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DECISION of 29 September 2003

T 1132/00 - 3.3.4 Case Number:

Application Number: 84305260.6

Publication Number: 0136011

A61K 38/22 IPC:

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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Boards of Appeal

Chambres de recours

Case Number: T 1132/00 - 3.3.4

DECISION

of the Technical Board of Appeal 3.3.4 of 29 September 2003

Appellant I: Novartis AG

(Opponent 03) Patent and Trademark Dept.

Klybeckstrasse 141 CH-4002 Basel

Respondent: PRE JAY HOLDINGS LTD. et al

(Proprietor of the patent) 80 Dufferin Avenue

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Representative: Lawrence, Peter Robin Broughton

GILL JENNINGS & EVERY

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Other Party: Novo Nordisk A/S

(Opponent 01) Novo Allé

DK-2880 Bagsvaerd (DK)

Representative: Noergaard, Torsten

c/o Novo Nordisk A/S

Novo Allé

DK-2880 Bagsvaerd (DK)

Other Party: R.P. Scherer Limited (Opponent 02) Frankland Road, Blagrove

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Other Party: Duphar International Research B.V.

(Opponent 04) C.J. van Houtenlaan 36

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Representative: Armitage, Ian Michael

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Other Party: (Opponent 05)

The Procter & Gamble Company One Procter & Gamble Plaza Cincinnati, Ohio 45202 (US)

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Other Party: (Opponent 06)

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Representative:

Helbing, Jörg, Dr.Dipl.-Chem. Patentanwälte

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Other Party: (Opponent 07)

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Other Party: (Opponent 08)

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Representative:

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Other Party: (Opponent 10)

Orion-yhtymä Oy Orionintie 1

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Representative:

VOSSIUS & PARTNER Postfach 86 07 67 D-81634 München (DE) Other Party: Warner Lambert Company

(Opponent 11) 201 Tabor Road

Morris Plains N.J. 07950 (US)

Representative: Hansen, Bernd, Dr. Dipl.-Chem.

Hoffman Eitle

Patent- und Rechtsanwälte

Postfach 81 04 20 D-81904 München (DE)

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

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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.

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Reasons for the Decision

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