

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CONOPCO, INC. dba UNILEVER  
Petitioner

v.

THE PROCTER & GAMBLE COMPANY  
Patent Owner

U.S. Patent No. 6,451,300 to Dunlop *et al.*

Issue Date: September 17, 2002

Title: Anti-Dandruff and Conditioning Shampoos Containing  
Polyalkylene Glycols and Cationic Polymers

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CASE IPR: Unassigned

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**PETITION FOR *INTER PARTES* REVIEW OF  
U.S. PATENT NO. 6,451,300 UNDER 35 U.S.C. §§311-319 and  
37 C.F.R. §§42.1-.80, 42.100-.123**

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## I. INTRODUCTION

CONOPCO, INC.'s Petition for *Inter Partes* Review seeks cancellation of claims 6-10, 14, 15 and 21-23 ("**challenged claims**") of U.S. Pat. No. 6,451,300 to Dunlop *et al.*, titled "Anti-Dandruff and Conditioning Shampoos Containing Polyalkylene Glycols and Cationic Polymers" ("**the '300 patent**"), (UNL 1001), which is owned by The Procter & Gamble Company ("**P&G**").

## II. OVERVIEW

As shown herein, the challenged claims of the '300 patent should never have been issued because they are unpatentable over the art cited herein. The shampoo compositions claimed in the '300 patent are an obvious reformulating of known shampoos containing known components in known amounts. And the shampoo compositions and components claimed have properties and uses recognized prior to the earliest possible priority date (EPD) of the patent. P&G obtained a patent by drafting shampoo composition claims that purport to be complicated – reciting several components. But, the claims of the '300 patent merely recite shampoos, and methods of using them, that were known or, at best, simple and obvious variations of known shampoos prior to the EPD of the '300 patent.

This petition is submitted with a Motion for Joinder within one month of the institution of trial to join the petitioned Grounds with those instituted in IPR2013-00509. The petition provides information that addresses the concerns expressed

previously by the Board in denying *inter partes* review of the challenged claims of this petition. As shown herein, prior art references such as Kalla and Sime show that cationic guar gum derivatives having the molecular weights (“MWs”) and charge densities recited in the claims of the '300 patent were known in the art to improve the efficacy of anti-dandruff ("AD") shampoos by improving deposition of the AD agent. A POSA would have known that the recited concentration ranges of the cationic guar gum derivative is extremely broad and encompasses the concentrations typically used in formulating shampoos. As also shown herein, a POSA would have known that the common AD agent zinc pyrithione is inherently in particulate form in shampoo formulations and that the claims of the '300 patent recite well-known concentrations of particulate AD agent. Petitioner is reasonably likely to prevail in showing obviousness over the prior art.

### **III. STANDING (37 C.F.R. §42.104(a)); PROCEDURAL STATEMENTS**

Petitioner certifies that (1) the '300 patent is available for IPR; and (2) Petitioner is not barred or estopped from requesting IPR of any claim of the '300 patent on the grounds identified herein. This Petition is filed in accordance with 37 CFR §42.106(a.) Concurrently filed herewith are a Power of Attorney and Exhibit List pursuant to §42.10(b) and §42.63(e). The required fee is paid through online credit card payment. The Office is authorized to charge fee deficiencies and credit overpayments to Deposit Acct. No. 19-0036 (Customer ID No. 45324).

**IV. MANDATORY NOTICES (37 C.F.R. §42.8(a)(1))**

**Real Parties-In-Interest (37 C.F.R. §42.8(b)(1)) are:** CONOPCO, INC. dba UNILEVER; UNILEVER PLC and UNILEVER BV.

**Petitioner Provides Notice of Related Matters (37 C.F.R. §42.8(b)(2)):**

Judicial matters: Procter & Gamble Co. v. Conopco Inc., 13-cv-00732, U.S. District Court, S.D. Ohio. Administrative matters: IPR2013-00509 for the '300 patent, in which trial on claims 1-5, 11-13, 16-20, 24 and 25 was instituted; IPR2013-00505 for USPN 6,974,569, which issued from distinct applications filed on the same day and claiming priority to distinct applications filed on the same day, in which trial on claims 1-12, 15, 17-19, 23, 26, 28-30, and 32 was instituted. In an additional Petition filed concurrently herewith, Petitioner seeks IPR of U.S. Pat. No. 6,974,569 over references including those cited herein. IPR2013-00510 for U.S. Pat. 6.649,155, which also issued from a distinct application filed on the same day and claiming priority to distinct applications filed on the same day.

**Designation of Lead and Back-Up Counsel (37 C.F.R. §42.8(b)(3)):**

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