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**Datasheet for the decision
of 12 February 2026**

Case Number: T 0765/24 - 3.3.07

Application Number: 09779096.8

Publication Number: 2400950

IPC: A61K9/00, A61K31/138,
A61K31/58, A61K45/06, A61P11/08

Language of the proceedings: EN

Title of invention:

PHARMACEUTICAL FORMULATIONS COMPRISING 4-{(1 R)-2-[(6-{2-
[(2,6-DICHLOROBENZYL) OXY]ETHOXY}HEXYL) AMINO]-1-
HYDROXYETHYL}-2-(HYDROXYMETHYL) PHENOL

Patent Proprietor:

Glaxo Group Limited

Opponents:

Arven Ilac Sanayi Ve Ticaret A.S.
Dehns Ltd
Aera A/S
Gill Jennings & Every LLP
Teva UK Limited
HGF Limited
N.V. Nederlandsch Octrooibureau
SANDOZ AG

Headword:

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by
patent proprietor



Beschwerdekammern

Boards of Appeal

Chambres de recours

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European Patent Office
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Case Number: T 0765/24 - 3.3.07

D E C I S I O N
of Technical Board of Appeal 3.3.07
of 12 February 2026

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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
14 May 2024 concerning maintenance of the
European Patent No. 2400950 in amended form.**

Composition of the Board:

Chairman A. Usuelli
Members: M. Steendijk
 Y. Podbielski

Summary of Facts and Submissions

- I. European patent 2 400 950 ("the patent") was granted with eighteen claims.

Claim 1 as granted defined a pharmaceutical composition comprising a dry powder formulation of Compound (I), as identified by its systematic chemical name and structure, or a pharmaceutically acceptable salt thereof, wherein Compound (I) is administered by inhalation at a dose of 12.5, 25 or 50 µg per day for use in the treatment of respiratory disease.

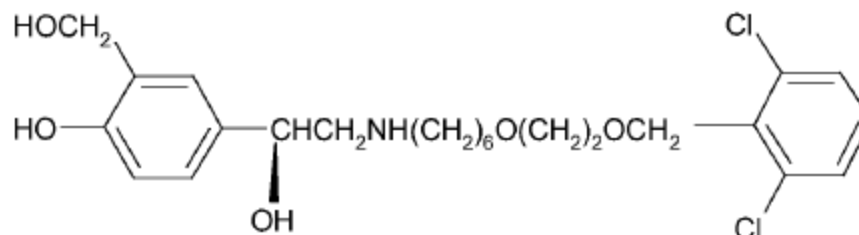
Compound (I) became associated with the generic name "vilanterol" after the filing date of the patent.

- II. Eight oppositions were filed against the grant of the patent on the grounds that its subject-matter lacked novelty and inventive step, that the claimed invention was not sufficiently disclosed and that the patent comprised subject-matter extending beyond the content of the application or the parent application as filed.

The opposition division decided that the patent as amended in accordance with the main request filed on 16 December 2020 met the requirements of the EPC.

Claim 1 of the main request defined:

"A pharmaceutical formulation comprising a dry powder formulation of 4-{(1R)-2-[(6-{2-[(2,6-dichlorobenzyl)oxy]ethoxy}hexyl)amino]-1-hydroxyethyl}-2-(hydroxymethyl)phenol:



Compound (I)

or a pharmaceutically acceptable salt thereof, a carrier and a ternary agent, wherein the ternary agent is magnesium stearate and wherein Compound (I) is administered by inhalation at a dose of 25 or 50µg per day, calculated as the free base for use in the treatment of respiratory disease."

III. Opponents 02, 03, 05, 06 and 08 appealed the decision of the opposition division. Opponent 02 subsequently withdrew its appeal on 6 March 2025 and remained party as of right under Article 107 EPC.

IV. Oral proceedings were held before the Board on 12 February 2026.

During the oral proceedings, the patent proprietor (respondent) declared that it no longer approved the text of the patent and withdrew all requests on file.

Reasons for the Decision

1. Under Article 113(2) EPC, the European Patent Office shall decide upon the European patent only in the text submitted to it, or agreed, by the proprietor of the patent.
2. By disapproving the text of the patent and withdrawing all amended text versions submitted to the EPO, the

patent proprietor withdrew their approval of any text for maintenance of the patent. Therefore, there is no approved text of the patent on the basis of which the board can decide on the appeal.

3. In these circumstances, it is established case law that the patent must be revoked without further substantive examination as to patentability (see Case Law of the Boards of Appeal of the European Patent Office, 11th edition 2025, section IV.D.2).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked

The Registrar:

The Chairman:



B. Atienza Vivancos

A. Usuelli

Decision electronically authenticated