

The examination is being carried out on the **following application documents**

**Description, Pages**

1-18 as published

**Claims, Numbers**

11 as published

1-10 filed with entry into the regional phase before the EPO

1 Prior art

Reference is made to the following documents; the numbering will be adhered to in the rest of the procedure:

- D1 WO 2004/091595 A1 (UNILEVER NV [NL]; UNILEVER PLC [GB]; LEVER HINDUSTAN LTD [IN]; JAMES A) 28 October 2004 (2004-10-28)
- D2 WO 93/21899 A1 (PROCTER & GAMBLE [US]) 11 November 1993 (1993-11-11)
- D3 BE 903 646 A1 (HUYSMANS GUY A) 14 May 1986 (1986-05-14)
- D4 JP 2002 037736 A (LION CORP) 6 February 2002 (2002-02-06)
- D5 US 4 923 900 A (DE VILLEZ RICHARD L [US]) 8 May 1990 (1990-05-08)
- D6 US 2004/242588 A1 (DEJOVIN JACK [US] ET AL DEJOVIN JACK A [US] ET AL) 2 December 2004 (2004-12-02)
  
- D7 US 5 910 312 A

If not indicated otherwise the relevant passages are those mentioned in the search report.

Document D1 discloses a composition for treating acne comprising salicylic acid and witch hazel distillate and optionally skin bleaching compound like kojic acid.

Document D2 discloses a composition for treating acne comprising salicylic acid and witch hazel distillate.

Document D3 discloses a composition for the treatment of acne comprising caffeine and salicylic acid.

Document D4 discloses the use of ellagic acid or salicylic acid for treating acne.

Document D5 discloses a composition comprising benzoyl peroxide for the treatment of acne.

Document D6 discloses the use of naphazoline, tetrahydrozoline, oxymetazoline for the treatment of rosacea.

Document D7 discloses compositions for treating acne comprising a vasoconstrictor i.e tetrahydrozoline, and an acne treatment i.e benzoyl peroxide.

2 Novelty (Art. 54 EPC):

2.1 Insofar as the scope of the terms "vasoconstrictor" and "anti-acne agent" (see point 3 below) can be ascertained it appears that claim 1 lacks novelty in view of the disclosure of D1-D3 and D7.

2.2 Claims 2-10 lack also novelty over D1-D3 and D7.

Claims 1-10 do not meet the requirements of Art. 54 EPC.

3 Inventive step (Art. 56 EPC):

Although claims 1-10 lack novelty the following is noted with regard to inventive step:

3.1 Document D7 which is the closest prior art discloses compositions for treating acne comprising a vasoconstrictor i.e tetrahydrozoline, and benzoyl peroxide. The problem to be solved is defined as to provide improved compositions for the treatment of acne. The application does not provide any evidence of an unexpected advantage of a particular combination of compounds. The problem to be solved is thus defined as to provide alternative compositions for the treatment of acne. The compositions of the application are considered to be obvious in view of the prior art cited in the search report.

**3.2 A third party observation in accordance with Article 115 EPC has been filed. The documents furnished with the third party disclose the use of Punica granatum (comprising ellagic acid), Matricaria chamomilla (from which chamomile oil is obtained), licorice, Phyllanthus emblica (comprising gallic acid)**

and nutmeg have been traditionally used for the treatment of acne. This disclosure appears to be relevant for the assessment of inventive step under Art. 56 EPC.

4 Art. 83 and 84 EPC:

Claims 1-4 and 9-10 relate to a compounds defined by reference to a desirable characteristic or property i.e. vasoconstrictor, anti-acne agent, skin-lightening therapeutic. The claims cover all compounds having this property, whereas the application provides support within the meaning of Article 84 EPC and/or disclosure within the meaning of Article 83 EPC for only a very limited number of such compounds. Furthermore, the application does not provide any method e.g. in form of a test, which would allow a skilled person to identify compounds having these properties.

Independent of the above reasoning, aforementioned said claims do not meet the requirements of Article 84 EPC in that the matter for which protection is sought is not clearly defined. The functional statement do not enable the skilled person to determine which substances fall within the scope of the claims.