is whether a batch of MaterBi EF51V shipped to a customer in February 2014 contained 10-2000 ppm of cyclic ester.

4.3.3 The critical issue lies in the fact that the cyclic ester content of 210 ppm was not measured on the original batch produced in 2013, but on a reproduction prepared in 2020 (D19). The Board agrees with the appellant that relevant differences exist between the process conditions disclosed in D19 (reproduction) and those of D20 (industrial production details before the filing date). In particular, certain parameters in D20 are masked or differ from those in D19, such as the extruder temperature profile, pelletising conditions, and degassing conditions — all of which may influence the cyclic ester content.

Moreover, it is common ground that the primary source of cyclic ester in MaterBi EF51V is PBAT resin ES01G. For the 2020 reproduction to be representative of the 2013 batch, it would have to be credible that the properties of ES01G - in particular its intrinsic cyclic ester content - remained unchanged over time. However, no evidence has been provided by former opponent 2 regarding the production method, composition, or stability over time of ES01G. In the absence of such evidence, the Board cannot assume that the PBAT used in 2020 had the same characteristics as the PBAT used in 2013.

For these reasons, the Board considers that it has not been established that the 2020 reproduction is representative of the 2013 batch, especially with regard to the cyclic ester content.

4.3.4 In addition, as already discussed for the prior-use product ecovio® F23B1, the cyclic ester content of PBAT-based compositions is influenced by storage time. According to D20, the relevant batch of MaterBi EF51V was produced in November 2013, and according to D16 it

was delivered to a customer only in February 2014. It cannot be assumed that the cyclic ester content at the time of production remained unchanged during this period of approximately three months.

Therefore, even if one were to assume - contrary to the Board's view - that the cyclic ester content of the 2013 batch fell within the claimed range immediately after production, there is no basis to conclude that this was still the case at the time the product was made available to the public through delivery to the customer, which is the legally relevant date.

4.3.5 Hence, it has not been established beyond any reasonable doubt that the prior use MaterBi EF51V anticipated the subject-matter of claim 1 (in particular in view of the cyclic ester content).

5. Inventive step (finding (d))

5.1 According to the opposition division, claim 1 of former auxiliary request III did not involve an inventive step starting from the public prior use ecovio® F23B1 as the closest prior art (contested decision, page 16, point 4.4.4 to page 17, point 4.4.12). This finding, which is contested by the appellant, essentially applies to claim 1 of the main request.

5.2 Closest prior art

The opposition division considered that the public prior use ecovio® F23B1 could be considered as the closest prior art for assessing inventive step (contested decision, page 16, point 4.4.4). While the appellant argued that D1 would be a more suitable starting point (statement of grounds of appeal, page

13, last paragraph), the Board notes that the choice of D1 or ecovio® F23B1 as the closest prior art makes no difference to the conclusion set out below as the technical difference and the associated effect are the same.

Consequently, since the assessment leads to the same result in either case, the Board will base the following inventive-step analysis on ecovio® F23B1 as the closest prior art.

5.3 Distinguishing feature

In the section concerning the novelty of claim 1 over the commercial product ecovio® F23B1 (see point 4.2 above), the Board concluded that it had not been demonstrated beyond any reasonable doubt that the product made available to the public prior to the filing date of the opposed patent, contained 10 to 2000 ppm of cyclic ester.

Accordingly, in agreement with the appellant (statement of grounds of appeal, page 13, last paragraph), the Board considers that the composition of present claim 1 differs from the commercial product ecovio® F23B1 in that the PBAT composition comprises:

10 ppm to 2000 ppm of a cyclic ester of formula (I).

5.4 Objective technical problem

5.4.1 The next point of dispute for inventive step is whether a technical effect linked to the content of cyclic ester can be acknowledged.

5.4.2 In the decision under appeal (see page 16, point 4.4.8), the opposition division held that the method used to determine the half-life in the opposed patent was not sufficiently disclosed to allow the person skilled in the art to draw any conclusion on the service life. Also no clear link between the cyclic ester content and either the half-life (evaluation of the service life of the moulded articles) or the ΔL (evaluation of surface appearance property of the moulded articles) could be established from the data of table 1 of the opposed patent. In particular, compositions having a cyclic ester content of 850 to 2000 ppm did not show any clear improvement in either of the two properties. Consequently, no technical effect associated with the cyclic ester content was acknowledged.

5.4.3 In that respect, the Board concurs with the appellant that a technical effect can be acknowledged for the following reasons (see statement of grounds of appeal, page 14, first paragraph):

(a) Table 1 of the opposed patent discloses different PBAT compositions which differ from each other only in the cyclic ester content corresponding to the above distinguishing feature. Comparative embodiments 1, 2 and 3 contain respectively 0, 5 and 2320 ppm of that compound (outside the range of claim 1) while embodiments 1 to 15 contain between 10 ppm and 2000 ppm of cyclic ester thereby covering the whole range.

(b) Two properties are measured and reported in table 1: the half-life (evaluation of the service life of the moulded articles) and the ΔL (evaluation of

surface appearance property of the moulded articles).

(c) In the Board's view, the data of table 1 clearly show that the service life of the polyester composition is improved when the cyclic ester content is between 10 to 2000 ppm (above 52 days for embodiments 1-15 and below 32 days for comparative embodiments 1-3). The presence of an effect on surface appearance can be disregarded, as an inventive step can already be acknowledged on the basis of an improved service life.

5.4.4 The opposition division considered that the method described in paragraph [0027] of the patent was insufficiently defined to allow the skilled person to draw conclusions regarding service life from the reported half-life values. For the reasons set out above in the context of sufficiency of disclosure (see point 3.2 of the reasons), the Board does not find this argument persuasive.

It is acknowledged that paragraph [0027] does not specify the dimensions of the moulded article or the exact tear property to be measured. However, this lack of detail does not prevent the skilled person from assessing whether the half-life of the material is improved. The skilled person can select any reasonable test for tear properties, determine the initial value of that property, and monitor its decrease over time until it falls below 50% of the initial value. Although this approach may not reproduce the precise numerical half-life values reported in table 1 of the patent, it nevertheless enables the skilled person to determine whether a relative improvement in service life is

achieved, independently of the specific specimen dimensions or tear parameter chosen.

Accordingly, despite the limited experimental detail in paragraph [0027], the Board considers the disclosed method suitable for demonstrating an effect on the service life of the material. Moreover, there was nothing preventing former opponents 1 and 2 from carrying out their own tests by selecting particular tear properties and specimen geometries in order to challenge the reported results. As no such counter-evidence was provided, the Board has no reason to doubt the credibility of the half-life data presented in table 1 of the patent.

5.4.5 The opposition division also argued that table 1 of the patent did not establish a clear link between cyclic ester content and half-life. However, this conclusion was reached in the context of former auxiliary request III, which was restricted to compositions containing 850–2000 ppm of cyclic ester and was assessed in comparison with the alleged prior-use product ecovio® F23B1, assumed to contain 660 ppm of cyclic ester. This line of reasoning is not applicable to the present main request for two reasons:

First, the opposition division’s assessment relied on the premise that ecovio® F23B1 contained 660 ppm of cyclic ester. As explained above (point 4.2.7 of the reasons), the Board has concluded that this has not been proven beyond reasonable doubt. Thus, with regard to the main request, the relevant comparison is not with a composition allegedly containing 660 ppm, but with compositions having cyclic ester contents outside the range of 10–2000 ppm.

Second, table 1 of the patent shows that compositions comprising 10–2000 ppm of cyclic ester exhibit an improved service life compared with compositions containing either less than 10 ppm or more than 2000 ppm of that compound. The experimental data thus directly support the existence of a relationship between the cyclic ester range defined in present claim 1 and an improved half-life.

5.4.6 For these reasons, the Board considers it credible, on the basis of the experimental evidence provided in the opposed patent, that PBAT compositions having a cyclic ester content between 10 and 2000 ppm display an improved service life compared with compositions having a content outside this range. The objective technical problem is therefore formulated as the provision of a PBAT composition having an improved service life.

5.5 Obviousness

5.5.1 It remains to be evaluated whether it was obvious for a skilled person wishing to improve the service life of PBAT compositions to adjust the cyclic ester content between 10 and 2000 ppm.

5.5.2 Neither the opposition division nor former opponents 1 and 2 considered this objective technical problem, and consequently did not provide any arguments regarding the obviousness of the cyclic ester content in that context.

5.5.3 In any event, the Board concurs with the appellant that the cited prior art does not provide any guidance for the skilled person to specifically control the cyclic ester content in order to improve the service life of PBAT compositions (statement of grounds of appeal, page

14, second paragraph to page 15, third paragraph). Consequently, it was not obvious for a skilled person wishing to improve the service life of the PBAT composition of the prior art (such as the one of ecovio® F23B1) to adjust the cyclic ester content between 10 and 2000 ppm.

5.5.4 Therefore, the subject-matter of claim 1 of the main request involves an inventive step starting from the prior use product ecovio® F23B1 as closest prior art.

6. As none of the objections found convincing by the opposition division is successful, the patent is to be maintained on the basis of the main request.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the opposition division with the order to maintain the patent on the basis of the claims of the main request filed with letter dated 11 May 2026 after adaptation of the description if necessary.

The Registrar: The Chairman:

L. Gabor D. Semino

Decision electronically authenticated