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D E C I S I O N
of 29 September 2003

Case Number: T 1132/00 - 3.3.4
Application Number: 84305260.6
Publication Number: 0136011
IPC: A61K 38/22
Language of the proceedings: EN

Title of invention:

A method of hormonal treatment of peri-menopausal, menopausal and post-menopausal disorders and multi-preparation pack therefor

Patentee:

PRE JAY HOLDINGS., et al

Opponent:

- (01) Novo Nordisk A/S
(02) R.P. Scherer Limited
(03) Novartis AG Patent and Trademark Dept.
(04) Duphar International Research B.V.
(05) The Procter & Gamble Company
(06) Pharmacia & Upjohn, Inc.
(07) ORTHO DIAGNOSTIC SYSTEMS, Inc.
(08) Shire Pharmaceutical Contracts Ltd.
(10) Orion-yhtymä Oy
(11) Warner Lambert Company

Headword:

Hormonal treatment/PRE JAY HOLDINGS LTD., ET AL

Relevant legal provisions:

EPC Art. 108
EPC R. 65(1)

Keyword:

"Missing statement of grounds"

Decisions cited:

G 0008/93

Catchword:

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Case Number: T 1132/00 - 3.3.4

D E C I S I O N
of the Technical Board of Appeal 3.3.4
of 29 September 2003

Appellant I:
(Opponent 03)
Novartis AG
Patent and Trademark Dept.
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CH-4002 Basel

Respondent:
(Proprietor of the patent)
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Representative:
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Other Party:
(Opponent 01)
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Novo Allé
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Representative:
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Other Party:
(Opponent 02)
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Other Party: Warner Lambert Company
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Representative: Hansen, Bernd, Dr. Dipl.-Chem.
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
16 October 2000 concerning maintenance of
European patent No. 0136011 in amended form.

Composition of the Board:

Chairman: U. Kinkeldey
Members: M. Wieser
R. Moufang

Summary of Facts and Submissions

- I. The Appellants I (Opponents 03), Appellants II (Opponents 04) and Appellants III (Opponents 11) lodged appeals against the interlocutory decision of the Opposition Division, dated 16 October 2000, on the amended form in which European Patent No. 0 136 011 can be maintained.
- II. Appellants II withdrew their opposition and their appeal on 19 September 2003.
- III. Appellants III withdrew their opposition on 26 September 2003.
- IV. Appellants I filed a notice of appeal on 28 November 2000 and paid the fee for appeal on the same day.

No statement of grounds was filed. The notice of appeal contains nothing that could be regarded as a statement of grounds pursuant to Article 108 EPC.

- V. By a communication dated 27 April 2001 sent by registered letter with advice of delivery, the registry of the Board informed the Appellants I that no statement of grounds had been filed and that the appeal could be expected to be rejected as inadmissible.

The Appellants I were invited to file observations within two months. Attention was also drawn to Article 122 EPC. No answer was given to the registry's communication.

Reasons for the Decision

1. The withdrawal of opposition by Appellants III (opponents 11) is regarded as withdrawal of their appeal (decision of the Enlarged Board of Appeal G 8/93, OJ EPO 1994, 887; point 2 of the Grounds for the Decision).

2. As no written statement setting out the grounds of appeal has been filed by Appellants I, their appeal has to be rejected as inadmissible (Rule 65(1) EPC in conjunction with Article 108 EPC).

Order

For these reasons it is decided that:

The appeal of Appellants I is rejected as inadmissible.

The Registrar:

The Chairwoman:

P. Cremona

U. Kinkeldey