

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

Description, Pages

1-39 as published

Claims, Numbers

1-17 filed with entry into the regional phase before the EPO

Drawings, Sheets

1/7-7/7 as published

Reference is made to the following documents; the numbering will be adhered to in the rest of the procedure.

- D1 WO 2009/001362 A2 (ASCARIT LTD [IL]; FOGEL DOV [IL]) 31 December 2008 (2008-12-31)
- D2 US 5 886 029 A (DHALIWAL KIRPAL S [US]) 23 March 1999 (1999-03-23)
- D3 MANG B ET AL: "Effects of a cinnamon extract on plasma glucose, HbA1c, and serum lipids in diabetes mellitus type 2", EUROPEAN JOURNAL OF CLINICAL INVESTIGATION, WILEY-BLACKWELL PUBLISHING LTD, GB, vol. 36, no. 5, 1 May 2006 (2006-05-01), pages 340-344, XP002442211, ISSN: 0014-2972, DOI: DOI:10.1111/J.1365-2362.2006.01629.X
- D4 VERSPOHL E J ET AL: "Antidiabetic effect of Cinnamomum cassia and Cinnamomum zeylanicum in vivo and in vitro", PHYTOTHERAPY RESEARCH, JOHN WILEY & SONS LTD. CHICHESTER, GB, vol. 19, no. 3, 1 January 2005 (2005-01-01), pages 203-206, XP002442209, ISSN: 0951-418X, DOI: DOI:10.1002/PTR.1643
- D5 KAR A ET AL: "Comparative evaluation of hypoglycaemic activity of some Indian medicinal plants in alloxan diabetic rats", JOURNAL OF ETHNOPHARMACOLOGY, ELSEVIER SCIENTIFIC

PUBLISHERS LTD, IE,
vol. 84, no. 1, 1 January 2003 (2003-01-01), pages 105-108,
XP002442210,
ISSN: 0378-8741, DOI: DOI:10.1016/S0378-8741(02)00144-7

D6 Mega Noikku Legyam, TKDL, GP02/658:
TKDL
, 1800, XP002615047,
Retrieved from the Internet:
URL:http://www.tkdI.res.in/tkdI/LangDefault/common/TKDL_AdvanceQueryData.asp?GL=Eng
[retrieved on 2010-12-22]

D7 Meganoikku Kudineer, TKDL, GP02/666:
TKDL
, 1800, XP002615048,
Retrieved from the Internet:
URL:http://www.tkdI.res.in/tkdI/LangDefault/common/TKDL_AdvanceQueryData.asp?GL=Eng
[retrieved on 2010-12-22]

D8 Neerizhiuvu Noikku Kudineer, TDKL, AM05/1644:
, 1800, XP002615049,
Retrieved from the Internet:
URL:http://www.tkdI.res.in/tkdI/LangDefault/common/TKDL_AdvanceQueryData.asp?GL=Eng
[retrieved on 2010-12-22]

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

- D9 WO 01/72316 A1
- D10 US 6 376 682 B1
- D11 US 5 691 386 A
- D12 VENKATESWARLU V. ET AL.: "Antidiabetic activity of roots of *Salacia macrosperm*",
PLANTA MED.,
vol. 59, 1993, pages 391-393, XP008123673,

D13 US 2006/286182 A1

D14 KIM S.H. ET AL.: "Anti-Diabetic effect of cinnamon extract on blood glucose in db/db mice",
JOURNAL OF ETHANOPHARMACOLOGY,
vol. 104, 2006, pages 119-123, XP0022306868,

D15 WO 00/74698 A1

D16 RAVI K. ET AL.: "Protective effect of Eugenia Jambolana Seed Kernel on Tissue Antioxidants in Streptozotocin-Induced Diabetic Rats",
BIOL. PHARM. BULL.,
vol. 27, no. 8, 2004, pages 1212-1217, XP008123656,

1 The applicant is requested to provide basis in the sense of Article 123(2) EPC for the present set of claims, which has been amended compared to the originally filed claims.

2 The present subject matter is directed to a "synergistic ayurvedic / functional food composition" (claim 1) or "composition for use in the treatment of diabetes" (claim 6) comprising extracts of at least two of the plants selected from *Eugenia (=Syzygium)*, *Cinnamomum* and *Salacia*.

Also preparation processes for preparing such compositions are claimed in independent claim 10.

3 It appears that the present subject matter is entitled to its priority claims, for which reason D1 cannot be used in the assessment of patentability of the present subject matter .

4 Third party observations according to Article 115 EPC have been received by the EPO and forwarded to the applicant in June 2010. These observation are considered very relevant since they cite novelty anticipating prior art documents D6, D7 and D8. Each of these references discloses compositions comprising all three of the presently specified components for use in the treatment of diabetes. Thus, the present set of claims is not considered novel over these references, (Article 54(2) EPC).

5 Moreover, D2 and D9 disclose compositions, which comprise at least two of the present herbs. It is true that D9 teaches that the herbs are employed as dried powders and not extracts. However, a "tea bag" is also taught by D9, (see. e.g. claim 5). Since a tea bag is intended to be immersed into hot water for extraction of the water extractable components, it is considered that the

product disclosed in D6 anticipates the subject matter according to at least the product claims 1 and 6. D2 also anticipates such subject matter, (see passages mentioned in the search report). Thus, at least the independent claims 1 and 6 do not fulfil the requirements for novelty in the sense of Article 54(2) EPC.

- 6 All of the three claims herbal plants are individually known for their ability to treat diabetes, (see D3-D5 and D10-D16). Many of the documents describe alcoholic and aqueous extracts. Thus, it is considered obvious to combine such extracts, which are individually known for efficacy in the treatment of diabetes. The provisions of Article 56 EPC are thus not fulfilled for novel subject matter falling within the scope of claims 1-9.
- 7 The process according to claim 10 is considered to be obvious in the sense of Article 56 EPC, because all steps are trivial when aiming at providing a combined extract of the present three herbs.
- 8 The present set of claims are unclear contrary to Article 84 EPC, because it is not clear what is meant by "a synergistic composition". Synergistic in what aspect? Moreover, the application does not appear to provide any kind of evidence that any synergistic effect is present at all.
- 9 Moreover, the percentages mentioned in claims 3 and 8 are considered unclear, because it is not clear what is meant by "concentration of extract". Is it the liquid or the dried extract which is referred to? And is it weight or perhaps volume percentages?

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
E	WO 2009/001362 A2 (ASCARIT LTD [IL]; FOGEL DOV [IL]) 31 December 2008 (2008-12-31) * the whole document *	1-17	INV. A61K36/37 A61K36/54 A61K36/61 A61P3/10
X	US 5 886 029 A (DHALIWAL KIRPAL S [US]) 23 March 1999 (1999-03-23) * abstract * * column 2, line 49 - line 65 * * column 3, line 40 - line 55; claims 1-3, 14 *	1-17	
Y	MANG B ET AL: "Effects of a cinnamon extract on plasma glucose, HbA1c, and serum lipids in diabetes mellitus type 2", EUROPEAN JOURNAL OF CLINICAL INVESTIGATION, WILEY-BLACKWELL PUBLISHING LTD, GB, vol. 36, no. 5, 1 May 2006 (2006-05-01), pages 340-344, XP002442211, ISSN: 0014-2972, DOI: DOI:10.1111/J.1365-2362.2006.01629.X * abstract *	1-17	
Y	VERSPOHL E J ET AL: "Antidiabetic effect of Cinnamomum cassia and Cinnamomum zeylanicum in vivo and in vitro", PHYTOTHERAPY RESEARCH, JOHN WILEY & SONS LTD. CHICHESTER, GB, vol. 19, no. 3, 1 January 2005 (2005-01-01), pages 203-206, XP002442209, ISSN: 0951-418X, DOI: DOI:10.1002/PTR.1643 * abstract *	1-17	
			TECHNICAL FIELDS SEARCHED (IPC)
			A61K A61P
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The supplementary search report has been based on the last set of claims valid and available at the start of the search.			
Place of search Munich		Date of completion of the search 10 January 2011	Examiner Schnack, Anne
CATEGORY OF CITED DOCUMENTS		T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons & : member of the same patent family, corresponding document	
X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document			

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EPO FORM 1503.03.82 (P04C04)

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
Y	KAR A ET AL: "Comparative evaluation of hypoglycaemic activity of some Indian medicinal plants in alloxan diabetic rats", JOURNAL OF ETHNOPHARMACOLOGY, ELSEVIER SCIENTIFIC PUBLISHERS LTD, IE, vol. 84, no. 1, 1 January 2003 (2003-01-01), pages 105-108, XP002442210, ISSN: 0378-8741, DOI: DOI:10.1016/S0378-8741(02)00144-7 * abstract *	1-17	
X	Mega Noikku Legyam, TKDL, GP02/658: TKDL , 1800, XP002615047, Retrieved from the Internet: URL:http://www.tkd1.res.in/tkd1/LangDefault/common/TKDL_AdvanceQueryData.asp?GL=Eng [retrieved on 2010-12-22] * the whole document *	1-17	TECHNICAL FIELDS SEARCHED (IPC)
X	Meganoikku Kudineer, TKDL, GP02/666: TKDL , 1800, XP002615048, Retrieved from the Internet: URL:http://www.tkd1.res.in/tkd1/LangDefault/common/TKDL_AdvanceQueryData.asp?GL=Eng [retrieved on 2010-12-22] * the whole document *	1-17	
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The supplementary search report has been based on the last set of claims valid and available at the start of the search.			
Place of search Munich		Date of completion of the search 10 January 2011	Examiner Schnack, Anne
CATEGORY OF CITED DOCUMENTS X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document		T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons & : member of the same patent family, corresponding document	

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EPO FORM 1503 03.82 (P04C04)

**SUPPLEMENTARY
EUROPEAN SEARCH REPORT**

Application Number
EP 07 80 5634

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
X	<p>Neerizhiuvu Noikku Kudineer, TKDL, AM05/1644:</p> <p>, 1800, XP002615049, Retrieved from the Internet: URL: http://www.tkd1.res.in/tkd1/LangDefault/common/TKDL_AdvanceQueryData.asp?GL=Eng [retrieved on 2010-12-22] * the whole document *</p>	1-17	
			TECHNICAL FIELDS SEARCHED (IPC)
The supplementary search report has been based on the last set of claims valid and available at the start of the search.			
4	Place of search Munich	Date of completion of the search 10 January 2011	Examiner Schnack, Anne
<p>CATEGORY OF CITED DOCUMENTS</p> <p>X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document</p>		<p>T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons & : member of the same patent family, corresponding document</p>	

EPO FORM 1503.03.82 (P04C04)

**ANNEX TO THE EUROPEAN SEARCH REPORT
ON EUROPEAN PATENT APPLICATION NO.**

EP 07 80 5634

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report. The members are as contained in the European Patent Office EDP file on
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

10-01-2011

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 2009001362 A2	31-12-2008	EP 2170360 A2	07-04-2010
		US 2010202980 A1	12-08-2010

US 5886029 A	23-03-1999	NONE	
