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Date

Blatt
Sheet 1
Feuille

Anmelde-Nr:
Application No: 11 715 048.2
Demande n°:

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

Description, Pages

1-23 as originally filed

Claims, Numbers

1-13 filed with entry into the regional phase before the EPO

Drawings, Sheets

1/5-5/5 as originally filed

1. An international preliminary examination report has already been drawn up for the present application in accordance with the PCT. The deficiencies mentioned in that report regarding inventive step give rise to objections under the corresponding provisions of the EPC.

Additionally, the application fails to meet the requirements of the EPC in the following respect:

2. Third Party Observation

The so-called Exhibit 7 cited by a third party will be introduced as D4 into the procedure.

In regard to D4, a composition is disclosed comprising *Triticum aestivum* seed, *Lilium polyphyllum* root tuber and *Ziziphus jujuba* fruit together with some other plants as well as its use in insomnia which is a symptom in anxiety disorders.

D4 is a further composition comprising herbs with sedative/anxiolytic effect where one of the herbs claimed in the present application is lacking, namely hawthorn fruit. Similarly, the compositions of D1 and D2 are lacking one of the herbs, wheat grain. As already discussed in the IPER, the selection of a further herb with anxiolytic properties is arbitrary, as it has not been shown to result in any technical benefit with respect to the prior art.

Hence, no inventive step can be acknowledged.

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3. Further objection

The claimed concentrations are not defined exactly in claim 7. The use of the word "about" in association with the values and ranges defined in the claim obscures said values and ranges leading to lack of clarity thereof (Article 84 EPC, Guidelines F-IV, 4.7). Hence, the above claim requires amendment and deletion of the term "about".

4. It is not at present apparent which part of the application could serve as a basis for a new, allowable claim. Should the applicant nevertheless regard some particular matter as patentable, an independent claim should be filed taking account of Rule 43(1) EPC. The applicant should also indicate how the subject-matter of the new claim differs from the state of the art and the significance thereof.