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Sheet 1  
Feuille

Anmelde-Nr:  
Application No: 13 189 942.9  
Demande n°:

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

**Description, Pages**

1-32 as originally filed

**Claims, Numbers**

1-10 as originally filed

Reference is made to the following documents; the numbering will be adhered to in the rest of the procedure.

- D1 US 2004/037790 A1 (WATANABE SHUJI [JP]) 26 February 2004 (2004-02-26)
- D2 WO 2006/027248 A2 (HENKEL KGAA [DE]; GERKE THOMAS [DE]; JANSSEN FRANK [DE]; WEIDENHAUPT R) 16 March 2006 (2006-03-16)
- D3 WO 2004/084852 A1 (COUNCIL SCIENT IND RES [IN]; BEHL HARI MOHAN [IN]; SIDHU OM PRAKASH [I]) 7 October 2004 (2004-10-07)
- D4 DATABASE WPI  
Week 199427  
Thomson Scientific, London, GB;  
AN 1994-221747  
XP002621077,  
& JP 6 157259 A (ZH KANPO IYAKU KENKYU SHINKO ZAIDAN) 3 June 1994 (1994-06-03)
- D5 DATABASE TKDL [Online] 1960,  
Daritaprabha Curna:  
XP002621078,  
Database accession no. RG12/1079A
- D6 DATABASE TKDL [Online] 1800,  
Habb-ul-Misk-B:  
XP002621079,  
Database accession no. MH1/951

- D7 CHUNG ET AL: "Anticariogenic activity of macelignan isolated from *Myristica fragrans* (nutmeg) against *Streptococcus mutans*", PHYTOMEDICINE, GUSTAV FISCHER VERLAG, STUTTGART, DE, vol. 13, no. 4, 13 March 2006 (2006-03-13), pages 261-266, XP005299728, ISSN: 0944-7113, DOI: DOI:10.1016/J.PHYMED.2004.04.007
- D8 YANTI ET AL: "In vitro anti-biofilm activity of macelignan isolated from *Myristica fragrans* Houtt. against oral primary colonizer bacteria.", March 2008 (2008-03), PHYTOTHERAPY RESEARCH : PTR MAR 2008 LNKD-PUBMED:17926328, VOL. 22, NR. 3, PAGE(S) 308 - 312, XP002621080, ISSN: 1099-1573

- 1 The present application is a divisional application divided out from European application 10787235.
- 2 The present set of claims is identical to the set of claims originally filed from said parent application. Thus obviously the same objections apply to the present application as were the case for the parent application. These are summarized in the following:
- 2.1 Claims 9 and 10 relate to subject-matter considered to offend against Article 53(c) EPC.
- The present subject matter according to independent claim 1 is directed to an oral composition comprising a combination of extracts comprising an extract of *Myristica fragrans* and a further unspecified natural extract.
- The subject matter according to independent claim 9 is directed to treatment of a disease or condition of oral cavity soft tissue with such a composition.
- Such subject matter according to both independent claims appears to lack novelty in the sense of Article 54(2) EPC, because D1, D2 and D4-D6 disclose compositions falling within said definition as well as their uses for treating diseases of the oral cavity, (see passages mentioned in the search report)
- 2.2 Novel subject matter falling within the scope of the present claims is not considered inventive, because the antibacterial properties and suitability of extracts of *Myristica fragrans* for use as dentifrice, mouth rinse, toothpaste etc. and its applicability as agent for combating diseases of the oral cavity is already known from the prior art. (see D1-D8).

- 2.3 Moreover, combining such extract with an arbitrary natural extract is also not considered to involve any inventive teaching. Combining the present *Myristica fragrans* extract with any of the extracts mentioned in 4 can also not be acknowledged to involve any inventive teaching, since many of these extract are already known for their beneficial properties as regards antimicrobial action. Finally, the present application does not contain any technical teaching as to any unexpected effects associated with any such combinations falling with the scope of claim 4.
- 2.4 Moreover, the last sentence of present [0107] appears unclear in the context, because the application does not appear to relate to such subject matter, i.e. extracts of *Zizyphus joazeiro* as compulsory extract.
- 2.5 Finally, present claims 2 and 3 are unclear contrary to Article 84 EPC, because the specification of a percentage by weight of the combination of extracts does not make technical sense in the absence of a specific extraction process including amounts of extraction medium, amounts of plant material, extraction temperature and other process parameters.

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
X	US 2004/037790 A1 (WATANABE SHUJI [JP]) 26 February 2004 (2004-02-26) * paragraphs [0036] - [0040], [0061] - [0063], [0078], [0083], [0084], [0088]; example 2 * * claims 1-23 *	1-10	INV. A61Q11/00 A61K36/185
X	WO 2006/027248 A2 (HENKEL KGAA [DE]; GERKE THOMAS [DE]; JANSSEN FRANK [DE]; WEIDENHAUPT R) 16 March 2006 (2006-03-16) * claims 1-46 * * page 7, line 6 - line 8 *	1-10	
A	WO 2004/084852 A1 (COUNCIL SCIENT IND RES [IN]; BEHL HARI MOHAN [IN]; SIDHU OM PRAKASH [I] 7 October 2004 (2004-10-07) * table 1; compound 17 * * page 9, line 1 - page 14, line 35 *	1-10	
X	DATABASE WPI Week 199427 Thomson Scientific, London, GB; AN 1994-221747 XP002621077, & JP 6 157259 A (ZH KANPO IYAKU KENKYU SHINKO ZAIDAN) 3 June 1994 (1994-06-03) * abstract *	1-10	TECHNICAL FIELDS SEARCHED (IPC)  A61Q A61K A61P
X	DATABASE TKDL [Online]  1960, Dantaprabha Curma: XP002621078, Database accession no. RG12/1079A * the whole document *	1-10	
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The present search report has been drawn up for all claims			
Place of search Munich		Date of completion of the search 28 November 2013	Examiner Schnack, Anne
CATEGORY OF CITED DOCUMENTS X: particularly relevant if taken alone Y: particularly relevant if combined with another document of the same category A: technological background O: non-written disclosure P: intermediate document		T: theory or principle underlying the invention E: earlier patent document, but published on, or after the filing date D: document cited in the application I: document cited for other reasons  &: member of the same patent family, corresponding document	

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EP 13 18 9942 (P4C07)

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
X	<p><b>DATABASE TKDL [Online]</b></p> <p>1800, Habb-ul-Misk-B: XP002621079, Database accession no. MH1/951 * the whole document *</p>	1-10	
X	<p>CHUNG ET AL: "Anticariogenic activity of macelignan isolated from Myristica fragrans (nutmeg) against Streptococcus mutans", PHYTOMEDICINE, GUSTAV FISCHER VERLAG, STUTTGART, DE, vol. 13, no. 4, 13 March 2006 (2006-03-13), pages 261-266, XP005299728, ISSN: 0944-7113, DOI: DOI:10.1016/J.PHYMED.2004.04.007 * abstract * *Introduction* and *Rapid bacterial activity of macelignan*</p>	1-10	TECHNICAL FIELDS SEARCHED (IPC)
X	<p>YANTI ET AL: "In vitro anti-biofilm activity of macelignan isolated from Myristica fragrans Houtt. against oral primary colonizer bacteria.", March 2008 (2008-03), PHYTOTHERAPY RESEARCH : PTR MAR 2008 LNKD-PUBMED:17926328, VOL. 22, NR. 3, PAGE(S) 308 - 312, XP002621080, ISSN: 1099-1573 * abstract * * sentence *Introduction* and *Discussion* *</p>	1-10	
The present search report has been drawn up for all claims			
Place of search <b>Munich</b>		Date of completion of the search <b>28 November 2013</b>	Examiner <b>Schnack, Anne</b>
<p><b>CATEGORY OF CITED DOCUMENTS</b></p> <p>X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document</p> <p>T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons &amp; : member of the same patent family, corresponding document</p>			

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EPO FORM 1503 03.08 (P04031)

**ANNEX TO THE EUROPEAN SEARCH REPORT  
ON EUROPEAN PATENT APPLICATION NO.**

EP 13 18 9942

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report.  
The members are as contained in the European Patent Office EDP file on  
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28-11-2013

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 2004037790 A1	26-02-2004	JP 2004083443 A US 2004037790 A1	18-03-2004 26-02-2004
WO 2006027248 A2	16-03-2006	DE 102004043945 A1 WO 2006027248 A2	30-03-2006 16-03-2006
WO 2004084852 A1	07-10-2004	AU 2003226617 A1 US 2004191337 A1 WO 2004084852 A1	18-10-2004 30-09-2004 07-10-2004
JP 6157259 A	03-06-1994	-----	-----

## INTERNATIONAL SEARCH REPORT

International application No

PCT/US2010/058466

<b>A. CLASSIFICATION OF SUBJECT MATTER</b> INV. A61Q11/00 A61K36/185 ADD.		
According to International Patent Classification (IPC) or to both national classification and IPC		
<b>B. FIELDS SEARCHED</b> Minimum documentation searched (classification system followed by classification symbols) A61Q A61K A61P		
Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched		
Electronic data base consulted during the international search (name of data base and, where practical, search terms used) EPO-Internal, WPI Data, EMBASE, BIOSIS		
<b>C. DOCUMENTS CONSIDERED TO BE RELEVANT</b>		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 2004/037790 A1 (WATANABE SHUJI [JP]) 26 February 2004 (2004-02-26) paragraphs [0036] - [0040], [0061] - [0063], [0078], [0083], [0084], [0088]; example 2 claims 1-23	1-10
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A	WO 2004/084852 A1 (COUNCIL SCIENT IND RES [IN]; BEHL HARI MOHAN [IN]; SIDHU OM PRAKASH [I]) 7 October 2004 (2004-10-07) table 1; compound 17 page 9, line 1 - page 14, line 35	1-10
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<input checked="" type="checkbox"/> Further documents are listed in the continuation of Box C. <input checked="" type="checkbox"/> See patent family annex.		
* Special categories of cited documents "A" document defining the general state of the art which is not considered to be of particular relevance "E" earlier document but published on or after the international filing date "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified) "O" document referring to an oral disclosure, use, exhibition or other means "P" document published prior to the international filing date but later than the priority date claimed "T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention "X" document of particular relevance, the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone "Y" document of particular relevance, the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art. "Z" document member of the same patent family		
Date of the actual completion of the international search		Date of mailing of the international search report
8 February 2011		18/02/2011
Name and mailing address of the ISA/ European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Fax (+31-70) 340-3016		Authorized officer  Schnack, Anne



## INTERNATIONAL SEARCH REPORT

International application No

PCT/US2010/058466

C(Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	<p>DATABASE WPI  Week 199427  Thomson Scientific, London, GB;  AN 1994-221747  XP002621077,  &amp; JP 6 157259 A (ZH KANPO IYAKU KENKYU  SHINKO ZAIDAN) 3 June 1994 (1994-06-03)  * abstract</p>	1-10
X	<p>DATABASE TKDL [Online]  1960,  Dantaprabha Curna:  XP002621078,  Database accession no. RG12/1079A  the whole document</p>	1-10
X	<p>DATABASE TKDL [Online]  1800,  Habb-ul-Misk-B:  XP002621079,  Database accession no. MH1/951  the whole document</p>	1-10
X	<p>CHUNG ET AL: "Anticariogenic activity of  macelignan isolated from Myristica  fragrans (nutmeg) against Streptococcus  mutans",  PHYTOMEDICINE, GUSTAV FISCHER VERLAG,  STUTTGART, DE,  vol. 13, no. 4, 13 March 2006 (2006-03-13)  , pages 261-266, XP005299728,  ISSN: 0944-7113, DOI:  DOI:10.1016/J.PHYMED.2004.04.007  * abstract  *Introduction* and *Rapid bacterial  activity of macelignan*</p>	1-10
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