

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

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

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/EP2010/060487	International filing date (day/month/year) 20.07.2010	Priority date (day/month/year) 21.07.2009
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International Patent Classification (IPC) or both national classification and IPC
INV. A61K36/28 A61M5/145

Applicant
DSM IP ASSETS B.V.

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 and 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.

<p>Name and mailing address of the ISA:</p>  <p>European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Fax: +49 89 2399 - 4465</p>	<p>Date of completion of this opinion</p> <p>see form PCT/ISA/210</p>	<p>Authorized Officer</p> <p>Stoltner, Anton</p> <p>Telephone No. +49 89 2399-8408</p> 
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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2010/060487

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. This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of a sequence listing filed or furnished:
 - a. (means)
 - on paper
 - in electronic form
 - b. (time)
 - in the international application as filed
 - together with the international application in electronic form
 - subsequently to this Authority for the purposes of search
4. In addition, in the case that more than one version or copy of a sequence listing 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.
5. Additional comments:

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	
	No: Claims	<u>1-18</u>
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-18</u>
Industrial applicability (IA)	Yes: Claims	<u>1-18</u>
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2010/060487

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

ad section V:

- 1 The present application relates to the cosmetic use of an oral composition comprising Stevia extract, steviol precursors or steviol in improving the appearance of hair or fur. The problem to be solved resides in the provision of an orally ingestible hair care composition enhancing the natural health of and beauty of the hair by restoring hair growth and preventing hair loss/thinning due to aging. Stevia rebaudiana, belonging to the plant family of asteraceae, is known for its sweet tasting compounds including stevioside and rebaudioside A, hitherto known as sugar substituents in a number of foodstuffs and soft drinks.
- 2 Reference is made to the following documents; the numbering will be adhered to in the rest of the procedure:
 - D1 EP 1 666 036 A1 (NIPPON SHINYAKU CO LTD [JP]; SUNSTAR INC [JP]) 7 June 2006 (2006-06-07)
 - D2 WO 01/58414 A1 (ANDROMEDA TRADING LTD [GB]; GRALLERT BURKHARD [GB]) 16 August 2001 (2001-08-16)
 - D3 EP 1 673 986 A2 (LOTTE CO LTD [JP]) 28 June 2006 (2006-06-28)
- 3 Document D1 discloses a hair growth stimulant and a hair restoring food with containing such stimulant in form of a chromene compound extracted from plants including the genus of Stevia (cf. page 6, section [0035], page 7, section [0047], page 8, sections [0064] to [0070], claims 1/6).
Document D2 concerns a composition for preventing hair loss and for promoting hair growth, said composition comprising fenugreek extract and a stevia extract (cf. abstract, page 2, lines 4-16, page 3, para. 2). From page 5, 3rd para. bridging with page 6, line 2, an oral preparation comprising a stevia extract can be explicitly derived.
Document D3 provides a collagen-containing food and drink whose taste is improved by adding a stevia extract containing stevioside and rebaudioside (cf. page 2, sections [0002] to [0006] and [0013], page 3, sections [0021] to [0026]).

4 Nutraceuticals in form of food/drinks comprising or containing stevia extracts, as well as the use thereof in improving the overall appearance of a mammal's hair or fur already form part of the prior art. The subject-matter of the present application hence does not fulfill the requirements of Arts. 33(2) and 33(3) PCT.

5 As regards the wording of claims 1-7, the following has to be noted: The patentability can be dependent upon the formulation of the claims. The EPO, for example, does not recognise as patentable claims to the use of a compound in medical treatment, but may allow claims to a product, in particular substances or compositions for use in a first or further medical treatment.

Accordingly, passages throughout the description referring to a method of treatment or diagnosis of the animal or human body should be omitted or so redrafted as to indicate a possible application of the invention.

ad section VIII:

1 The application contains general statements in the description trying to extend the scope of protection in an ambiguous way (cf. e.g., page 6, line 29, page 10, lines 25 and 34, page 12, line 14).