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Date

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Sheet 1
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Anmelde-Nr:
Application No: 12 401 234
Demande n°:

The examination is being carried out on the following application documents

Description, Pages

1-20 as originally filed

Claims, Numbers

1-11 received on 29-11-2013 with letter of 27-11-2013

Drawings, Sheets

1/4-4/4 as originally filed

1 Art. 123(2) EPC:

The amendments filed with the letter dated 29.11.2013 introduce subject-matter which extends beyond the content of the application as filed, contrary to the requirements of Article 123(2) EPC. The amendments concerned are the following:

The basis for the amended claim 1 is to be found in examples 1 and 4 according to the applicant. However, no basis can be found for the features which have been introduced in amended claim 1. In particular the elution profile shown in the table of claim 1 has no basis in the application. It is furthermore noted that a specific example cannot be generalized without contravening Art. 123(3) EPC. Since not all the features of examples 1 and 5, i.e. the preliminary extraction, are present in claim 1 the intermediate generalization of examples 1 and 4 is not allowable in accordance with Art. 123(2) EPC. The combination of the new features of claim 1 with the dependent claims 2-8 results in new combinations of features which has no basis in the application as filed.

The deletion of the terms carvacrol and cirsmaritin in claims 3, 5 and 8 results in a broadening of the scope of said claims contrary to Art. 123(2) EPC.

The feature "HP-20 column" in claims 2 and 5 has only basis in examples 1 and 2, the generalization to any type of extract is not allowable.

The feature "silica column" in claim 9 has no basis in the application as filed.

- 2 In view of the above objection it is not at present practicable to carry out a full examination of the application. The applicant is therefore requested to file suitable amendments upon which the further prosecution of the application is to be based. However the following points can be noted.
- 3 **Novelty (Art. 54 EPC):**
- 3.1 Claim 1 is not allowable in accordance with Art. 123(2) EPC. nevertheless it is maintained that present claims 1-9 lack novelty over D1-D4.
- 3.2 Claims 10-11 are interpreted as being directed to the composition **for use** for treating arthritis. The extract is defined by the method used to prepare the extract. In such a purpose limited product claim the product *per se* has to be novel even if an alternative process is used to prepare said product. It seems that in claims 10 and 11 the product is not novel. Hence, said claims lack novelty in view of D2-D4.
- 3.3 The method that is subject-matter of claim 13 is delimited from D1 since hexane and ethyl acetate/hexane are used as first and second solvents.
- 4 **Inventive step (Art. 56 EPC):**
- Document D2 which is the closest prior art discloses a method for preparing an extract of *Plectranthus amboinicus* for the treatment of arthritis having a specific HPLC elution profile using water/acetonitrile for elution. Claim 9 differs in that the extract is eluted with hexane as a first solvent and hexane/ethyl acetate as a second. The problem to be solved is defined as to provide an improved method to prepare an extract of *Plectranthus amboinicus*. The use of the two solvents of claim 9 does not result in an unexpected technical effect over the extracts disclosed in D2-D4 which are used for treating arthritis. The problem is redefined as to provide an alternative method for preparing an extract of *Plectranthus amboinicus*. The use of hexane as a first solvent is an obvious alternative to the water/acetonitrile used in D2-D3. An inventive step in the sense of Art. 56 EPC is not acknowledged for claim 9.
- 5 **The third-party observation has been taken into account.**
- 6 The applicant is invited to file new claims which takes account of the above comments.

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The applicant should also take account of the requirements of Rule 50(1) EPC. According to Rule 50(1) in conjunction with Rule 49(8) EPC, amendments shall be typed or printed. Handwritten amendments may only be made in documents other than those replacing application documents (Rule 50(2) EPC); they may, for example, be used to fulfil the requirements of Rule 137(4) EPC (identifying amendments and indicating basis for them).