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**Datasheet for the decision
of 29 September 2020**

Case Number: T 0177/19 - 3.3.10

Application Number: 08785671.2

Publication Number: 2203222

IPC: A61Q19/08, A61K8/46, A61K8/67,
A61K8/73, A61K8/44, A61K8/49,
A61K8/65

Language of the proceedings: EN

Title of invention:
INJECTABLE DERMATOLOGICAL COMPOSITION FOR TREATMENT OF
WRINKLES

Applicant:
Italfarmacia S.r.l.

Headword:

Relevant legal provisions:
EPC Art. 123(2), 111(1)

Keyword:
Amendments - allowable (yes)
Appeal decision - remittal to the department of first instance
(yes)

Decisions cited:

Catchword:



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Chambres de recours

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Case Number: T 0177/19 - 3.3.10

D E C I S I O N
of Technical Board of Appeal 3.3.10
of 29 September 2020

Appellant: Italfarmacia S.r.l.
(Applicant) Via Di Tor Sapienza 30/A
00155 Roma (IT)

Representative: Celestino, Marco
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56123 Pisa (IT)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 11 July 2018
refusing European patent application No.
08785671.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman P. Gryczka
Members: R. Pérez Carlón
W. Van der Eijk

Summary of Facts and Submissions

- I. The appellant (applicant) lodged an appeal against the decision of the examining division to refuse European patent application 08785671.2.
- II. The examining division concluded that the claims before it did not find a basis in the application as originally filed (Article 123(2) EPC).
- III. With the statement setting out the grounds of appeal dated 31 October 2018, the appellant filed a main request and first to fourth auxiliary requests.
- IV. In a communication dated 13 May 2020, the board informed the appellant that it was inclined to consider that the sole claim of the fourth auxiliary request found a basis in example 11 of the application as originally filed, and intended to remit the case to the examining division for further examination on the basis of that request.
- V. With a letter dated 12 August 2020, the appellant withdrew the main request and the auxiliary requests 1 to 3 and requested a decision on the fourth auxiliary request.
- VI. The sole claim of the fourth auxiliary request reads as follows:

"Use of injectable dermatological composition for treatment of skin wrinkles, the composition characterised in that it comprises:

- *L-isoleucine: 0.12% (w/v);*
- *L-leucine: 0.16%(w/v);*

- *L-lysine HCl: 0.18% (w/v);*
- *L-proline: 0.20% (w/v);*
- *L-valine: 0.12% (w/v);*
- *L-glycine: 0.20% (w/v);*
- *L-serine: 0.20% (w/v);*
- *L-alanine: 0.24% (w/v);*
- *cysteine SH: 0.05% (w/v);*
- *Methionine SH: 0.05% (w/v)*
- *Lipoic acid: 0.10% (w/v)*
- *Magnesium ascorbyl phosphate: 0.20% (w/v)*
- *EDTA: 0.05% (w/v)*
- *Hyaluronic acid sodium salt: 0.10% (w/v)*
- *Sodium carbonate: 1.80% (w/v)*
- *Water: up to 100 g."*

Reasons for the Decision

1. The appeal is admissible.
2. Amendments

The sole claim of the fourth auxiliary request finds a basis in example 11 of the application as originally filed (Article 123(2) EPC).

3. Remittal

The decision under appeal only dealt with the issue of added subject-matter. The examining division, however, raised further objections during examination.

Under these circumstances, the board considers it appropriate to exercise its discretion and remit the case to the examining division for further examination

(Article 111(1) EPC). The appellant has not objected to such remittal.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the examining division for further examination on the basis of claim 1 of the sole request, filed as "fourth auxiliary request" with the statement of grounds of appeal dated 31 October 2018.

The Registrar:

The Chair:



C. Rodríguez Rodríguez

P. Gryczka

Decision electronically authenticated