

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(PCT Rule 71.1)

To:

ABG Intellectual Property Law, S.L.
Avenida de Burgos 16D
Edificio Euromor
28036 Madrid
ESPAGNE

Date of mailing
(day/month/year)

26.01.2024

Applicant's or agent's file reference
P22171PC00

IMPORTANT NOTIFICATION

International application No.
PCT/EP2023/051898

International filing date (day/month/year)
26.01.2023

Priority date (day/month/year)
27.01.2022

Applicant
CAPTOPLASTIC, S.L.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

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. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P22171PC00	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2023/051898	International filing date (day/month/year) 26.01.2023	Priority date (day/month/year) 27.01.2022	
International Patent Classification (IPC) or national classification and IPC INV. C02F1/48			
Applicant CAPTOPLASTIC, S.L.			
1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet. 3. This report is also accompanied by ANNEXES, comprising: a. ☒ a total of <u>8</u> sheets, as follows: ☒ sheets of the description, claims and/or drawings which have been amended and/or sheets containing rectifications authorized by this Authority, unless those sheets were superseded or cancelled, and any accompanying letters (see Rules 46.5, 66.8, 70.16, 91.2, and Section 607 of the Administrative Instructions). ☐ sheets containing rectifications, where the decision was made by this Authority not to take them into account because they were not authorized by or notified to this Authority at the time when this Authority began to draw up this report, and any accompanying letters (Rules 66.4bis, 70.2(e), 70.16 and 91.2). ☐ superseded sheets and any accompanying letters, where this Authority either considers that the superseding sheets contain an amendment that goes beyond the disclosure in the international application as filed, or the superseding sheets were not accompanied by a letter indicating the basis for the amendments in the application as filed, as indicated in item 4 of Box No. I and the Supplemental Box (see Rule 70.16(b)). b. ☐ a separate electronic file containing a sequence listing (<i>sent to the International Bureau only</i>)			
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			
Date of submission of the demand 27.11.2023		Date of completion of this report 26.01.2024	
Name and mailing address of the international preliminary examining authority:  European Patent Office P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Fax: +31 70 340 - 3016		Authorized officer Janssens, Christophe Telephone No. +31 70 340-8929	



Box No. I 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 (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a) and (b))
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*):

Description, Pages

1-24 as originally filed

Claims, Numbers

1-13 filed with the letter of 29-12-2023

Drawings, Sheets

1/2, 2/2 as originally filed

- ☐ a sequence listing - see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the 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 either they are considered to go beyond the disclosure as filed, or they were not accompanied by a letter indicating the basis for the amendments in the application as filed, as indicated in the Supplemental Box (Rules 70.2(c) and (c-bis)):
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the 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 (Rules 66.1(d-bis) and 70.2(e)).
 - ☐ without taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91(Rules 66.4bis and 70.2(e)).

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2023/051898

6. ☒ With regard to top-up searches (Rules 66.1 *ter* and 70.2(f)):
- ☒ A top-up search was carried out by this Authority on 11.01.2024 (all discovered documents are listed in the Supplemental Box Relating to Top-up Search).
 - ☐ Additional relevant documents have been discovered during the top-up search.
 - ☐ No top-up search was carried out by this Authority because it would serve no useful purpose.
7. ☐ Supplementary international search report(s) from Authority(ies) has/have been received and taken into account in establishing this report (Rule 45bis.8(b) and (c)).

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

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)	Yes: Claims	<u>1-13</u>
	No: Claims	
Inventive step (IS)	Yes: Claims	<u>1-13</u>
	No: Claims	
Industrial applicability (IA)	Yes: Claims	<u>1-13</u>
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1 Reference is made to the following documents:

- D1 WO 2020/240069 A1 (UNIV MADRID AUTONOMA [ES]) 3 December 2020 (2020-12-03) cited in the application
- D2 WO 2021/261078 A1 (MITSUBISHI ELECTRIC CORP [JP]; UNIV OSAKA [JP]) 30 December 2021 (2021-12-30)

2 The document D2 is regarded as being the prior art closest to the subject-matter of claim 1, and discloses (see in particular fig.4 and the corresponding passages in the description, §§47-57):

A process for breaking up magnetic iron material/organic particle aggregates, the process comprising:

- a) providing the magnetic iron material/organic particle aggregates (forming an aggregate in tank 5, see §47),
 - b) introducing the aggregates of step a) in an aqueous solution (in tank 17) for breaking up the aggregates (adjusting the pH to lower than 4 or higher than 7 causes the break up of the aggregates, see §52),
 - c) separating the magnetic iron material particles from the organic particles by applying a magnetic field (in tank 23, see §48);
- wherein the organic particles are microplastics (§47) having a size in the range of 0.1 µm to 5 mm (microparticles by definition have as size within this range).

3 The subject-matter of claim 1 therefore differs from this known process in that the aggregates are brought into contact with a saline solution, wherein the salt is selected from the group consisting of NaH_2PO_4 , Na_2HPO_4 , Na_3PO_4 , NaCl , NaI , and mixtures thereof, wherein the salt concentration of the saline solution is in the range of 100 g/L to 1000 g/L.

- 4 The addition of the saline solution has the same effect as the addition of the pH adjustment: the breaking up of the aggregate, i.e. the separation of the magnetic iron material from the organic particles. The application does not offer any proof that the separation is improved. The objective technical problem may therefore be regarded as how to provide an alternative method for recovering magnetic particles from magnetic iron material/organic particle aggregates.
- 5 The solution to this problem proposed in claim 1 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons.
- 5.1 There is no pointer towards the solution proposed by claim 1 in D2. The document D2 is completely silent upon the presence of salts within the water. Salts may influence the formation of aggregates, it is therefore not even certain that the method of D2 can be applied in the presence of salts.
- 5.2 The document D1 does not suggest to use saline solutions having a concentration as high as the concentrations defined in D1, the maximum concentration mentioned in D1 is 50 g/l, which is considered far away from the lower limit of the range defined by claim 1. The document D1 does not discuss the problem of recovering the magnetic particles. The document D1 points in the other direction: the document D1 teaches the formation of aggregates rather than to break up the aggregates. There is thus no reason why someone would want to increase the concentration of salts. It is therefore unlikely that the documents D1 and D2 would be combined.
- 5.3 The description of the application contains several examples which support the claim. The examples use salts that are representative for the salts mentioned in claim 1 and three plastics that are structurally representative for all kind of organic components.
- 5.4 The subject-matter of claim 1 should therefore be regarded as being inventive (Article 33(3) PCT).

- 6 Claims 2-13 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

EUROPEAN PATENT OFFICE
D-80298 Munich
GERMANY

By Epoline

CHAPTER II

N/Ref.: **P22171PC00**

Application No.: **PCT/EP2023/051898**

Publication No.: **WO2023144253**

Madrid, 29 December 2023

Re.: International application No. PCT/EP2023/051898 for “METHOD FOR THE REGENERATION OF THE MAGNETIC MATERIAL USED FOR THE MAGNETIC REMOVAL OF MICROPLASTICS FROM AQUEOUS MATRICES”, in the name of CAPTOPLASTIC, S.L. & UNIVERSIDAD AUTÓNOMA DE MADRID

Filing of arguments and claim amendments under Art. 34 PCT [GBO]

Dear Sirs,

Further to our request that the above identified International patent application be treated under PCT Chapter II, we enclose the arguments and claims amendments under Art. 34 PCT for the preliminary examination of this application.

This patent application is being currently prosecuted before the European Patent Office (EPO) as International Search Authority (ISA). The EPO has also been elected as International Preliminary Examining Authority (IPEA).

In response to the written opinion, applicant respectfully submits the following comments and claim amendments under Art. 34 PCT to be taken into consideration when carrying out the International Preliminary Examination.

Claim amendments

The claims have been amended as follows:

- Claim 1 has been amended to limit the nature of the salt of the aqueous saline solution by deletion of $ZnBr_2$ and $ZnCl_2$. Basis for this amendment may also be found on page 11, lines 19-20, of the application as filed. Claim 1 has also been amended to limit the concentration of salt in the aqueous saline solution to that mentioned in original claim 6. Claim 1 has further been amended to limit the nature of the organic particles, based on the disclosure of page 11, lines 7-9, of the application as filed, and their size, based on claim 4 and the application as filed (page 5, line 25).

- Claim 4 has been amended to delete the broadest range, since it has been incorporated into claim 1.
- Previous claim 6 has been deleted.
- Claims and their dependencies have been accordingly renumbered.

In view of the above, it is submitted that the amendments are based on the content of the application as filed. Thus, no new subject-matter has been added.

A working copy is enclosed for the Examiner's convenience showing the amendments in the new claims as compared to the original claims. In this working copy additions are underlined and deletions are crossed out.

However, it should be taken into account that any deletion of subject matter or claims are done without prejudice to their ulterior reintroduction into the present application or their inclusion in a future national/regional phase of the present application.

Comments in response to the written opinion

The following documents were cited by the ISA:

- **D1:** WO 2020/240069 A1 (Univ. Autónoma Madrid); 3 December 2020;
- **D2:** Rhein Frank et al., Chem. Eng. Sci. 2021, 238; 11 March 2021;
- **D3:** Rhein Frank et al., Chem. Eng. Sci. 2019, 207, 1278-1287; 24 July 2019.

In the International Search Report, document **D1** was cited in the category 'X'. On the other hand, both research articles **D2** and **D3** were classified with category 'A', being no longer be relevant to the patentability of the claimed subject matter.

In the written opinion of the ISA, claims 1-14 were considered complying with the novelty requirement (Art. 33(2) PCT) over the cited prior art, however, none of the claims were considered inventive in the light of **D1**.

Applicant has amended claim 1 and the objection is respectfully traversed for the reasons detailed in the section below.

Inventive step (Art. 33(3) PCT)

Amended claim 1 currently reads:

1. A process for breaking up magnetic iron material/organic particle aggregates, the process comprising:

a) providing the magnetic iron material/organic particle aggregates,

b) introducing the aggregates of step a) in an aqueous saline solution for breaking up the aggregates, wherein the salt of the aqueous saline solution is selected from the group consisting of NaH_2PO_4 , Na_2HPO_4 , Na_3PO_4 , NaCl , NaI , ~~ZnBr_2 , ZnCl_2~~ , and mixtures thereof, and wherein the salt concentration of the aqueous saline solution is in the range of 100 g/L to 1000 g/L, and

c) optionally, separating the magnetic iron material particles from the organic particles by density and/or by applying a magnetic field;

wherein the organic particles are selected from the group consisting of microplastics, non-plastic organic particles, and a mixture thereof and

wherein said organic particles have a size in the range of 0.1 μm to 5 mm.

In order to assess the inventive step of claim 1, **D1** has been considered by the ISA as the closest prior art. This document relates to a process for the separation of microplastics from aqueous matrixes (see title and abstract).

The technical difference between claim 1 and **D1** (claim 1 and table 1) would actually lie in that the saline concentration of the aqueous saline solution of step b) falls within the range 100-1000 g/L. Claim 1 also differs from **D1** in that aggregates are added to the aqueous saline solution. Contrarily, **D1** teaches adding magnetic particles to an aqueous matrix containing microplastics wherein the salinity is up to 50 g L⁻¹ but more preferably lower than that. Thus, current claim 1 differs from **D1** at least in 2 technical elements.

The technical effect is a breaking up of the magnetic iron material/organic particle aggregates. As shown in the examples of the application, using concentrated aqueous saline solutions wherein the salt concentration falls within the range defined in amended claim 1 allows for the breaking up the magnetic iron material/organic particle aggregates, whereas in **D1** non-concentrated aqueous solutions are used and these aggregates are formed rather than broken up.

Thus, the objective technical problem would be a process for breaking up magnetic iron material/organic particle aggregates.

The solution is achieved in the present application and largely demonstrated in examples (tables 1-4; the percentage of recovery of organic particles of the examples is an indirect indication of the breaking up yield as the latter must be necessarily higher than the former).

The saline solution in **D1** does no longer fall under the scope of the process of instant claim 1, wherein more concentrated saline solutions are required (between 100 and 1000 g/L). The concentrated saline solution implies an increase in the contact between saline

ions and aggregates, thus leading to a breaking up of aggregates (see page 3, lines 7-10). This is not taught by **D1**.

D1 does not mention nor suggest saline concentrations higher than 50 g/L, let alone in a specific range of between 100 and 1000 g/L and achieved with the specific salts referred to in amended claim 1. Thus, the process conditions used *for the formation of the aggregates in D1* are clearly different from those used *in present claim 1 for the breaking up of said aggregates*. The use of highly concentrated saline solutions, as mentioned on page 3, lines 7-10, of the description is the key feature of the present invention. Thus, the objection on the plausibility of the process of claim 1 across the whole scope is moot (see point 4.3 of the report).

Next, in the ISR the Examiner has raised objections regarding the support of claim 1 based on the examples. The Examiner states:

- 1) Only three types of plastics are used: PS, PP and PET. The microplastic particles have a size between 100-500 μm ;
- 2) Only magnetite (Fe_3O_4) with a specific mean particle diameter and a specific particle size distribution is used as the magnetic iron material;
- 3) Only three salts are used: NaH_2PO_4 , NaCl and NaI;
- 4) In all the experiments the samples were vigorously mechanically shaken for 15 minutes and then placed in an ultrasonic bath for another 20 minutes, after which floating particles were separated.

The Applicant brings to the Examiner's attention Chapter 5.52 of the PCT International Search and Preliminary Examination Guidelines:

An appropriate claim is one which is not so broad that it goes beyond the invention nor yet so narrow as to deprive the applicant of a just reward for the disclosure of the invention. Obvious modifications and uses of equivalents to that which the applicant has described should not be questioned. In particular, if it is reasonable to predict that all the variants covered by the claims have the properties or uses the applicant ascribes to them in the description, it is proper for the applicant to draft the claims accordingly.

In response to the Examiner's objection 1), Applicant argues that "microplastics" is a reasonable generalization based on the 3 cited microplastics (PS, PP and PET), which are very common and at the same time diversely functionalized types of microplastics. Polypropylene has a purely hydrocarbon-based skeleton; polystyrene introduces aromatic moieties into a hydrocarbon-based skeleton; polyethylene terephthalate further introduces more polar moieties (carboxylate moieties). This increasing degree of functionalization in

the used microplastics (which is per se a limited definition) has no repercussion in the separation efficiency, thus accounting for structural diversity to be allowed by the present method. Without acquiescing to the asserted grounds of lack of support, Applicant has amended claim 1 to define the size of the organic particles in the range of 0.1 μm to 5 mm.

Regarding non-plastic organic particles, we would like to point out that example 2 provides evidence on the usefulness of the claimed process for three different types of said particles. It is worth noting that the size limitation discussed above for the microplastics (0.1 μm to 5 mm) also applies to the non-plastic organic particles.

Regarding the objection 2) on the magnetic iron material, Applicant argues that it is the magnetic feature of the iron material to determine the separation yield. While magnetite is a cheap and available iron organic material, it would be an undue limitation to exclude different iron organic materials from the present method. Nevertheless, we would like to point out that in present claim 7 the magnetic iron material is magnetite. Additionally, the application as filed defines the magnetic iron material as a material in the form of particles, i.e. powder or granules with an average diameter of less than 5 mm (page 9, lines 8-10). Again, Applicant believes that introducing "specific mean particle diameter and a specific particle size distribution" as pointed by the Examiner would represent an undue limitation and would deprive the applicant of a just reward for the disclosure of the invention. Furthermore, the Examiner has not pointed to any reason why values other than those exemplified in the application text would not reasonably lead to a working invention, i.e. a process for breaking up magnetic iron material/organic particle aggregates.

Regarding the objection that only three salts are used (NaH_2PO_4 , NaCl and NaI), Applicant has amended the list of salts to remove the zinc salts. It is submitted that there is no reasonable doubt on the inefficacy of Na_2HPO_4 vs. NaH_2PO_4 and Na_3PO_4 .

Regarding the objection 4) (in all the experiments the samples were vigorously mechanically shaken for 15 minutes and then placed in an ultrasonic bath for another 20 minutes, after which floating particles were separated), Applicant disagrees with the Examiner's belief that such feature is essential. It is common general knowledge that stirring may accelerate a certain dissolution or separation process however it has no influence on the thermodynamic parameters, which means that eventually the separation yield will not be affected by the stirring or lack thereof.

It is therefore submitted that the application claims subject-matter which is new and involves an inventive step and hence, it is requested that a positive International Preliminary Examination Report is issued. In case the IPEA intends to depart from this request, a written opinion under R. 66.2 PCT is respectfully requested.

Yours faithfully,



Sofia Pettersson Salom
European Patent Attorney
ABG Intellectual Property

Encl.: - Amended claims (working and clean copy).

CLAIMS

1. A process for breaking up magnetic iron material/organic particle aggregates, the process comprising:
- 5 a) providing the magnetic iron material/organic particle aggregates,
b) introducing the aggregates of step a) in an aqueous saline solution for breaking up the aggregates, wherein the salt of the aqueous saline solution is selected from the group consisting of NaH_2PO_4 , Na_2HPO_4 , Na_3PO_4 , NaCl , NaI , and mixtures thereof, and wherein the salt concentration of the aqueous saline solution is in the range of
- 10 100 g/L to 1000 g/L, and
c) optionally separating the magnetic iron material particles from the organic particles by density and/or by applying a magnetic field;
wherein the organic particles are selected from the group consisting of microplastics, non-plastic organic particles, and a mixture thereof, and
- 15 wherein said organic particles have a size in the range of 0.1 μm to 5 mm.
2. The process according to claim 1, wherein the organic particles are microplastics.
3. The process according to claim 2, wherein the microplastics are selected from the
- 20 group consisting of polystyrene (PS), polypropylene (PP), polyethylene terephthalate (PET), polyethylene (PE) including high-density polyethylene (HDPE) and low-density polyethylene (LDPE), polyvinyl chloride (PVC), polycarbonate (PC), polyurethane (PU), and mixtures thereof, preferably from the group consisting of polystyrene, polypropylene, polyethylene terephthalate, and mixtures thereof.
- 25
4. The process according to any of the preceding claims, wherein the organic particles have a size in the range of 0.1 μm to 1 mm, preferably from 0.1 μm to 500 μm , more preferably from 100 μm to 500 μm , even more preferably from 100 μm to 250 μm .
- 30
5. The process according to any of the preceding claims, wherein the salt of the aqueous saline solution of step b) is selected from the group consisting of NaH_2PO_4 , NaCl , NaI , and mixtures thereof.

6. The process according to any of the preceding claims, wherein the magnetic iron material comprises an iron species selected from the group consisting of Fe(II), Fe(III), metallic Fe, and a mixture thereof.
- 5 7. The process according to claim 6, wherein the magnetic iron material is magnetite.
8. The process according to any of the preceding claims, wherein the average diameter of the magnetic iron material is comprised between 0.1 μm and 10 μm .
- 10 9. The process according to claim 8, wherein the average diameter of the magnetic iron material is comprised between 0.1 μm and 0.3 μm .
10. The process according to any of the preceding claims, wherein the concentration of aggregates introduced in the aqueous saline solution in step b) is 1 mg/L to 2000 g/L.
- 15 11. The process according to any of the preceding claims, wherein the mixture resulting from step b) is subjected to stirring.
12. The process according to any of the preceding claims, wherein step c) is performed,
- 20 preferably wherein the magnetic iron material particles are separated from the organic particles in step c) by density.
13. Process according to any of the preceding claims further comprising the characterization of the organic particles and/or the recovery of the magnetic iron material.
- 25

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