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Anmelde-Nr:  
Application No: 07 870 831.0  
Demande n°:

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

**Description, Pages**

1-18 as published

**Claims, Numbers**

1-16 filed with entry into the regional phase before the EPO

The following documents have been cited in the international search report; the numbering will be adhered to in the rest of the procedure.

- D1 US 5 948 414 A
- D2 US 2006/068040 A1
- D3 JP 2002 212107 A (TAISHO PHARMA CO LTD) 31 July 2002 (2002-07-31)
- D4 JP 2000 095675 A (ROHTO PHARMA) 4 April 2000 (2000-04-04)
- D5 ROBLEDO ET AL: "Hispanic mothers' knowledge and care of their children with respiratory illnesses: A pilot study", JOURNAL OF PEDIATRIC NURSING, GRUNE AND STRATTON, ORLANDO, FL, US, vol. 14, no. 4, 1 August 1999 (1999-08-01), pages 239-247, XP005440770, ISSN: 0882-5963, DOI: 10.1016/S0882-5963(99)80018-9
- D6 WO 94/00108 A1 (PROCTER & GAMBLE [US]) 6 January 1994 (1994-01-06)

1 Claims 14-16 are directed to compositions per se. These compositions comprise camphor, eucalyptus and menthol and polyethylene glycol (except claim 16, which does not require the presence of PEG).

Such subject matter is not considered novel in the sense of Article 54(2) EPC in view of the documents D1-D4 and D6, (see passages mentioned in the search report).

In this context it is emphasised that "instructions for use" according to claim 16 is not considered to be a technical feature of the claims, because it merely relates to "presentation of information", which according to Article 52(2)(d) EPC is not considered to be patentable.

Also item (c) of claim 16 pertaining to "means for administering" the composition cannot render novel and inventive the subject matter according to this claim, because it is not clear what "means" are contemplated, (Article 84 EPC). Moreover, the composition appears to be in the form of a cream etc., for which reason it appears that no special means are required for administration to the nasal and ocular area.

Finally, the specification of exact amounts of the present ingredients according to claim 15 cannot be acknowledged to be associated with an inventive teaching in the sense of Article 56 EPC, because nothing unexpected appears to be associated with exactly these amounts as compared to other conceivable amounts.

- 2 The subject matter according to claims 1-13 is directed to the therapeutic employments of a compositions comprising camphor, eucalyptus and menthol for treating epiphora (i.e. watery eyes).

It appears that D3 and D4 discloses such subject matter, (see passages mentioned in the search report). However, these documents are in Japanese language, and therefore not really fully understandable/accessible. If available to the applicant, translations of the documents would be appreciated.

At present, only computer translations of the documents D3 and D4 accessible from the home page of the Japanese Patent office are available. From these computer translations it appears that these documents disclose the present compositions for the treatment of watery eyes. Thus, at present it would appear that these documents anticipate the presently claimed subject matter in the sense of Article 54(2) EPC.

- 3 In addition, third party observations according to Article 115 EPC have been filed for the present file. These observations cite several documents, which teach the use of camphor for the treatment of epiphora, (Exhibit 1 to Exhibit 14).

Thus, even though these documents cannot be considered novelty anticipating in the sense of Article 54(2) EPC, it appears that no inventive teaching over these documents have been demonstrated, because the present application does not appear to acknowledge the unobvious significance of adding eucalyptus and menthol to the apparently ancient camphor treatment of epiphora, (Article 56 EPC).

- 4 All of dependent claims 2 to 13 fail to recite the appropriate Article 54(5) EPC language, i.e. "composition for use according to claim...".
- 5 Finally, it is also emphasised that the subject matter according to claims 1-13 on the one hand and the subject matter according to claims 14-16 on the other hand do not combine in a unitary manner in the sense of Article 82 EPC, because therapeutic compositions comprising the present three mandatory ingredients (camphor, eucalyptus and menthol) are known in the art, (see D1-D4 and D6). Thus, no novel and inventive common concept can be acknowledged between the composition claims (14-16) and the therapeutic use claims (1-13).

The following documents have been cited in the international search report, the numbering of which is indicated in the text of the description:

D1 WO 97/01841 A

D2 US 5,000,000 A1

D3 JP 2000 212102 A (TATSU PHARMA CO LTD) 31 July 2000 (2000-07-31)

D4 JP 2000 095875 A (ROHTO PHARMA) 4 April 2000 (2000-04-04)

D5 PUGLIESE ET AL "Eucalyptus: knowledge and use of their essential respiratory inhaled. A pilot study" JOURNAL OF PEDIATRIC RESPIRATORY ONLINE AND STRATTON 07-418-01, FL, US, vol. 13, no. 4, 1 August 1999 (1999-08-01), pages 238-247, XP005446729, ISSN: 1088-2633, DOI: 10.1016/S1047-2965(99)80014-7

D6 WO 04/002109 A1 (PROCTER & GAMBLE, LLC) 6 January 2004 (2004-01-06)

Claims 14, 15 and 16 are directed to compositions where these compositions comprise camphor, eucalyptus and menthol and polyethylene glycol, without claim 15, which does not require the presence of PEG.

Such subject matter is not considered novel in the sense of Article 54(5) EPC in view of the documents D1, D4 and D6, (see passages mentioned in the search report).