

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

To: see form PCT/ISA/220

Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference see form PCT/ISA/220

FOR FURTHER ACTION See paragraph 2 below
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International application No. PCT/EP2006/060463	International filing date (day/month/year) 03.03.2006	Priority date (day/month/year)
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International Patent Classification (IPC) or both national classification and IPC INV. A23L1/00 A23L1/0522 A23L1/22 C08B30/14
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Applicant SYMRISE GMBH & CO. KG

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application


2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Date of completion of this opinion see form PCT/ISA/210	Authorized Officer Tallgren, Antti Telephone No. +31 70 340-3933
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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 - the international application in the language in which it was filed
 - a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material:
 - on paper
 - in electronic form
 - c. time of filing/furnishing:
 - contained in the international application as filed.
 - filed together with the international application in electronic form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2006/060463

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	16-19
	No: Claims	1-15,20
Inventive step (IS)	Yes: Claims	
	No: Claims	1-20
Industrial applicability (IA)	Yes: Claims	1-20
	No: Claims	

2. Citations and explanations

see separate sheet

ITEM V

1. The following documents (D) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

- D1: EP-A2-0 922 449 (NAT STARCH CHEM INVEST [US]) 16 June 1999 (1999-06-16)
- D2: EP-A-1 072 262 (LILLY SA [ES]) 31 January 2001 (2001-01-31)
- D3: US-A-3 769 038 (MITCHELL W ET AL) 30 October 1973 (1973-10-30)
- D4: WO 03/066030 A2 (PHARMACIA CORP [US]; MARTINO ALICE C [US]; NOACK ROBERT M [US]; PIERMA) 14 August 2003 (2003-08-14)
- D5: EP-A2-1 177 788 (CINFA S A LAB [ES]) 6 February 2002 (2002-02-06)
- D6: WO 99/33437 A (PROCTER & GAMBLE [US]; LUHADIYA ASHOK PREMCHAND [IN]; GOEL VIKRAM [IN]) 8 July 1999 (1999-07-08)
- D7: US-A-6 086 917 (TRUBIANO PAUL [US] ET AL) 11 July 2000 (2000-07-11)
- D8: WO 2004/049827 A (TAKASAGO PERFUMERY CO LTD [JP]; NAGAO MASAHARU [JP]; NAKAMURA TAKESHI) 17 June 2004 (2004-06-17) cited in the application
- D9: EP-A2-0 667 147 (FUISZ TECHNOLOGIES LTD [US]) 16 August 1995 (1995-08-16)

2. NOVELTY AND INVENTIVE STEP OBJECTIONS

D1 describes a compressed tablet comprising pre-gelatinized starch (cold swellable) and flavor with optionally maltodextrin, colors, sugars. The end product may be a instant drink. (see relevant passages search report). Consequently, the subject matter of claims 1,(7,9,10),11,12(13-15),20 is considered as being not new in view of D1 (Art 33 (2) PCT). Consequently, the subject matter of claims 2-6,8,16,18(19) (selection of features from different parts of the document) is considered as being not inventive in view of D1 (Art 33(3) PCT).

D2 describes a compressed tablet comprising pre-gelatinized starch (cold swellable) and flavor with optionally colors, sugars, artificial sweeteners (see relevant passages search

report). Consequently, the subject matter of claims 1,(7,9,10),11,12 (13,15),20 is considered as being not new in view of D2 (Art 33 (2) PCT).

D3 describes a compressed tablet comprising pre-gelatinized starch (cold swellable) and flavor (see relevant passages search report). Consequently, the subject matter of claims 1, (7,9,10),11,12 (13,15),20 is considered as being not new in view of D3 (Art 33 (2) PCT).

D4 describes a compressed tablet comprising pre-gelatinized starch (cold swellable),flavor and color (see relevant passages search report). Consequently, the subject matter of claims 1, (7,9,10),11,12 (13,15),20 is considered as being not new in view of D4 (Art 33 (2) PCT).

D5 describes a compressed tablet comprising pre-gelatinized starch (cold swellable),flavor and intensive sweeteners and sugars (see relevant passages search report). Consequently, the subject matter of claims 1, (7,9,10),11,12 (13,15),20 is considered as being not new in view of D5 (Art 33 (2) PCT).

D6 describes a compressed tablet comprising pre-gelatinized starch (cold swellable),flavor,color and intensive sweeteners and sugars (see relevant passages search report). Consequently, the subject matter of claims 1, (7,9,10),11,12 (13,15),20 is considered as being not new in view of D6 (Art 33 (2) PCT).

D7 describes a compressed tablet comprising pre-gelatinized starch (cold swellable) and flavor with optionally maltodextrin, colors, sugars (see relevant passages search report). Consequently, the subject matter of claims 1,(7,9,10),11,12 (13-15),20 is considered as being not new in view of D7 (Art 33 (2) PCT).
Consequently, the subject matter of claims 2-6,8,16 (selection of features from different parts of the document) is considered as being not inventive in view of D7 (Art 33(3) PCT).

D8 describes a compressed tablet comprising optionally pre-gelatinized starch (page 6 lines 12-18, examples 9-11,13) and flavor with additionally maltodextrin, colors, sugars. The end product may be a instant drink with several flavors (see relevant passages search report). Consequently, the subject matter of claims 1,(7,9,10),11,12 (13-15),16,18,20 is considered as being not inventive in view of D8 (Art 33 (3) PCT).

Furthermore, the subject matter of claims 2-6,8 (selection of features from different parts of the document) is considered as being not inventive in view of D8 (Art 33(3) PCT).

D9 describes a compressed tablet comprising optionally pre-gelatinized starch (page 7 lines 27-29, examples 1,9,10) and flavor with additionally maltodextrin, colors, sugars (see relevant passages search report). Consequently, the subject matter of claims 1,(7,9,10),11,12 (13-15),20 is considered as being not inventive in view of D9 (Art 33 (3) PCT).

Furthermore, the subject matter of claims 2-6,8 (selection of features from different parts of the document) is considered as being not inventive in view of D9 (Art 33(3) PCT).

In claim 17 a slight change in the claim 16 is defined which comes within the scope of the customary practice followed by persons skilled in the art (well known instant drink formulations), especially as the advantages thus achieved can readily be foreseen. Consequently, the subject matter of claim 17 is considered as being not inventive in view of D1,D8 (Art 33(3) PCT).

None of the claimed compositions, products, uses or processes are considered to be inventive in view of D1-D8 (Art 33(3) PCT). Having regard to the claimed compositions, products, uses or processes and the prior art known (D1-D8), it is considered that the man skilled in the art would regard these compositions, products, uses or processes of the present invention (as far as novel) as an obvious alternative to those known. Therefore, unless an unexpected effect for the present compositions, products, uses or processes (as far as novel) over the prior art disclosure from D1-D8 can be demonstrated, these compositions, products, uses or processes do not fulfill the requirements of Art 33(3) PCT.