

Datum  
Date 10.12.2013  
Date

Blatt  
Sheet 1  
Feuille

Anmelde-Nr:  
Application No: 10 714 064.2  
Demande n°:

The examination is being carried out on the following application documents

**Description, Pages**

- 4-8 as published  
1-3 as annexed to the Int. Prel. Examination Report

**Claims, Numbers**

- 1-15 filed in electronic form on 21-11-2011

**Drawings, Sheets**

- 1/3-3/3 as published

- 1 Third-party observations pursuant to Art. 115 EPC have been filed on 15.08.2013. In particular the document

D3: Govinda Dasa; Bhaisajya Ratnavali - Edited by Rajeshvaradutta Shastri, Translated by Ambikaduttashastri: Chaukhamba Sanskrit Sansthan, Varanasi, Edn. 14th, 2001, page 490, Formulation ID: ak/2123

is considered representative for the Traditional Knowledge submitted with said observations. Thus, document D3 will be taken into account in the proceedings (Guidelines E-V, 3) and the numbering will be adhered to in the rest of the procedure.

- 2 The subject-matter of claims 1-15 is novel (Art. 52(1) and 54 EPC) since an amorphous dehydrated product, obtainable by fermenting wheat germs with *Saccharomyces* and lyophilizing in the presence of 0.1-5% (w/w) taste improving material has not been disclosed in the available prior art documents.

- 3 D1 (see claims 1 and 7) discloses fermenting wheat germ with *Saccharomyces cerevisiae* (bakers's yeast) and drying in the presence of maltodextrin (can be considered a taste improving material).

The documents submitted with the third party observations (see e.g. D3) disclose products obtained by mixing *Triticum aestivum* Linn. (common wheat) with small amounts of herbs/extracts and boiling till the liquid gets evaporated.

Hence, in both D1 and D3 a taste improving material is included into the inner phase of the product.

The subject-matter of present claim 1 differs from D1 and D3 in that it uses freeze-drying in order to evaporate the liquid.

However, the technique of freeze-drying comes within the scope of routine experimentation for the skilled person, when removing liquids.

Hence, in the absence of any unexpected effects with respect to the closest prior art (the documents D1 and D3) the subject-matter of claim 1 is not considered to involve an inventive step (Art. 52(1) and 56 EPC).

- 4 The same applies mutatis mutandis to independent claims 3, 7 and 9-15.

- 5 The following formal matters should receive attention:

5.1 In new claim 1 the term "forming" should be amended in agreement with the original wording of claim 1 ("forming amorphous crystal structure with..."); Art. 84 and 123(2) EPC.

5.2 The term "taste improving material" is very broad and vague, thereby rendering the definition of the subject-matter of said claims unclear (Article 84 EPC).

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- 5.3 When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims.  
Care should be taken not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC).