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SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO



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Evento : 001
Actuación : 444

Referencia : Expediente No. 09082402
Asunto : SOLICITUD DE PATENTE PARA: REGISTRO -
PATENTE PCT METHOD AND DEVICE FOR DRYING
BYPRODUCTS
Solicitante : BRAUNSCHWEIGISCHE MASCHINENBAUANSTALT AG
Fecha de Solicitud 6 de agosto de 2009

MEMORIAL COMPLEMENTARIO

1. Yo, Luz Clemencia De Páez, en mi condición de apoderada de la sociedad solicitante, BRAUNSCHWEIGISCHE MASCHINENBAUANSTALT AG, presento ante su Despacho memorial complementario con la siguiente información:

1.1. Anexos del Reporte Preliminar Internacional De Patentabilidad emitido 17 de septiembre de 2009.

2. De acuerdo con lo anterior, comedidamente solicito a Usted proseguir con el trámite de este asunto y ordenar la publicación de la solicitud de la patente identificada en la referencia.

Señora Jefe,

Luz Clemencia De Páez
LUZ CLEMENCIA DE PAEZ
T.P.A. NO. 23.555

COLO-17165-841-002-1
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No. M-2009-161309\LVP

PATENT COOPERATION TREATY

PCT/EP2008/000978

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 71.2)

JONES DAY
Frankfurt

To:

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BOEHMERT & BOEHMERT
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Eing.: 24. Sep. 2009

Gesehen: Sek. : Anw. :

Verfügung:

Frist:

Eing.: 29. Sep. 2009

Gesehen: Sek. : Anw. :

Verfügung:

Frist:

Date of mailing (day/month/year)
17 September 2009 (17.09.2009)

Applicant's or agent's file reference
B50049PCT

International application No.
PCT/EP2008/000978

International filing date (day/month/year)
08 February 2008 (08.02.2008)

Applicant

BRAUNSCHWEIGISCHE MASCHINENBAUANSTALT AG et al

IMPORTANT NOTIFICATION

1. Transmittal of the translation to the applicant.

☐

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).

☒

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

KR, MY

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AO, AP, AT, AU, AZ, BA, BB, BG, BH, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DO, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, GT, HN, HR, HU, ID, IL, IN, IS, JP, KE, KG, KM, KN, KP, KZ, LA, LC, LK, LR, LS, LT, LU, LY, MA, MD, ME, MG, MK, MN, MW, MX, MZ, NA, NG, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RS, RU, SC, SD, SE, SG, SK, SL, SM, SV, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

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1211 Geneva 20, Switzerland

Authorized officer

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2008/000978

Box No. 1 Basis of the report

1. With regard to the language, this report is based on:

- ☒ 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))
- ☐ publication of the international application (Rule 12.4(a))
- ☐ international preliminary examination (Rule 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

- ☐ the international application as originally filed/furnished
- ☒ the description:

pages 22 as originally filed/furnishedpages* 1-21 received by this Authority on /filed with the demand

pages* _____ received by this Authority on _____

- ☒ the claims:

nos. _____ as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* 1-14 received by this Authority on /filed with the demand

nos.* _____ received by this Authority on _____

- ☒ the drawings:

sheets 1/7-7/7 as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☒ The amendments have resulted in the cancellation of:☐ the description, pages _____☒ the claims, nos. 15-20☐ the drawings, sheets/figs _____☐ the sequence listing (specify): _____☐ any table(s) related to sequence listing (specify): _____4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).☐ the description, pages _____☐ the claims, nos. _____☐ the drawings, sheets/figs _____☐ the sequence listing (specify): _____☐ any table(s) related to sequence listing (specify): _____5. ☐ This report has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 70.2(c)).6. ☐ Supplementary international search report(s) from Authority(ies) _____ have been received and taken into account in drawing up this report (Rule 45bis.8(b) and (c)).

* If item 4 applies, some or all of those sheets may be marked "superseded."

PCT

(PCT Article 36 and Rule 70)

4. This report contains indications relating to the following items:

☒	Box No. I	Basis of the report
☐	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 Article 35(2) with regard to novelty, inventive step or 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

Form PCT/IPEA/409 (cover sheet) (January 2009)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>1-14</u>	YES
	Claims		NO
Inventive step (IS)	Claims	<u>1-8</u>	YES
	Claims	<u>9-14</u>	NO
Industrial applicability (IA)	Claims	<u>1-14</u>	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
Reference is made to the following documents:			
D1: US 2006/057251 A1 (DAWLEY LARRY [US] ET AL) 16 March 2006 (2006-03-16)			
D2: US 821 326 A (AHLERS, G.F.) 22 May 1906 (1906-05- 22)			
D3: US-A-5 611 935 (THIEMANN HEINZ [DE] ET AL) 18 March 1997 (1997-03-18)			
D4: EP-A-1 142 487 (BRAUNSCHWEIGISCHE MASCHB ANSTA [DE]) 10 October 2001 (2001-10-10)			
Independent Claim 1 and Dependent Claims 2-8			
Document D1 is considered the prior art closest to the subject matter of claim 1 .			
It discloses a method for drying by-products obtained during the processing of starch- and sugar-containing raw materials as well as a device for performing said method, comprising			
- fractionating into a phase with a high proportion of liquid (clarifying phase) and a phase with a low proportion of liquid (thickening phase) in a mechanical separating device (e.g. press or suction filter, page 1, line 106 ff);			

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

- evaporating the clarifying phase into a syrup (page 1, lines 105-111);
- conditioning the thickening phase into a granulate (page 1, line 111 to page 2, line 1);
- mixing the granulate with the syrup (page 2, line 13 ff);
- drying these particles (page 1, line 25 ff).

The subject matter of claim 1 thus differs from document D1 in that

- the syrup is added to the thickening phase before or during the conditioning,
- pneumatic fluidized bed drying with a relative void volume in the range between 0.5 and 0.92 is employed as the drying method,
- the manufactured particles that are to be dried have a uniform geometry.

Therefore, the subject matter of claim 1 is novel (PCT Article 33(2)).

The problem to be solved by the present invention can thus be seen as that of providing an alternative method which permits the even and therefore gentle drying and processing of a byproduct into a dust-free, pourable, mechanically stable product.

The solution to this problem as proposed in claim 1 of the present application involves an inventive step (PCT Article 33(3)) for the reasons which follow:

Although the use and the advantages of the technology of fluidized bed drying (effective drying of particulate substances with low strain on the goods to be dried) are

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2008/000978

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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known in the comparable method (see e.g. D2, drying by-product particles that come from non-fermentable by-products of alcohol production by means of fluidized bed drying, paragraph 33), document D2 does not disclose a void volume of 0.5 to 0.92 or that pneumatic fluidized bed drying is involved.

None of the prior art documents discloses or indicates that the problem of interest is solved by specifically shaped particles from a mixed phase of the thickening and clarifying phases or from the thickening phase and additional materials, which are dried in a specified fluidized bed drying system.

Claims 2-8 are dependent upon claim 1 and thus likewise satisfy the PCT requirements with respect to novelty and inventive step.

Independent Claim 9 and Dependent Claims 10-14

The present application does not satisfy the requirements of PCT Article 33(1) because the subject matter of claims 9-14 does not involve an inventive step within the meaning of PCT Article 33(3).

Document D1 is considered the prior art closest to the subject matter of **claim 9**. It discloses a device for drying by-products, comprising

- a mechanical separating device (D1, page 1, line 1-5 ff: press or filter);
- a feeding device suitable for feeding an evaporated phase and a mixing device (implicit in D1; the syrup obtained by evaporating in D1 is introduced into the

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

granulate, in other words it is mixed in and must therefore be added by means of a feeding device, and is transferred to a device that is suitable for mixing (D1, page 2, lines 13-23);

- a shaping conditioning device (D1, page 1, line 101 to page 2, line 1: granulation);
- a drying system (D1, page 2, line 23 ff).

The subject matter of claim 9 thus differs from the known device in that the drying system is a fluidized bed drying system and by virtue of the arrangement of the device sub-components.

The problem to be solved by the present invention can thus be seen as that of providing an alternative device for drying by-products.

The solution proposed in claim 9 of the present application cannot be considered inventive (PCT Article 33(3)) for the reasons which follow:

A device for carrying out a method is not inventive simply because the method requires a particular arrangement of structurally unaltered sub-components that are known *per se* and that differ from the prior art merely by the order in which they are arranged without a surprising effect being achieved by such an arrangement.

Document D1 does not disclose a fluidized bed dryer. However, fluidized bed apparatus, such as dryers, are drying devices which are known in the field and the advantages of which are known to a person skilled in the art. A skilled person is also capable of regulating the

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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parameters of the fluidized bed, such as the void volume, as needed. Document D4, for example, discloses a fluidized bed apparatus with a void volume of 60 to 70% (D4: paragraphs 8 to 18).

All of the sub-components of the device that is claimed in claim 9 are known in this field, e.g. from D1 and D4. The device thus represents a juxtaposition of device parts that are known per se and is not inventive.

Dependent **claims 10-14** do not contain any features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for novelty and inventive step. The reasons are as follows:

Document D1 further discloses that the fractioning into clarifying and thickening phases is carried out in a single or multiple gravitational field (by presses or using suction filtration; page 1, line 106 ff) as well as the recycling of the dried particles as additional material (page 2, line 21 ff).

Therefore, the subject matter of dependent claims 12 and 14 is not inventive, since it was used in a comparable method with a related device.

The subject matter of claims 10, 11 and 13 result in minor structural modifications to claim 9 of the kind that a person skilled in the art routinely makes on the basis of familiar considerations, especially since the resulting advantages are readily foreseeable.

Consequently, the subject matter of these claims also does not involve an inventive step.



2020
Bogotá D.C.,

Doctor(a)
SUAREZ DE PAEZ LUZ CLEMENCIA
Apoderado(a) y/o Representante de
BRAUNSCHWEIGISCHE MASCHINENBAUANSTALT AG

REFERENCIA	Radicación No.	9 82402
	Solicitud internacional	PCT/EP2008/000978
	Fecha inicio fase nacional	09/09/2009
	Trámite	11
	Evento	379
	Actuación	416
	Oficio No.	11051
	Folios	1

Teniendo en cuenta que la solicitud de privilegio de patente que se tramita bajo el expediente indicado en la referencia, reúne los requisitos de forma establecidos en la Decisión 486 de la Comisión de la Comunidad Andina, el Tratado de Cooperación en Materia de Patentes (PCT), el Reglamento y la Circular Única de la Superintendencia de Industria y Comercio, se envía el extracto de la solicitud a la Oficina de Comunicaciones para efecto de su publicación en la Gaceta de Propiedad Industrial.

Cúmplase
Dado en Bogotá DC,

27 AGO. 2010

ALIX CARMENZA CESPEDES DE VERGEL
Directora de Nuevas Creaciones (c)

jfernand