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**Datasheet for the decision
of 22 February 2007**

Case Number: T 0700/03 - 3.3.01

Application Number: 00951781.4

Publication Number: 1208097

IPC: C07D 403/06

Language of the proceedings: EN

Title of invention:

Substituted oxoazaheterocyclyl compounds

Applicant:

Aventis Pharmaceuticals Inc.

Opponent:

-

Headword:

Piperazin-2-ones/AVENTIS

Relevant legal provisions:

EPC Art. 54, 82, 111(1)
EPC R. 30

Keyword:

"Novelty (yes)"
"Unity of invention (yes) - common novel technical feature
over the prior art"

Decisions cited:

-

Catchword:

-



Case Number: T 0700/03 - 3.3.01

D E C I S I O N
of the Technical Board of Appeal 3.3.01
of 22 February 2007

Appellant: Aventis Pharmaceuticals Inc.
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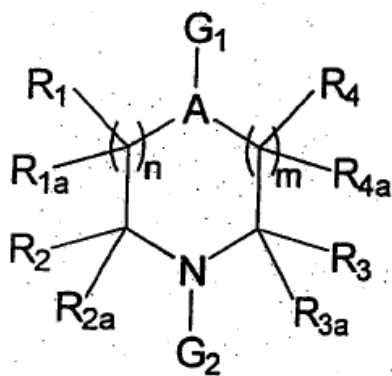
Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 21 February 2003
refusing European application No. 00951781.4
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: A. Nuss
Members: J. Jonk
J. Van Moer

Summary of Facts and Submissions

- I. This appeal lies from the decision of the Examining Division refusing the present European patent application 00 951 781.4 (published under number WO 01/07436), which relates to "Substituted oxoazaheterocyclyl compounds".
- II. The application in suit was refused on the grounds that the subject-matter of the set of claims filed on 20 January 2003 lacked novelty in view of documents (1), (2) and (4) to (9) and did not relate to one invention within the meaning of Article 82 and Rule 30 EPC.
- III. Claim 1 of said set of claims related to a compound of formula I



or a pharmaceutically acceptable salt thereof, a hydrate thereof or a solvate thereof, wherein

A is N;

G₁ is L₁-Cy₁ and G₂ is L₂-Cy₂; and

the meaning of L₁, Cy₁, L₂, Cy₂, R₁, R_{1a}, R₂, R_{2a}, R₃, R_{3a}, R₄, R_{4a}, n and m are as defined in the claim.

- IV. Oral proceedings before the Board were held on 22 February 2007.
- V. The Appellant finally defended the patentability of the subject-matter of the present application on the basis of a set of claims filed during the oral proceedings, Claim 1 reading as follows:

"1. A compound selected from the group consisting of

1-(4-Amino-quinazolin-7-ylmethyl)-4-[5-(5-chloro-thiophen-2-yl)-isoxazol-3-ylmethyl]-piperazin-2,3-dione,

(R)-1-(4-Amino-quinazolin-7-ylmethyl)-4-[5-(5-chloro-thiophen-2-yl)-isoxazol-3-ylmethyl]-6-methoxymethyl-piperazin-2-one,

(6R)-1-(4-Amino-quinazolin-7-ylmethyl)-4-[5-(5-chloro-thiophen-2-yl)-isoxazol-3-ylmethyl]-6-ethoxymethyl-piperazin-2-one,

1-(4-Amino-quinazolin-7-ylmethyl)-4-[5-(5-chloro-thiophen-2-yl)-isoxazol-3-ylmethyl]-3-(S)-propyl-piperazin-2-one ditrifluoroacetate,

1-(4-Amino-quinazolin-7-ylmethyl)-4-[5-(5-chloro-thiophen-2-yl)-isoxazol-3-ylmethyl]-3-(S)-methyl-piperazin-2-one ditrifluoroacetate,

1-(4-Amino-quinazolin-7-ylmethyl)-4-[3-(5-chloro-thiophen-2-yl)-isoxazol-5-ylmethyl]-piperazin-2-one ditrifluoroacetate,

1-(4-Amino-quinazolin-7-ylmethyl)-4-[3-(5-chloro-thiophen-2-yl)-isoxazol-5-ylmethyl]-3-methyl-piperazin-2-one ditrifluoroacetate,

1-(4-Amino-quinazolin-7-ylmethyl)-4-[5-(5-chloro-thiophen-2-yl)-isoxazol-3-ylmethyl]-piperazin-2-one ditrifluoroacetate, or

4-[5-(5-chloro-thiophen-2-yl)-isoxazol-3-ylmethyl]-1-(4H-pyrrolo[3,2-c]pyridine-2-ylmethyl)-piperazin-2-one ditrifluoroacetate."

- VI. Concerning the question of novelty the Appellant contended that the subject-matter of the present claims was novel, since the compounds indicated in present Claim 1 had not been disclosed in the cited prior art. Furthermore, he also argued that the compounds of present Claim 1 met the requirement of unity of invention within the meaning of Article 82 and Rule 30 EPC.
- VII. The Appellant requested that the decision under appeal be set aside, and that a patent be granted on the basis of the request (Claims 1 to 3) filed during oral proceedings.
- VIII. At the conclusion of the oral proceedings the Board's decision was pronounced.

Reasons for the Decision

1. The appeal is admissible.

2. *Compliance with Article 123(2) EPC*

2.1 The subject-matter of present Claim 1 is supported by the Examples in the description of the originally filed application, namely by Examples 1361 (page 304), 1523 (page 353), 1524 (page 356), 1535 to 1537 (page 379), 1539 (page 380), 1558 (page 383) and 1560 (page 384), respectively.

Present Claim 2 is supported by Claim 18 and the description, page 397, third paragraph, of the original patent application.

The subject-matter of present Claim 3 finds its support in the description as originally filed, page 395, second paragraph.

2.2 Therefore, the present claims meet the requirement of Article 123(2) EPC.

3. *Novelty*

3.1 After examination of the cited prior art, the Board has reached the conclusion that the subject-matter as defined in all the claims is novel.

4. *Unity of invention (Article 82 and Rule 30 EPC)*

4.1 The compounds of present Claim 1 are piperazin-2-one derivatives, which contain at the 4-position a

5-chloro-thiophen-2-yl-isoxazolyl-methyl substituent as a common novel technical feature over the prior art and which show the same pharmaceutical activity.

4.2 Therefore, the Board concludes that the compounds of present Claim 1 fulfil the requirement of unity of invention within the meaning of Article 82 and Rule 30 EPC.

5. *Remittal to the first instance (Article 111(1) EPC)*

5.1 Having so decided, the Board has not, however, taken a decision on the whole matter, since the essential feature of the appeal proceedings is to consider whether the decision which has been issued by the first instance is correct. Therefore, and in view of the fact that the first instance only decided upon the issues of novelty and unity of invention and did not have an opportunity to consider the patentability of the subject-matter of the present claims with respect to other essential issues, the Board considers it appropriate to exercise its power conferred on it by Article 111(1) EPC to remit the case to the Examining Division.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance for further prosecution.

The Registrar:

The Chairman:

N. Maslin

A. Nuss