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Date of Form 1507
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Sheet 1
Feuille

Anmelde-Nr:
Application No: 09 842 383.3
Demande n°

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

Description, Pages

1-13 as published

Claims, Numbers

1-6 as published

Drawings, Sheets

1/5-5/5 as published

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

D1 ABEYWARDENA M ET AL: "Polyphenol-enriched extract of oil palm fronds (*Elaeis guineensis*) promotes vascular relaxation via endothelium-dependent mechanisms",
ASIA PACIFIC JOURNAL OF CLINICAL NUTRITION, SMITH-GORDON JOURNAL, LONDON, GB,
vol. 11, no. Suppl, 1 January 2002 (2002-01-01), pages S467-S472, XP002650170,
ISSN: 0964-7058

D2 IRINE ET AL: "Antioxidant and hypocholesterolemic effects of *Elaeis guineensis* frond extract on hypercholesterolemic rabbits".
ASEAN FOOD JOURNAL,,
vol. 12, 1 January 2003 (2003-01-01), pages 137-147,
XP009150172,

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

D3 T. P. TRINIDAD ET AL.: "Glycaemic index of different coconut (*Cocos nucifera*)- flour products in normal and diabetic subjects",
BRITISH JOURNAL OF NUTRITION,
vol. 90, 2003, pages 551-556,

- D4 WO 2008/063045 A1 (UNIVERSITI PUTRA MALAYSIA) 28 May 2008 (2008-05-28)
- D5 WO 2009/008697 A1 (UNIVERSITI PUTRA MALAYSIA) 15 January 2009 (2009-01-15)
- D6 WO 2009/051470 A1 (UNIVERSITI PUTRA MALAYSIA) 23 April 2009 (2009-04-23)
- D7 GB 2 117 381 A (KOGYO GIJITSU IN) 12 October 1983 (1983-10-12)
- D8 WO 2006/108008 A2 (NOVARTIS'AG) 12 October 2006 (2006-10-12)

2 For the relevant parts of the cited documents it is referred to the search reports.

3 Claim 1 as drafted now only refers to a composition comprising and extract from leaves of Palmae family. Such extracts are known from the prior art cited above and therefore no longer new (Art. 54 EPC). It should be noted that claim 1 defines a composition and its purpose and in such a case the purpose cannot be regarded as a limiting feature.

A correct wording in order to take into account the purpose of a therapeutic treatment as defined in Art. 54(5) EPC would be e.g. "Composition comprising ... "A" .. for use in "therapeutic treatment" ..".

In order to expedite the procedure in the following part the arguments already take into account the correct wording according to Art. 54(5) EPC.

4 D1 discloses a polyphenol-enriched extract (with methanol) of palm fronds (*Elaeis guinensis*) which is dried and which exhibits an antioxidant activity (which equals prevention against oxidative stress). Therefore the subject-matter of claims 1-6 is no longer new.

D2 discloses antioxidant effects of *Elaeis guinensis* frond extract. Methanol is used as solvent and the extract is freeze-dried. Table 2 and the last paragraph of the "Conclusions" disclose the antioxidant effect of palm frond extract. Therefore the subject-matter of claims 1-6 is no longer new.

D5 discloses in example 3 and tables 2-4 the anti-oxidative properties of palm leaves extract. Polar solvents like alcohol are used for the extraction and the extract is concentrated to a powdery form or paste (page 7, lines 5-24). In

example 5 the organ protective properties of palm leaves extract are shown in the context of the kidneys (cited in claim 1, too) . Therefore the subject-matter of claims 1-6 is no longer new.

D6 which is prior art according to Art. 54(3) EPC discloses the use of oil palm vegetative parts extract as having anti-diabetic properties. Therefore the subject-matter of claims 1-6 is no longer new.

- 5 The problem of the pending application was the provision of a nutraceutical having an anti-diabetic property, reducing oxidative stress and prevent conditions resulting from diabetes. This problem has already been solved by D1, D2 and D3 in an identical manner. Therefore claims 1-6 do not imply an inventive step (Art. 56 EPC).

It should further be noted that the use of ingredients of Palmae family have already been used for the treatment of diabetes. In this respect it is referred to the submission of a 3rd party which have been sent to the applicant, too. Especially exhibits 2, 5, 6, 7, 8 and 11 disclose the effect of Palmae family ingredients against diabetes, weak eyesight, dementia, weakness of the kidneys and diseases of the eye, respectively. It can be taken as granted that at least some of the active ingredients (polyphenols) used in said exhibits are also present in the palm leaves. Therefore the skilled person had a hint to use palm leave extract for treating conditions as disclosed in said exhibits.

- 6 With respect to claim 3 it is not clear (Art. 84 EPC) what is the meaning of the term "plant metabolite".

- 7 To meet the requirements of Rule 42(1)(b) EPC, the documents D1, D2, D3, D5 and exhibit 2 of the 3rd party submission should be identified in the description and the relevant background art disclosed therein should be briefly discussed.

The attention of the applicant is drawn to the fact that the application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC).

In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based.

If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.