

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

Description, Pages

1-21 as published

Claims, Numbers

1-10 filed with telefax on 07-01-2014

1 Prior art

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

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| D1 | "Zardi-e- Baiz Neem Brist",
TKDL., 1 January 1896 (1896-01-01), XP003029296. |
| D2 | "Nuskha Bara--e Jhaeen Wa Kalaf",
TKDL., 1 January 1911 (1911-01-01), XP003029297. |
| D3 | "Tila Baiza Biryani",
TKDL., 1 January 1896 (1896-01-01), XP003029298. |
| D4 | "Matbookh Zardi-e- Baiz",
TKDL., 1 January 1896 (1896-01-01), XP003029299. |
| D5 | WO 2004/014144 A1 (SOLAE LLC [US]; MAYNES JONATHAN [US]) 19 February 2004 (2004-02-19) |
| D6 | WO 00/00038 A1 (MICHAEL FOODS INC [US]) 6 January 2000 (2000-01-06) |
| D7 | JP 2005 272380 A (Q.P. CORP.) 6 October 2005 (2005-10-06) |

2 Amendments (Article 123(2) EPC)

2.1 It is not quite clear to the Examination Division why the applicant referred in his letter dated 07.01.2014 to the Guidelines part H-V, 7.2, since this part relates to the Opposition proceedings. See for example the introducing part of H-V: "An amendment

can be in the form of a change in the category of a claim, possibly combined with a change in the technical features of the invention. Firstly it must be clear that this amendment is necessitated by grounds of opposition".

It is kindly reminded that, for the time being, no patent has been granted for the present invention, so that the present file is still in the Examination proceedings...

Same applies for the comments of the applicant relating to the "scope of protection" (i.e comments relating to Article 123(3) EPC which is about the patent and not the application).

The change of claim category cannot be justified by these arguments. Further, a support for this change has to be clearly and unambiguously disclosed in the application as filed, that is to say, it has to meet the requirements of Article 123(2) EPC.

The Examining Division is at present of the opinion that claims 8, 9, and 10 do not contain subject-matter which extends beyond the content of the application as filed, since a basis can be found in the examples.

However, the subject-matter of claims 8-10 is not new (see paragraph 3 below). Therefore, there is no novel single general concept linking together the independent claims 1, 8-10.

Consequently, the amended claims 8-10 are directed to subject-matter which has not been searched because it only appeared in the description (and the Search Division did not find it appropriate to extend the search to this subject-matter) and which does not combine with the originally claimed and searched invention to form a single general inventive concept. Such amendments are not admissible. Rule 137(5) EPC is not met.

2.2 Addition of new dependent claims 6 and 7 does not contravene R137(5) EPC in accordance with the Guidelines H-II, 6.2, second paragraph.

However, the Examining Division is of the opinion that the subject-matter of claim 6 does not meet the requirements of Article 123(2) EPC, since the feature "the water- and alcohol-containing acetone comprises a lower alcohol having 1 to 3 carbon atoms" has been taken in isolation. This feature was indeed disclosed only in relation to the few examples of alcohol on page 10 lines 26-27. The full sentence is in fact "Of those [= those previous mentioned examples of alcohol], a lower alcohol having 1 to 3 carbon atoms is preferred". (This is further on page 9 lines 15-19 of the application). For this reason, claim 6 contains subject-matter which extends beyond the content of the application as filed.

The Examining Division is also of the opinion that the subject-matter of claim 7 does not meet the requirements of Article 123(2) EPC. Indeed, the passage cited by the applicant as the basis for the amendments does not say that 1-10 weight part of the water- and alcohol-containing acetone is treated with 1 weight part of the egg-yolk phospholipid composition. What is said is that the amount of water- and alcohol-containing acetone in the treatment is 1 to 10 parts with respect to 1 part of the egg-yolk phospholipid composition as a raw material. Hence, this statement only discloses a ratio between the ingredients, but not the treatment of one ingredient by the other.

3 Novelty (Article 54 EPC)

The subject-matter of claim 1 is novel (acknowledged in the ESOP).

The subject-matter of claim 10 is not new.

Eggs or egg-yolks are regarded as a mixture including the purified egg-yolk phospholipid composition obtained by the method according to any one of claims 1-7, since the purified composition is obtained therefrom. Emulsifying such a mixture amounts therefore to emulsifying eggs or egg-yolks. This is well-known in the food industry for example. A mayonnaise is an example of food composition manufactured by emulsifying egg-yolks.

Same applies to the subject-matter of claims 8 and 9, which also not new.

D2 discloses a method for manufacturing a pharmaceutical composition (against chloasma, melasma, melanoderma, naevus, freckle) and for manufacturing a cosmetic composition (applied on face), wherein egg yolk (i.e a mixture including the purified egg-yolk phospholipid composition obtained by the method according to any one of claims 1-7) are emulsified ("churned and mixed well").

D3 and D4 also disclose such methods for manufacturing a pharmaceutical composition, a cosmetic composition and a food composition.

4 Inventive step (Article 56 EPC)

The objections regarding inventive step of claim 1 under paragraph 4 of the ESOP are maintained.

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The method claimed in claim 1 is a method for producing a purified egg-yolk composition which has a high content of phospholipids. In relation to that, it is now submitted that "purified" is not clear and does not say anything about what is actually purified and to which extent. The claim does not relate specifically to an egg-yolk composition comprising reduced cholesterol.

Therefore, D5 which relates to method for making a high phospholipid content composition is relevant and can be combined with D7.

In addition, it seems that D7 itself suggests the solution, since in example 1 a method for producing a purified egg-yolk phospholipid composition having a phospholipid content of 95% (i.e more than 80%), wherein in a first step water-containing alcohol is added to egg-yolk, and in a subsequent step water-containing acetone is added to the egg-yolk phospholipid composition obtained previously. D7 suggests that the composition has reduced cholesterol content.

The subject-matter of claims 8-10 is not new and therefore does not involve an inventive step.

5 Conclusion

At least some of the objections raised above are such that there appears to be no possibility of overcoming them by amendment. Refusal of the application under Article 97(2) EPC is therefore to be expected.

Should the applicant nevertheless regard some particular matter as patentable an independent claim should be filed taking account of Rule 43(1) EPC. The applicant should also indicate in the letter of reply the difference of the subject-matter of the new claim vis-à-vis the state of the art and the significance thereof.

In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant should clearly identify the amendments made, irrespective of whether they concern amendments by addition, replacement or deletion, and indicate the passages of the application as filed (not of amended documents) on which these amendments are based (see Guidelines H-III, 2.2).

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When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims. Should the applicant decide not to file an amended description, substantial examination may be postponed until this request is fulfilled. Care should be taken during revision, especially of the introductory portion and of any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC).

Amendments should be made by filing replacement pages. Unnecessary recasting of the description should be avoided. An amended abstract is not required. The applicant should also take account of the requirements of Rules 49 and 50 EPC, as well as the Notice from the EPO dated 08.11.2013 with regard to handwritten amendments.