

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)**

To:

see form PCT/ISA/220

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2014/044217

International filing date (day/month/year)
26.06.2014

Priority date (day/month/year)
27.06.2013

International Patent Classification (IPC) or both national classification and IPC
INV. A61Q19/10 A61K8/02

Applicant
THE PROCTER & GAMBLE COMPANY

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step and industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

Name and mailing address of the ISA:



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Date of completion of this opinion

see form PCT/ISA/210

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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 - the international application in the language in which it was filed
 - a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of a sequence listing filed or furnished:
 - a. (means)
 - on paper
 - in electronic form
 - b. (time)
 - in the international application as filed
 - together with the international application in electronic form
 - subsequently to this Authority for the purposes of search
4. In addition, in the case that more than one version or copy of a sequence listing has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	<u>3-5, 15</u>
	No: Claims	<u>1, 2, 6-14</u>
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-15</u>
Industrial applicability (IA)	Yes: Claims	<u>1-15</u>
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Section V

and

Section VIII:

The present application concerns a method of preserving a compliant multi-use personal cleansing article comprising a composition and a substrate, in an open system, comprising:

including in the composition a first preservative with a log water solubility of less than 0 to -5.0; wherein the composition has a consumption rate of 1.0 to 10 g/use and a water activity of 0.90 or more after 2 simulated uses.

Novelty (Art.33(2) PCT):

D1 (WO2012138685) discloses a compliant personal care article comprising a composition surrounded by substrate (claim 1; page 8, lines 7-17). The compliant article comprises a cleansing composition, which may be in the form of a particulate of any size (page 8, lines 18-23). The substrate may be eg. a formed film (ie. having multiple planes and hence surface aberrations) (page 12, line 25-page 13, line 9 and pages 36-37, B "Example substrates"). The compositions may comprise ingredients such as antimicrobial agents (page 21, lines 5-9). Examples of antimicrobial agents are zinc pyrithione, salicylic acid etc. (page 24, lines 4-12).

Examples 5A and 5B comprise zinc pyrithione as preservative. These are the only examples where the preservative is specified. However in other examples, it would also be obvious to use this preservative, as it seems thus to be the favoured one.

The system of D1 is an open system as defined in the present application.

Examples 5A and 5B at least thus anticipate the subject matter of claims 1, 2, and 6 to 14.

The subject matter of claims 3-5 and 15 is not disclosed in D1.

D2 (WO2013025764) discloses a compliant personal care article having at least two personal care compositions in physical contact with each other. The composition of the example comprises a surfactant, but is not granular and does not comprise fibres, fines or filaments.

D3 (WO0042961) discloses a disposable cleansing article in a water-insoluble substrate. The compositions of the examples are not granular and do not comprise fibres, fines or filaments.

Inventive step (Art.33(3) PCT), sufficiency of disclosure (Art.5 PCT):

The applicant explains on pages 6 et.seq. the idea behind the claimed subject matter.

Inventive example 4 (preserved with zinc pyrithione) and Comparative example 5 (preserved with sodium benzoate and Kathon (methylchloroisothiazolinone/methylisothiazolinone)) are compared, whereby inventive example 4 comes out significantly better, despite both compositions having a similar consumption rate.

It is not at present seen why Comparative example 5 is a comparative example, since it is preserved with a preservative according to claim 1 (see applicant's table on pages 18 and 19 of the description - methylchloroisothiazolinone has a log water solubility of -0.77), and inventive example 4 and comparative example 5 have almost identical consumption rates).

Further, claims 13 and 14 list among "second preservatives" methylchloroisothiazolinone, which is according to the table on page 19 a preservative according to claim 1. This contradiction results in a lack of clarity (Art.6 PCT).

Thus the alleged invention does not appear to be shown over the scope of the claims, and there appears to be a problem with the sufficiency of disclosure of the application (Art.5 PCT).

Thus at present, an inventive step cannot be acknowledged.

Clarity (Art.6 PCT):

Claim 1 does not meet the requirements of Article 6 PCT because the matter for which protection is sought is not clearly defined. The claim attempts to define the subject-matter in terms of the result to be achieved, which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result. This result to be achieved is a combination of the water activity, the consumption rate and the compliance value as defined in claim 1.

Further, since the measurement conditions/method for the compliance value is not defined in claim 1, this is not clear.

The consumption rate is not defined in claim 1: such a rate will of course be dependent on the amount of water used to measure it. Thus this feature of the claim is not clear.

Similarly, the "water activity.....after 2 simulated uses" depends on how said uses are simulated, which is thus also not clear (claims 1 and 7).

Similarly, it is not clear from claim 1 what an "open system" is. This is also not clear.

The description of "natural" on page 3 of the description excludes substances produced by bacteria. This is not the normal understanding of the skilled person.

The general statement in the description on page 39 regarding the interpretation of the dimensions and values as including "a functionally equivalent range surrounding that value" is not clear (Art.6 PCT), and when used to interpret the claims renders them also unclear, contrary to Article 6 PCT. The statement should therefore be deleted.

The reference on pages 2 and 39 to documents "the disclosure of which is incorporated by reference herein" (or equivalent), do not appear to be essential to the performance of the invention as required by Article 5 PCT. Thus this phrase should be deleted unless any of the subject matter is indeed considered to be essential; in which case it should be incorporated expressly in the description (see PCT Guidelines C-II 4.26).

The general statements in the description on page 39 regarding the "spirit and scope of the invention" is not clear (Art.6 PCT), and when used to interpret the claims renders them also unclear, contrary to Article 6 PCT. The statement should therefore be deleted.