

EP2361602

Datum
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Sheet 1
Feuille

Anmelde-Nr:
Application No: 11 154 255.1
Demande n°:

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

Description, Pages

1, 7-10	as originally filed			
2-6	received on	25-02-2013	with letter of	25-02-2013

Claims, Numbers

1-10	received on	25-02-2013	with letter of	25-02-2013
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Drawings, Sheets

1/2, 2/2	as originally filed
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1 Amendments

The amendments concern mainly the reformulation of claim 1 as a use claim (see Guidelines Part H - Chapter IV-7.4) which is based on use claim 14 as originally filed with the addition of original method claims 1, 2 and 5 and a sentence of the description. Furthermore the new term "electrostatic binding agent" has been introduced throughout the whole application (i.e. amended claims and description pages).

A direct link between the term "hair building solid agent" and "electrostatic binding agent" can neither be found in the description nor is directly and unambiguously derivable from the originally filed application (see Guidelines Part H - Chapter IV-2.2). Furthermore it is not clear if the two terms can be used for a same technical feature and are therefore not derivable from the description. A binding effect of the so-called "hair building solid agent" has not been described.

The subject-matter of original claims 1, 2 and 5 (method claims) was not related to the use claim 14; the resulting combination was thus not originally disclosed (see Guidelines Part H - Chapter V-3.2).

The amendment filed with the letter dated 25.02.2013 introduces subject-matter which extends beyond the content of the application as filed, contrary to Article 123(2) EPC.

2 Third-party observation; medical use

A third-party observation has been filed on 03.01.2014 pursuant to Art. 115 EPC.

The comments developed in this filing concern mainly the subject-matter of original claims 10, 11 and 12 which relate to the introduction of pharmacologically active ingredients.

The third-party observation has been taken into account.

Actually new claims 8 to 10 still relate to a medical use, which is not allowable in this form according to article 53(c) EPC.

3 Clarity

Claim 1 does not meet the requirements of Article 84 EPC in that the matter for which protection is sought is not clearly defined. The functional statement "electrostatic binding agent" does not enable the skilled person to determine which technical features are necessary to perform the stated function.

4 Miscellaneous

In view of the above objections, it is not at present apparent which part of the application could serve as a basis for a new, allowable claim and it is not practicable to carry out a full examination of the application.

The applicant is therefore requested to file suitable amendments upon which the further prosecution of the application is to be based according to Article 123(2) and Rule 43(1) EPC.

The applicant should also indicate how the subject-matter of the new claim differs from the state of the art and the significance thereof.