

EP 1880719

The examination is being carried out on the **following application documents**

Description, Pages

1-22 as originally filed

Claims, Numbers

1-14 received on 27-04-2011 with letter of 27-04-2011

1). The claims are not formulated as a product for use in a method according to Articles 54(4) and 54(5) EPC and hence they are directed to the compositions per se.

Compositions comprising *Smilax glabra* for the treatment of urinary system infections are already known from D15 (=CN-A-1 733 272), D16 (=CN-A-1 116 533), D17 (=CN-A-1 742 963), D18 (=CN-A-1 088 442) and D19 (=CN-A-1 593 530) [see the abstracts]. Hence, the subject-matter of claims 1,2,8,9,10 and 14 is not novel. Since *Smilax glabra* appears to have dual activity, as an MMP inhibitor and as a "calcineurin enzyme activator", the subject-matter of claims 3,4,6,11 and 12 is not novel either.

The subject-matter of claims 5,7,13 appears to be novel over the available prior art. However, an inventive step cannot be acknowledged since the pharmacologic activity of the compositions is based on the presence of the MMP-inhibitor. Hence, the contribution of the "urine pH stabilizers" to the pharmacologic activity of the composition is questionable and there is nothing in the application demonstrating an additional unexpected effect. In absence of any data supporting inventive step of the particular ratio mentioned in claim 7, said claim cannot be considered inventive.

2). Following documents are introduced into the proceedings (copies are annexed to this communication):

D20: JP2005247761 (WPI abstract)

D21: US 2005/0255215

D22: KR20050071459 (WPI-abstract)

D23: KR20050054112 (WPI-abstract)

D24: JP2005168372 (WPI-abstract)

D25: JP2002370964 (WPI-abstract)

D26: KR20060001877 (WPI-abstract)

D27: JP61072719 (WPI-abstract)

D28: BRPI0401527 (WPI-abstract)

D20 discloses a pharmaceutical composition comprising an extract from Hippophae rhamnoides. Hence, the subject-matter of claims 1-2,4 and 8 is not novel.

D21 discloses a pharmaceutical composition comprising an extract from Opuntia streptacantha. Hence, the subject-matter of claims 1-2 and 8 is not novel.

D22 discloses a pharmaceutical composition comprising an extract from Panax ginseng. Hence, the subject-matter of claims 1-2 and 8 is not novel.

D23 discloses a pharmaceutical composition comprising an extract from Eriobotrya japonica. Hence, the subject-matter of claims 1-2 and 8 is not novel.

D24 discloses a pharmaceutical composition comprising an extract from Citrus depressa Hayata. Hence, the subject-matter of claims 1-2 and 8 is not novel.

D25 discloses a composition comprising an extract from Mosla chinensis and ascorbic acid. Hence, the subject-matter of claims 1-3,5 and 8 is not novel.

D26 discloses a pharmaceutical composition comprising an extract from Fructus schizandrae. Hence, the subject-matter of claims 1-4 and 8 is not novel.

D27 discloses a pharmaceutical composition comprising an extract from Dalbergia odorifera. Hence, the subject-matter of claims 1-2 and 8 is not novel.

D28 discloses a pharmaceutical composition comprising an extract from Brassica oleraceae. Hence, the subject-matter of claims 1-2 and 8 is not novel.

3). The present application does not fulfil the requirements of art. 83 EPC since the description does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art. The application does not disclose at least one way of carrying the invention claimed. The examples 1-3 do not disclose any of the plants mentioned in claim 1.

4). It is not at present apparent which part of the application could serve as a basis for a new, allowable claim. Should the applicant nevertheless regard some particular matter as patentable, an independent claim should be filed taking account of Rule 43(1) EPC. The applicant should also indicate how the subject-matter of the new claim differs from the state of the art and the significance thereof.