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Contents

General Information

EDITORIAL ENQUIRIES

All enquiries about official notices and general information in the Journal should be directed to IP Australia,
(ABN No 38 113 072 755),
PO Box 200 Woden ACT 2606

Or
Telephone 1300 651 010
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CONTACT INFORMATION

Customer Service Network
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E-mail: assist@ipaustralia.gov.au
Customers can contact the Customer Service Network by telephone or by e-mail. Telephones are staffed between 9am and 5pm each working day.

Customers should contact the Customer Service Network for information about:

- All Patent Matters including PCT and Innovation Patents.
- All Trade Mark Matters.
- All Design Matters.

Professional Standards Board for Patent and Trade Mark Attorneys.
Ph: **02 6283 2345** Fax: **02 6283 1048**

ORDERING PATENT DOCUMENTS

When ordering copies of Australian patent specifications, or abstracts and abridgments notified as open to public inspection on or after 26 October 1978, or as accepted on or after 16 November 1978, the documents should be referred to by application numbers only, preceded by letters AU-A or AU-B respectively.

REQUESTS FOR INFORMATION UNDER SECTION 194 (C)

A request for information under Section 194 (C) of the Patents Act 1990 should be made in the approved form and be accompanied by the prescribed fee. The request should be as detailed as possible.

INFORMATION FROM REGISTERS

All requests for information from Register of Patents, Trade Marks or Designs, should be made in writing and accompanied by the prescribed fee. The Registers are located in Canberra and may be examined free of charge.

COUNTRY CODES

For a listing of country codes used by IP Australia please refer to the Official Journals dated 7 November 1996.

ABBREVIATIONS IN JOURNAL

Standard abbreviations are used in the name of companies and firms. Enquiries concerning the precise name should be directed to the Customer Service Network.

FREEDOM OF INFORMATION ACT

What does it do?

- Gives you right to obtain information held by Commonwealth Ministers, Departments and most statutory bodies (these bodies are called agencies under the Act).
- Requires Commonwealth Government agencies to make available to members of the public:
  - Information about agencies, their functions and operations.
  - Information about rules and practices which are used in making decisions which affect you.
- Gives you a legal right to:
  - See non exempt documents held by agencies, and
  - appeal against a decision not to grant access to a document.

What documents can you see?

- The Act gives you a right to see documents lodged on or after 1 December 1977, or earlier if you need them to understand another document you have already.
- Documents include files, reports, computer printouts, maps, plans, photographs, tape recordings, films or videotapes.
- Documents which are available for purchase under the Patents Act 1990, the Trade Marks Act 1995 or Designs Act 2003 or Plant Breeder's Rights Act 1994 are not available under the Freedom of Information Act (Section 12 refers).

How do you apply?

Requests for access to documents must

- Be in writing
- Provide sufficient information so as to enable identification of the documents requested
- Specify an address in Australia where notices can be sent and
- Be accompanied by the application fee (currently $30.00).

Requests for documents should be addressed to IP Australia, PO Box 200 Woden, ACT 2606, or Faxed to 02 6283 7999

DECISIONS OF THE COMMISSIONER OF PATENTS AND REGISTRAR OF TRADE MARKS AND DESIGNS

- All decisions of the Commissioner and Registrars are available free of charge from AUSTLII's website www.austlii.edu.au

Copies of all written Patent and Design decisions are available (except if they would not be available under the provisions of the Freedom of Information legislation, e.g. if they would effectively disclose matter from documents that are not open to public inspection) on request for a cost of $AU 25. They are also available for inspection in indexed volume series, dating from 1 January 1987, in the Office library, Canberra.
Copies of Trade Mark decisions may be accessed via IP Australia's website www.ipaustralia.gov.au

- Copies of the taped record of Patent and Design hearings are available (with the same exception as above) on request.
- When a written decision is issued the fact of the decision plus a brief head note will be published in the Official Notices section of the next available Patents, Trade Marks or Designs Journal.

HEARINGS BEFORE THE COMMISSIONER OF PATENTS

Hearings before the Commissioner of Patents will usually be conducted at the Patent Office in Canberra and interstate hearing sessions are not provided. However, the Commissioner will conduc t hearings outside of Canberra at a convenient time to all parties provided that the parties bear the travel costs of the hearing officer.

The various options for hearings are set out in the document "Options for Hearings" available on IP Australia's website at: www.ipaustralia.gov.au/pdfs/patents/optionsforhearings.PDF

HEARINGS BEFORE THE REGISTRARS OF TRADE MARKS AND DESIGNS

Hearings before the Registrars of Trade Marks and Designs will be set down in Melbourne, Sydney, Adelaide, Perth and Brisbane during the periods indicated below.

Designs and Trade Marks Hearings Sessions 2007

Melbourne	5 - 9 March 4 - 8 June 17 – 21 September
Sydney	12 – 16 February 14 – 18 May 13 – 17 August 12 – 16 November
Adelaide	16 – 17 July
Perth	19 – 20 August
Brisbane	26 – 27 August

Persons who desire matters to be set down for hearing in Melbourne, Sydney, Adelaide, Perth or Brisbane must give at least one month's notice of their intention to be heard. If such notice is not given, it may be that there would be insufficient time to allow for the execution of official procedures associated with the listing of hearings, and as a result, the matter involved might not be listed.
Subject to the convenience of this Office, hearings will be set down in Canberra at any time suitable to the parties.

LIST OF STATE OFFICES

IP Australia State Offices are located in the Australian Capitals at the addresses given below. Requests for information may be obtained by calling at, phoning or writing to these offices or IP Australia, ACT.

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Ground Floor
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(PO Box 200, WODEN ACT 2606)
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Locomotive Workshop
Eveleigh NSW 1430
Ph: 1300 651 010
Fax: (02) 9249 5807

Victoria
Level 6
OCBC House
565 Bourke Street
MELBOURNE VIC 3000
Ph: 1300 651 010
Fax (03) 9612 9807

Western Australia
2 nd Floor
East Point Plaza
233 Adelaide Terrace
PERTH WA 6000
Ph: 1300 651 010
Fax: (08) 9220 8907

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Level 1
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BRISBANE QLD 4000
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Fax: (07) 3007 1107

South Australia
Innovation House, East Wing
Mawson Lakes Boulevard
MAWSON LAKES Adelaide SA 5095
Ph: 1300 651 010
Fax: (08) 8239 4507

Tasmania
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AMP Building
27 Elizabeth Street
HOBART TAS 7000
Ph: 1300 651 010
Fax: (03) 6235 6307

GUIDE TO THE USE OF THIS JOURNAL

The Australian Official Journal of Patents (AOJP) reports all major events and actions which take place during the life cycle of an Australian patent and provides certain details of these actions as they relate to the patent or patent application involved. This guide sets out to teach the reader how to use the journal to access this information.

While there are many possible actions in the life of a patent, the majority of actions reported relate to the following events, which are the main stages in the progression of a patent application to a sealed patent:

(i) FILING -

This is the act of making an application. When the application is first filed certain details are published.

(ii) OPEN-TO-PUBLIC-INSPECTION (OPI) -

Approximately 18 months after first filing of an Australian or a corresponding foreign application, certain application documents, including the complete specification, become available to the public (Open-to-Public-Inspection or "OPI"). Relevant application details are published.

(iii) NATIONAL PHASE ENTRY (NPE) -

For an application filed under the PCT to have full effect, it must move from the international phase of processing into the National phase of processing, by complying with the requirements of s.89(3). For PCT applications that were filed after 1 January 2004 which have entered the National Phase certain details are published.

(iv) ACCEPTANCE -

This is the Commissioner's acceptance of a patent application. Once the Commissioner has accepted a patent application, certain details of the application are published in the AOJP. Notice of opposition may be filed within three months of advertisement of acceptance.

(v) OPPOSITION -

If an opposition action is commenced against the grant of the patent, the six-figure acceptance number and the name of the opponent are published. If the opposition is to the Certification of an Innovation Patent, the patent number and the name of the opponent are published.

(vi) SEALING -

Most accepted applications are not opposed. These proceed to sealing and become granted patents. Of the few that are opposed (less than 1%) most of these, after resolution of the opposition, proceed to sealing and become granted patents. Sealed patents are simply listed in order of their application number.

(vii) CERTIFICATION-

This is the Commissioner's Certification after passing examination of a previously granted unexamined Innovation Patent.

In addition to the actions related to these stages, other actions reported include: assignments, lapsing or withdrawal of applications and ceasing or expiry of patents, voluntary amendments, extensions of time for certain actions and registration of licences.

How To Identify Information Using "INID" Numbers

Patents are published in many different countries and in many different languages. As a result, finding the information that you want (eg the filing date) on a patent document or in a journal can be quite difficult. There is an international system operating, however, which codifies this information in an unambiguous way, by assigning a specific number to each piece of information about the history of a patent. These numbers are called the **I**nternationally agreed **N**umbers for the **I**dentification of **D**ata or INID numbers.

These numbers appear on all published patents and abstracts and are used throughout this journal to identify particular items of information. For example, the date on which a document is filed has the INID number (22), while the name of the applicant has the INID number of (71). These numbers are always expressed in parentheses and always immediately precede the information to which they relate. For example:

(22) 12.10.91

means that the filing date of the document which contains this reference is 12 October 1991. Learning the INID numbers for the information you want will help you find it quickly and easily.

A complete list of the INID numbers and the items to which they relate is provided at the end of this Guide.

How Australian Patent Documents are Numbered

Patent applications in Australia are assigned a number at the filing stage in their processing. Each Australian application will retain the same number throughout its life, though different numbers may be associated to the application. The number will incorporate the year of lodgment then a unique number within the appropriate range.

There will be number ranges for types of patents:

100,000 – 199,999	Innovation
200,000 – 799,999	Standard
800,000 – 899,999	Petty
900,000 – 999,999	Provisional

When searching for information and ordering documents it is vital that you understand the numbering systems.

1. **Provisional Applications** are given a ten-figure number

e.g. 2002901123

A provisional application number is identified by the INID number (21).

2. **Complete and Innovation Applications** are also given a ten-figure application number

e.g. 2002200345 Standard
2002100123 Innovation

There are prefixes applied to this number which indicate whether the application has been accepted:

A document corresponding to an unaccepted application has the prefix, AU-A; eg AU-A-2002200234.
A document corresponding to an accepted application carries the prefix AU-B; eg AU-B-2002200234.

Users need to be aware that an accepted document may differ from the corresponding unaccepted document. This is because amendment may occur between first publication (OPI) and second publication (acceptance).

A ten-figure application number is identified by the INID number (21).

NOTE: When ordering any patent document from us, whether accepted or not, please quote the ten-figure application number preceded by the appropriate prefix.

Arrangement of Information in the Journal

For each of the categories

(i) Provisional Applications Filed,

(ii) Complete Applications Filed,

(iii) Applications Open to Public Inspection

(iv) Applications Entered National Phase

(v) Applications Accepted, and

(vi) Innovation Patent Certified.

The Journal lists the information published in that category in an alphabetical Name Index list based on the name of the applicant. These indices are useful if you wish to find information about applications made by a particular applicant.

In addition to the Name Index there is provided, for each of these categories, a Numerical Index This index lists the applications either in order of their five-figure Application Numbers, in the case of complete applications filed and applications OPI, or in order of their six-figure Document Number in the case of accepted applications. It provides, for each number, the name of the applicant. These indices are useful if you wish to track the progress of a particular patent application.

There are also IPC Indices provided for applications which are OPI, for applications which have entered national phase and for applications which have been accepted. IPC stands for **I**nternational **P**atent **C**lassification. Each IPC "mark" is an alpha-numerical representation of a particular area of technology. These indices are in order of IPC mark, and within each mark provide either the five-figure application numbers of the application which are now OPI or the six-figure numbers of the cases now accepted. These indices are useful if you wish to check on patent activity in a particular technology.

Using the Indices

1. To Find Patent Information if You Know the Name of the Applicant.

Use the Name Indices. They will give you the following information identified by their INID number:

ITEM	INID No.
A) Provisional applications filed - Name Index	
The name of the applicant	(71)
The Provisional application number	(21)
The date of filing	(22)
The title of the invention	(54)

ITEM	INID No.
B) Complete applications filed - Name Index	
The name of the applicant	(71)
The number assigned to the application	(21)
The date of filing	(22)
Title of the invention	(54)
Number of priority document(s) if any	(31)
Date(s) of filing of priority documents	(32)
Country of which priority documents filed	(33)
PCT application number	(86)

ITEM	INID No.
C) Applications open to public inspection - Name Index	
The name of the applicant	(71)
The number of the document	(11)
The number assigned to the application	(21)

ITEM	INID No.
D) Applications entered National Phase - Name Index	
The name of the applicant	(71)
The number of the document	(11)
The number assigned to the application	(21)

The date of filing	(22)
The title	(54)
The classification marks	(51)
Priority document number(s)	(31)
Date of filing of priority document(s)	(32)
Country in which priority document filed	(33)
Publication date of unexamined document	(43)
Inventors names if known	(72)
Patent Attorneys	(74)
Related by addition	(61)
Related by division	(62)

The date of filing	(22)
The title	(54)
The classification marks	(51)
PCT publication number	(87)
Priority document number	(31)
Date of filing of priority document(s)	(32)
Country in which priority document filed	(33)
Publication date of unexamined document	(43)
Inventors names if known	(72)
Patent Attorneys	(74)

ITEM	INID No.
E) Applications accepted - Name Index	
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The number of the document	(11)
The number of the accepted document	(10)
The number assigned to the application	(21)
The date of filing	(22)
The title	(54)
The classification marks	(51)
PCT publication number	(87)
Priority document number	(31)
Date of filing of priority document(s)	(32)
Country in which priority document filed	(33)
Publication date of unexamined document	(43)
Publication date of examined document	(44)
Publication date of granted patent	(45)
Inventors names	(72)
Patent Attorneys	(74)
Related by addition	(61)
Related by division	(62)

ITEM	INID No.
F) Patents Certified – Name Index	
The name of the applicant	(71)
The number of the accepted document	(10)
The number assigned to the application	(21)
The date of filing	(22)
The title	(54)
The classification marks	(51)
Priority document number	(31)
Date of filing of priority document(s)	(32)
Country in which priority document filed	(33)
Publication date of granted patent	(45)
Inventors names	(72)
Patent Attorneys	(74)
Related by division	(62)

You will notice at each stage of following application through that all applications are in alphabetical order of **Applicant**, not inventor.

2. To Find Information About a Patent Application if You Know its Number.

Use the appropriate numerical index. This will give you the name of the applicant from the number. You will then need to use the appropriate Name Index as above to find out other information about the Patent Application you are interested in.

The following Numerical Indices are available:

A) **Provisional** Applications filed.

B) **Complete** Applications filed.

C) **Innovation** Applications filed.

D) Applications **Open to Public Inspection.**

E) Applications **Entered National Phase**

F) Applications **Accepted**.

G) Innovation Patent **Certified**

3. To Find Information About Patent Documents in the Area of Technology in which You are Interested if You Know the International Patent Classification Mark for that Area.

All patent applications are classified according to their subject matter using the International Patent Classification (IPC). Although the system is very detailed and covers all technologies, knowledge of the IPC marks of the technologies you are interested in will allow you to find patent documents in these technologies quite easily. To identify the IPC marks of technologies you are interested in, you can inspect relevant documentation in any of IP Australia's state offices.

The indices to use are

A) Applications **OPI** - IPC Index

B) Applications **accepted** - IPC Index

C) Applications **Entered National Phase** – IPC Index

These indices give you the numbers of the applications which are either OPI, Entered National Phase or Accepted and are listed in order of their IPC marks.

Once you have the numbers of the documents that interest you, consult the relevant Number Index (see 2. above) to find the applicant's name, and then the Name Index (see 1. above) to find out the details of that application.

'INID' NUMBERS in use on Australian Patent Documents

'INID' is an acronym for '**I**nternationally agreed **N**umbers for the **I**dentification of **D**ata'.

(10) Document identification
- **(11)** Number of the document
- **(12)** Plain language designation of the kind of document
- **(19)** WIPO country code, or other identification, of the country publishing the document.

(20) Document filing data
- **(21)** Number(s) assigned to the application(s).
- **(22)** Date(s) of filing application(s)
- **(23)** Other date(s) of filing, including exhibition filing date and date of filing complete specification following provisional specification.
- **(24)** Date from which industrial property rights may have effect.

(30) Priority data
- **(31)** Number(s) assigned to priority application(s)
- **(32)** Date(s) of filing priority application(s)
- **(33)** Country (countries) in which the priority application(s) was (were) filed.

(40) Date(s) of making available to the public
- **(43)** Date of publication by printing or similar process of an unexamined document, on which no grant has taken place on or before the said date.
- **(44)** Date of publication by printing or similar process of an examined document, on which no grant has taken place on or before the said date.
- **(45)** Date of publication by printing or similar process of a document, on which grant or certification has taken place on or before the said date.

(50) Technical Information
- **(51)** International Patent Classification
- **(52)** Domestic or national classification
- **(54)** Title of invention
- **(56)** List of prior art documents, if separate from descriptive text
- **(57)** Abstract or claim

(60) Reference(s) to other legally related domestic document(s)
- **(60)** Related by cognate(s).
- **(61)** Related by addition(s).
- **(62)** Related by division(s).

(70) Identification of parties concerned with the document
- **(71)** Name(s) of applicant(s)
- **(72)** Name(s) of inventor(s) if know to be such
- **(74)** Name(s) of attorney(s) or agent(s)
- **(75)** Name(s) of inventor(s) who is (are) also applicant(s)

(80) Identification of data related to International Conventions other than the Paris Convention
- **(86)** PCT Application Number
- **(87)** PCT Publication Number

NOTE

(1) Australian patent documents published on or after 26 October 1978 should be referred to by the application number preceded by the prefix AU-A or AU-B.

AU-A = Pre-examination **AU-B** = Post-examination

(2) The classification used is the International Patent Classification and is identified by the INID code (51). Further editions of the classification are identified as $(51)^2$, $(51)^3$, $(51)^4$ and $(51)^5$.

(3) INID code 74 provides for the name of the patent attorney, or firm of attorneys, prosecuting an application.

OFFICIAL NOTICES

Revised Business Rules for Electronic Communication

On 2 January 2007, IP Australia launched our revised Business Rules for Electronic Communication. The Business Rules are produced in accordance with the requirements of the *Electronic Transactions Act 1999*. The revised document is intended to be read and referred to by customers who choose to communicate with IP Australia by electronic means and provides a useful guide to operating in our electronic environment.

The business rules include information about using IP Australia's online search facilities, applying for IP rights online, making electronic payments and corresponding electronically with IP Australia. Other changes in the version are:

- Revision and update of all system requirements; and
- insertion of a ready reference table of the electronic communication options available to customers.

The revised Business Rules for Electronic Communication are available from IP Australia's website at **www.ipaustralia.gov.au/pdfs/general/eta.pdf.**

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OFFICIAL NOTICES

IP Australia's 2007 Customer Service Charter Now Available

On 2 January 2007, IP Australia launched our revised Customer Service Charter for 2007. Our Charter provides a clear statement about the level of service customers can expect IP Australia to provide. IP Australia's customer service principles are backed up by service level commitments which we measure each quarter.

The new Charter was developed in consultation with customers and stakeholders.
IP Australia reviews its Customer Service Charter every 12 months to ensure its relevance to our customers. Changes in the 2007 Charter include:

- Increased quality service level commitment to 98% for error-free Trade Marks examination reports (from 95% in 2006)
- New quality service level commitment introduced for Design examination reports.

For a copy of the 2007 Customer Service Charter, phone **1300 651 010** or visit IP Australia's website at **www.ipaustralia.gov.au/service.**

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Web: www.ipaustralia.gov.au

ABSTRACTS OF DECISIONS

DECISION OF A DELEGATE OF THE COMMISSIONER OF PATENTS

Application	:	No. **735113** in the name of **Mundipharma Medical GmbH**
Title	:	Opioid Formulations for Treating Pain
Action	:	Opposition to the grant of a patent by **Grunenthal GmbH**
Decision	:	Issued 18 December 2006.

Abstract

The present invention provides a method of treating pain comprising the once-daily administration of sustained release morphine formulations. The compositions provide a time to maximum plasma concentration (Tmax) of about 2 to 8 hours and a peak-to-trough ratio (Cmax/C24) of between 2.6 and 3.4. The grounds of opposition were manner of manufacture, novelty, inventive step and section 40.

The opponent submitted that the claims lacked fair basis as there was no real and reasonable disclosure of the Cmax/C24 ratio. However the invention as defined in the claims has been found to be consistent with the invention as described.

The opponent argued that the claims lacked novelty in view of AU 617573 ("Faulding"), but this citation and evidence is not sufficient to establish that there are clear and unmistakable directions to a formulation providing a therapeutic effect of 24 hours. The opponent submitted that the claims lacked inventive step in view of Faulding as there was no suggestion that the Tmax and Cmax/C24 parameters were in any way significant and inventive and that the present claims lacked inventive step in view of Faulding combined with the common general knowledge relating to the commercial product Kapanol. These submissions have been unsuccessful, and the claims are considered to meet the threshold test for inventiveness.

As the opposition has been unsuccessful on all grounds, costs are awarded against the opponent.

ABSTRACTS OF DECISIONS

DECISION OF A DELEGATE OF THE COMMISSIONER OF PATENTS

Application : No. 716793 in the name of Euro-Celtique S. A.

Title : Opioid Formulations Having Extended Controlled Release

Action : Opposition to the grant of a patent by Grunenthal GmbH

Decision : Issued 14 December 2006

Abstract

The opposed invention relates to an opioid-containing solid controlled-release oral dosage form providing an extended duration of therapeutic effect of about 24 hours after administration. The opponent pursued the grounds of novelty, inventive step and manner of manufacture at hearing.

Submissions were made that certain features of the present invention were a mechanical equivalent of the prior art, and that certain parameters were an inherent feature of prior art formulations. The evidence did not support such submissions, and the claims are novel. Furthermore, the evidence did not establish that a skilled person would have been directly led to the invention in view of the prior art, and the claims meet the threshold test for inventiveness.

As the opposition has been unsuccessful on all grounds, costs are awarded against the opponent.

PATENTS ACT 1990

DECISION OF A DELEGATE OF THE COMMISSIONER OF PATENTS

Re: Patent Application No. 716793 in the name of Euro-Celtique S. A., and an opposition under section 59 to the grant of a patent by Grunenthal GmbH.

BACKGROUND

1. Patent application number 716793 in the name of Euro-Celtique S. A. ("the applicant"), was filed on 6 February 1998. The application was advertised accepted on 9 March 2000, and a notice of opposition was filed by Grunenthal GmbH ("the opponent") on 9 June 2000. A statement of grounds and particulars was filed on 8 September 2000. Evidence in support was completed on 25 February 2002, evidence in answer on 18 March 2004, and evidence in reply on 22 June 2005.

2. The applicant filed further evidence on 10 November 2005. Evidence in response to the further evidence was completed on 20 March 2006.

3. The opposition was heard in Sydney on 30 August 2006. The applicant was represented by Mr Phillip Kerr, Solicitor, assisted by Ms Claudia Wallman and Ms Carolyn Morely of Allens Arthur Robinson, Sydney. The opponent was represented by Ms Katrina Howard of Counsel, instructed by Dr Jacinta Flattery-O'Brien of Shelston IP, Sydney. In addition to providing written submissions at hearing, both parties provided further submissions following the hearing.

GROUNDS OF OPPOSITION

4. The grounds of opposition were manner of manufacture, novelty, inventive step and section 40, but only novelty, inventive step and manner of manufacture were the subject of submissions at hearing.

THE EVIDENCE

5. Evidence in support consisted of declarations by:

   - Stephan A. Schug, Department of Pharmacology, University of Western Australia, dated 19 February 2002 and comprising Exhibits SAS1 to SAS9.

   - James Steven Rowe, Technical Consultancy Services Pty. Ltd., dated 6 February 2002 and comprising Exhibits JSR1 to JSR21.

   - Denis Eng Tuffery, Shelston IP Sydney, dated 8 February 2002. This declaration merely confirmed the publication dates of a number of patents referred to in Dr Rowe's evidence.

6. Evidence in answer consisted of declarations by:

   - Kenneth Frederick Brown, self employed consultant, dated 12 March 2004, and comprising Exhibit KFB1.

   - Martin Peter O'Sullivan, Wray & Associates Perth, and dated 19 November 2003. This declaration merely entered Australian application 29207/02 into evidence.

   - Andrew Alexander Somogyi, Department of Clinical and Experimental Pharmacology, University of Adelaide, dated 18 November 2003, and comprising Exhibit AAS-1.

7. Evidence in reply consisted of declarations by:

    - Professor Schug dated 17 June 2005.
    - Dr Rowe (2) dated 21 December 2004 and 21 March 2005.

8. Further evidence consisted of a declaration by Joachim Fritz, Borden Ladner Gervais LLP Canada, dated 9 November 2005 and comprising Exhibits JF-1 to JF-3.

9. Evidence in response to the further evidence comprised declarations by:

    - Santosh Chari, Blake Cassels and Graydon LLP Canada, dated 16 February 2006.
    - Dr Rowe, dated 20 March 2006.

THE SPECIFICATION

10. Controlled-release formulations avoid peaks and troughs in drug concentration and provide a smoother plateau in the drug plasma concentration profile compared with conventional immediate-release formulations. This may reduce the severity and incidence of side effects. Controlled-release formulations also have the advantage that less active ingredient may be required compared with normal dosage regimes over the same time period.

11. The present invention relates to an opioid-containing solid controlled-release oral dosage form for use in the treatment of pain. The controlled-release formulations of the invention are said to provide an extended duration of therapeutic effect and a peak plasma level from about 2 to 8 hours, thereby providing pain relief "well beyond 12 hours, and preferably, for about 24 hours after administration." This provides for once-daily administration. The specification describes various suitable overcoat materials, including alkylcelluloses and acrylic polymers. The formulation releases the opioid at a rate that is independent of pH, thereby avoiding "dose dumping" of the active ingredient upon oral administration.

12. The specification ends with 30 claims. At hearing the parties focussed on the invention as defined by Claim 1:

> *"A solid controlled release oral dosage form, the dosage form consisting of a plurality of inert pharmaceutical beads coated with an analgesically effective amount of an opioid analgesic or a mixture of opioid analgesics or a salt thereof, said inert pharmaceutical beads overcoated with a controlled release coating, wherein the dissolution rate in vitro of the dosage form, when measured by the USP Paddle Method of U.S. Pharmacopeia XXII (1990) at 100rpm at 900ml aqueous buffer at 1.6 and 7.2 pH and 36ºC is from about 16.8% to about 42.5% (by wt) opioid released after 1 hour, from about 25% to about 65% (by wt) opioid released after 2 hours, from about 45% to about 85% (by wt) opioid released after 4 hours and greater than about 60% (by wt) opioid released after 8 hours, the in vitro release rate being substantially independent of pH in that a difference at any given time between an amount of opioid released at one pH and an amount released at any other pH, when measured by the USP Paddle Method of U.S. Pharmacopeia XXII (1990) at 100rpm at 900ml aqueous buffer, is no greater than 10%, the in vitro release rate being chosen such that the peak plasma level of said opioid obtained in vivo occurs from about 2 hours to about 8 hours after administration of the dosage form, said dosage form providing an extended duration of therapeutic effect of about 24 hours."*

13. The claims essentially define a formulation comprising three layers: an inert core, an opioid-containing layer and a slow release layer. The various dissolution parameters and the time to peak plasma concentration level (Tmax) may be determined using known techniques. In the case of hydromorphine, the plasma concentration level that provides a "therapeutic effect" may be determined by reference to the trough plasma level concentration of a known formulation (Dilaudid). At hearing the parties were in substantial agreement that a hydromorphone plasma concentration of 300 pg/ml was indicative of a therapeutic effect for this drug.

14. I note that in addition to the opioid-coated beads defined in Claim 1, the specification describes controlled release formulations that comprise opioid-containing beads. In particular, pages 19 to 22 describe alternative embodiments wherein the opioid is dispersed within a slow-release matrix or spheronising agent

and optionally coated with a controlled-release coating. Furthermore, while the specification provides 13 examples of different controlled-release formulations, only Examples 1, 5, 9, 10, 11 appear to possess the *in vitro* and *in vivo* dissolution properties defined in the claims. It was suggested in the opponent's evidence that this caused some confusion as to what new feature the present application disclosed over the prior art. However, I do not consider this a significant problem as it is not unusual for a specification to disclose several different inventions but claim only certain embodiments.

DECISION

Novelty

15. The test for novelty has been discussed recently in the Full Federal Court decisions of *Pfizer Overseas Pharmaceuticals v Eli Lilly and Company* [2005] FCAFC 224 (see paragraphs 311 et seq) and *Bristol-Myers Squibb Company v FH Faulding & Co Limited* (2000) 97 FCR 524. As noted in both decisions, the basic test for novelty is the "reverse infringement test" as set out in *Meyers Taylor Pty Ltd v Vicarr Industries* (1977) 137 CLR 228 at page 235 where Aickin J stated:

> *"The basic test for anticipation or want of novelty is the same as that for infringement and generally one can properly ask oneself whether the alleged invention would if the patent were valid, constitute an infringement."*

16. Infringement is said to occur where "each and every one of the essential features of that claim have been taken" (*Rodi and Wienenberger AG v. Henry Showell Ltd* (1969) RPC 367). However, as Pfizer noted it is not sufficient for a citation to contain all the essential features of the claim, there must be "clear and unmistakable" directions to the claimed invention. In addition, the citation has to "enable" the skilled worker to produce the invention from the written disclosure. The basic principle is explained in *Hill v Evans* (1862) 4 De G F & J 288; 45 ER 1195be where the court noted:

> *"the antecedent statement must be such that a person of ordinary knowledge in the subject would at once perceive, understand, and be practically able to apply the discovery without the necessity of making further experiments and gaining further information before the invention can be made useful. If something remains to be ascertained which is necessary for the useful application of the discovery that affords sufficient room for another valid patent."*

17. Although the opponent had provided an extensive list of documents in their statement of grounds and particulars, they focussed their submissions at hearing to just three patent documents: US 4990341 and US 4844909 ("Goldie"), and EP 548448 ("Euroceltique"). The two Goldie patents disclose essentially the same material, and the opponent made submissions only in relation to EP 548448 and US 4990341. I will deal with each of these in turn.

EP 548448 (Euroceltique)

18. Euroceltique discloses controlled-release formulations having a similar three-layered structure to the present invention. The controlled-release layer provides *in vitro* dissolution properties that are almost identical to the present compositions. Indeed, Euroceltique describes specific formulations that are identical to the present formulations with the exception of the quantity of opioid used. Euroceltique does not disclose any of the *in vivo* characteristics defined in the present claims (particularly the Tmax and 24-hour duration of therapeutic effect), but the opponent argued that these would be inherent properties of the prior art formulations. They particularly noted the similarity of the *in vitro* dissolution rates, and submitted that formulations having such similar *in vitro* dissolution rates would be expected to provide similar plasma levels after 24 hours

19. However even if the *in vitro* dissolution properties could be used in this manner to predict the *in vivo* characteristics of a formulation, I am not satisfied that the formulations described in Euroceltique would provide a 24-hour duration of therapeutic effect. Of greatest relevance is Example 2 of the present application, which as noted above has essentially the same composition but comprises twice the drug loading of the Euroceltique formulations. My understanding of the clinical studies suggests that the plasma concentration provided by this example falls below the level that is capable of providing a therapeutic effect (300 pg/ml) well before 24 hours. Given this result, I consider it unlikely that similar dosage form containing half as much drug would provide a therapeutic effect for 24 hours.

20. I note that the role of an opposition is only to refuse a patent application if it is clearly invalid (*F. Hoffmann-La Roche AG v New England Biolabs, Inc.* (2000) 99 FCR 56). The onus in this case is on the opponent to prove that in addition to possessing the *in vitro* dissolution properties, the prior art formulations also possess the *in vivo* properties defined in the claims. However, rather than providing experimental evidence to demonstrate that the prior art formulation possessed these properties, the opponent relied on the similarity of the *in vitro* tests to support their argument of inherency. I am not satisfied on the evidence before me that such a conclusion may be made.

21. Therefore, I consider that the present claims are novel in view of Euroceltique as there are no clear and unmistakeable directions in this citation to a dosage form that provides a therapeutic effect of about 24 hours.

US 4990341 (Goldie)

22. Goldie describes controlled-release formulations that provide *in vivo* and *in vitro* dissolution rates and peak plasma levels that are similar to those defined for the present invention. Goldie specifically describes two types of formulations that provide the desired dissolution rates. The first type comprises a controlled release matrix, which is essentially a single-layer structure. The second type of formulation comprises a "normal release matrix" which comprises film coated spheroids. This formulation essentially comprises a two-layer structure, wherein the inner layer consists of a matrix in which the opioid is dispersed. Neither of these formulations comprises the three-layer structure defined by the present claims.

23. I also note that the citation does not specifically disclose a duration of therapeutic effect of 24 hours. The opponent argued that Goldie disclosed a therapeutic effect of at least 12 hours, which they asserted encompasses 24 hours. I do not find this argument persuasive as Goldie states that the dosage forms "afford therapeutic levels of hydromorphone *in vivo* over at least a 12 hour period, and may therefore be used on a twice daily basis." Such a dosage regime is inconsistent with a dosage form that provides a therapeutic level of activity of about 24 hours.

24. The opponent further argued that even if a three-layer formulation was not disclosed by Goldie, the person skilled in the art would understand that the present system was a mechanical equivalent that could be substituted for the two-layer formulations described in Goldie (*Nicaro Holdings Pty Ltd v Martin Engineering* (1990) 91 ALR 513 at 527-8). I do not consider this argument persuasive.

25. In the first instance all features of a claim are taken to be essential (*Catnic Components Ltd v Hill and Smith* (1982) RPC 183), and for the doctrine of mechanical equivalents to apply the evidence must show that the difference represents no more than the substitution of an inessential feature with an obvious equivalent (*R. D. Werner & Co Inc v Bailey Aluminium Products Pty Ltd*, (1989) 13 IPR 513). Further guidance in this regard is provided by the recent Federal Court decision in *PhotoCure ASA v Queen's University at Kingston* [2005] FCA 344 wherein the issue of infringement in substance was determined by applying the questions set out by Hoffmann J in *Improver Corporation v Remington Consumer Products Ltd* [1990] FSR 181.

26. I acknowledge that the present specification does describe alternative embodiments, including one in which the claimed opioid-coated beads are substituted by a matrix comprising the opioid. This suggests that the two systems provide a similar function, but it does not lead to a conclusion that the discrete coating is a mechanical equivalent of the matrix in which the active ingredient is incorporated. *Prima facie* there would be significant differences in the dissolution characteristics of a formulation in which the active ingredient is entirely adjacent the controlled release layer, as opposed to a matrix in which the opioid was distributed throughout a matrix which is surrounded by a controlled release layer. The key consideration is whether or not the evidence shows that the opioid coating has a material effect upon the way the invention works (*PhotoCure ASA v Queen's University at Kingston* [supra]). No evidence was provided that addressed this issue. As a consequence the evidence does not support the assertion that the opioid-coated beads defined by the present claims are a mechanical equivalent of the matrix disclosed in Goldie.

27. Therefore I am not satisfied that Goldie discloses either the opioid-coated bead overcoated by particular slow release coatings or the defined *in vivo* and *in vitro* properties defined in the present claims. Accordingly, I do not consider that the Goldie patent deprives the present claims of novelty.

Inventive Step

28. The opponent made submissions only in relation to both Euroceltique and Goldie under Subsection 7(3) of the Patents Act 1990, which they submitted allows a document that does not form part of the common general knowledge to be considered for obviousness purposes. In particular, this section sets out that a claimed invention will lack an inventive step if it is obvious to a person skilled in the relevant art in the light of common general knowledge considered together with information publicly available in a single document or through doing a single act, provided that the document or act could reasonably be expected to have been ascertained, understood and regarded as relevant to work in the relevant art in the patent area by the person skilled in the art.

29. The parties differed in relation to whether the documents could reasonably have been ascertained and considered relevant by the person skilled in the art. Dr Rowe stated that he did not normally consult patent specifications, but if he did find the need for such information he would undertake an online search that generally included patent specifications. He also stated that he would normally have patent searches carried out by a specialist information department who would carry out the search in consultation with him using various parameters such as key words.

30. However, the applicant argued that the opponent had failed to meet the requirements of subsection 7(3) in that no evidence had been provided as to how either of the documents would have been found in a search (*Commissioner of Patents v Emperor Sports Pty Ltd* (2006) 667 IPR 488 at 495). In particular, the applicant noted that Dr Rowe did not specify the search parameters that would have captured the cited documents, and given that he did not routinely consult patent literature unless there was a need for further information, there was no evidence as to why he would have conducted an online search of the patent literature in this case. The applicant also referred to the evidence of Dr Somogyi to the extent that even if a search of patent literature had been performed, the person skilled in the art would not have regarded the information in these documents useful for preparing a 24 hour preparation.

31. On balance I am satisfied that the person skilled in the art would have regard to the patent literature. The evidence of Dr Rowe indicates that searches of this type were routine in the art of formulation chemistry. Furthermore, while the evidence does not provide any search terms that would be used, I consider it reasonable to conclude that the skilled person would ascertain and consider relevant documents relating to controlled release formulations regardless of whether or not they were for a once-daily administration. Accordingly, I consider that the Goldie and Euroceltique documents are relevant for determining inventive step.

32. An appropriate test for inventive step is that given in *Olin Mathieson v Biorex* (1970) RPC 157, and approved by the High Court in *Aktiebolaget Hassle v Alphapharm Pty Ltd* [2002] HCA 59:

> *"Would the notional research group at the relevant date in all the circumstances ... directly be led as a matter of course to try the invention claimed in the expectation that it might well produce a useful desired result."*

33. Where an invention relates to a specific combination of integers or features further guidance is provided in *Minnesota Mining & Manufacturing Co v Beiersdorf (Australia) Ltd* (1979-80) 144 CLR 253 at page 293:

> *"In the case of a combination patent the invention will lie in the selection of integers, a process which will necessarily involve rejection of other possible integers. The prior existence of publications revealing those integers, as separate items, and other possible integers does not of itself make an alleged invention obvious. It is the selection of the integers out of, perhaps many possibilities, which must be shown to be obvious."*

34. Euroceltique does not specify any specific dosage regime, but as noted above I consider it unlikely that the specific dosage forms described would provide a 24 hour duration of therapeutic effect. Similarly, the Goldie formulations are clearly intended for twice daily administration. However, the opponent argued that it would be obvious to the person skilled in the art to increase the drug loading in order to obtain a prolonged period of therapeutic effect. This particular issue overarches both citations and in my opinion is key in determining the inventiveness of the present formulations.

35. Dr Rowe expressed doubts in evidence as to the ability of the present formulations to provide a 24 hour duration of therapeutic effect when greater than 60% of the active ingredient is released in a period of 8

hours. I note in this regard that the Goldie and Euroceltique formulations both release between 55 and 85% of the active ingredient after 6 hours, so presumably Dr Rowe would have similar doubts in regard to these formulations.

36. Notwithstanding his submissions in this regard, Dr Rowe also argued that therapeutic levels of a drug could be achieved after 24 hours if the initial loading dose was sufficiently high. However, he noted that simply increasing the dosage may lead to other problems, including an increased risk of side effects. This point was also made by Dr Schug who stated that a drug which is designed for 12 hour administration could not simply be changed over to once-daily use by doubling the dose, and that in some products this would on the one hand result in excessive peak concentrations a few hours after administration and on the other hand too low a trough concentration for major parts of the dosage period.

37. In view of the evidence from both parties, I am not satisfied that the opponent has established that the present claims are obvious in view of Goldie or Euroceltique. The evidence clearly shows that a skilled person would not be directly led to further pursue a formulation of the type described by these citations, particularly since the evidence suggests that the dissolution profiles of Euroceltique and Goldie would not immediately lend themselves to providing a duration of therapeutic effect of about 24 hours. Furthermore, there appears to be no predictability in increasing the dosage of the opioid in order to extend the duration of effect, and increasing the drug loading may also risk undesirable side effects associated with the increase in the peak plasma levels. My view is therefore that the opponent has failed to establish that the claims lack inventive step.

Manner of Manufacture

38. The opponent submitted that the present claims do not define a manner of manufacture as there is no invention on the face of the specification (*Advanced Building Systems Pty Ltd v Ramset Fasteners (Aust) Pty Ltd* (1998) 152 ALR 604 at 614). In particular, they noted that the specification states that "it has been known in the art that controlled-release compositions of opioids or salts thereof could be prepared in a suitable matrix," and further acknowledges that formulations having the *in vitro* dissolution properties of the present formulations are known. The specification further states that it was a desired goal in the art to obtain formulations suitable for once-daily administration. The opponent asserted that the claims are merely to a known dosage, and at most were to an analogous use of what was described in Goldie (*Merck & Co Inc. v Arrow Pharmaceuticals Ltd* [2006] FCAFC 91 at [75]).

39. I have found that the claims are both novel and inventive in view of Goldie and Euroceltique. On that basis I consider that the present claims meet the threshold test for inventiveness and this argument cannot be sustained.

CONCLUSION

40. The opposition has been unsuccessful on all grounds.

41. Under the rules of the Federal Court, the opponent will have 21 days from the date of this decision to file a notice of appeal with the court. I therefore direct that the application be sealed after twenty-eight (28) days from the date of this decision. If the Commissioner of Patents is served with a notice of appeal from this decision before that time, I direct that sealing not occur until the appeal has been decided or discontinued.

COSTS

42. The power of the Commissioner to award costs is based on section 210 and regulation 22.8. The opposition has been unsuccessful on all grounds and I therefore award costs against the opponent Grunenthal GmbH.

L. F. McCaffery
Delegate of the Commissioner of Patents

Patent attorneys for the applicant : Allens Arthur Robinson, Sydney
Patent attorneys for the opponent : Shelston IP, Sydney

Proceedings under the Patents Act 1990

Applications Lapsed, Refused Or Withdrawn Patents Ceased or Expired

Reference to the application numbers must include the year of the application of the patent, which is shown preceding the numbers.

The codes next to each number have the following meanings:

Code	Meaning
1	Application Lapsed Section 142(2)(a) \S 47(C)\
2	Application Lapsed Section 142(2)(b)
3	Application Lapsed Section 142(2)(c) \S 52B(3)\
4	Application Lapsed Section 142(2)(d) \S 47D(1)\
5	Application Lapsed Section 142(2)(e) \S 53\
6	Application Lapsed Section 142(2)(f)/Reg 8.3(3)
7	Application Lapsed Reg. 3.2(5)(a) \R 7B(3)\
8	Application Lapsed Reg. 3.4(6)
9	Application Lapsed Section 142(3)
10	Application Lapsed Section 142(4)(b)
11	Application Lapsed Section 148(1)(c)
12	Application Withdrawn Section 141(1)/Reg 8.3(2) \S 37\
13	Application Withdrawn Section 141(2)/Reg 8.3(2)
14	Patent Ceased Section 143(a), or Expired
15	Patent Ceased Section 143(b)
16	Application refused
17	Application Lapsed Regulation 22.2
A	Applications on which examination has not been requested or directed
B	Applications on which a direction to request examination has been given
C	Applications on which examination has been requested or on which an examination report has been issued
D	Applications which have been accepted or advertised accepted, (including applications which have also been advertised 'Not Sealed')
N	Applications Not Open to Public Inspection

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774019 (14)
774127 (14)
774178 (14)
774270 (14)
774520 (14)
775182 (14)
775244 (14)
775943 (14)
776024 (14)
776244 (14)
776752 (14)

Appls Lapsed:W/drawn, Pat. Ceased:Exp/d cont'd

776945 (14)	777432 (14)	777952 (14)
778327 (14)	779272 (14)	779302 (14)
779594 (14)	779728 (14)	779751 (14)
779775 (14)	780090 (14)	780230 (14)
780482 (14)	780524 (14)	781221 (14)
781492 (14)	781742 (14)	781765 (14)
781940 (14)	782763 (14)	782771 (14)
783094 (14)	784048 (4D)	

2001

14327 (5C)	19361 (5C)	24600 (5C)
29814 (5C)	38893 (4C)	38905 (4C)
38967 (4C)	41864 (5C)	50539 (4C)
52039 (4C)	55030 (4C)	55584 (5C)
57181 (4C)	63454 (5C)	65898 (4C)

2002

14716 (5C)	16804 (5C)	26112 (5C)
35619 (5C)	37047 (5C)	40617 (5C)
50673 (5C)		

Extensions of Time, Section 223

Applications Received

Notice of opposition under Section 223(6) to the undermentioned application(s) for an extension of time may be lodged at the Patent Office within the prescribed time.

639712 **Plaaskem (Pty) Ltd.** An application to extend the time from 30 Aug 2005 to 30 Nov 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - Callinan Lawrie Private Bag 7 KEW VIC 3101

662640 **Hoechst Marion Roussel, Inc.** An application to extend the time from 19 Jul 2002 to 19 Oct 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - WATERMARK PATENT & TRADEMARK ATTORNEYS Locked Bag 5 HAWTHORN VIC 3122

682960 **Fogarty, W.W.; Friday, P.M.; Michael Wesley Corp.; Fogarty, D. and Schnitzer, S.** An application to extend the time from 7 Apr 2006 to 17 Nov 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - Davies Collison Cave Level 15 1 Nicholson Street MELBOURNE VIC 3000

701706 **Souris, M.** An application to extend the time from 9 Mar 2006 to 9 Oct 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - WALSH & ASSOCIATES Locked Bag 2011 Glebe Post Office GLEBE NSW 2037

727237 **Eastern Virginia Medical School of the Medical College of Hampton Roads** An application to extend the time from 30 Oct 2005 to 30 Dec 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - Callinan Lawrie Private Bag 7 KEW VIC 3101

747833 **GL & V Management Hungary Kft.** An application to extend the time from 25 Jun 2004 to 25 Oct 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - Griffith Hack GPO Box 1285K MELBOURNE VIC 3001

750082 **University of Maryland, Baltimore** An application to extend the time from 29 Sep 2005 to 29 Sep 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - PHILLIPS ORMONDE & FITZPATRICK 367 Collins Street MELBOURNE VIC 3000

Extensions of Time, Section 223 -cont'd

757136 **F. Hoffmann-La Roche AG** An application to extend the time from 20 May 2005 to 20 Oct 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - Griffith Hack GPO Box 1285K MELBOURNE VIC 3001

774001 **Rohm and Haas Co.** An application to extend the time from 4 Dec 2005 to 4 Nov 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - Davies Collison Cave Level 15 1 Nicholson Street MELBOURNE VIC 3000

777797 **Wavin B.V.** An application to extend the time from 3 Mar 2005 to 3 Sep 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - Davies Collison Cave Level 15 1 Nicholson Street MELBOURNE VIC 3000

783242 **Board of Regents, The University of Texas System** An application to extend the time from 29 Jan 2006 to 29 Aug 2006 in which to pay a renewal fee has been lodged . Address for service in Australia - Davies Collison Cave Level 15 1 Nicholson Street MELBOURNE VIC 3000

Applications Allowed - Section 223(2)

1996

71391 **Brain, A.I.J.** The time in which to enter the National Phase has been extended to 11 Aug 2006 . Address for service in Australia - Shelston IP Level 21 60 Margaret Street SYDNEY NSW 2000

678224 **Breene, P.G.** The time in which to pay a renewal fee has been extended to 20 Sep 2006 . Address for service in Australia - Philip Graham Breene 50 Kates Street Morningside QLD 4170

706084 **Endogad Research Pty Ltd.** The time in which to pay a renewal fee has been extended to 11 Sep 2006 . Address for service in Australia - F B Rice & Co Level 23 44 Market Street SYDNEY NSW 2000

717944 **SCB Technologies, Inc.** The time in which to pay a renewal fee has been extended to 3 Mar 2006 . Address for service in Australia - SPRUSON & FERGUSON GPO Box 3898 SYDNEY NSW 2001

722118 **QLT Inc.; Thompson Cancer Survival Center and Overholt, B.** The time in which to pay a renewal fee has been extended to 7 Aug 2006 . Address for service in Australia - SPRUSON & FERGUSON GPO Box 3898 SYDNEY NSW 2001

726191 **EndoGad Research Pty Ltd.** The time in which to pay a renewal fee has been extended to 29 Aug 2006 . Address for service in Australia - F B Rice & Co Level 23 44 Market Street SYDNEY NSW 2000

728253 **University of Saskatchewan** The time in which to pay a renewal fee has been extended to 24 Aug 2006 . Address for service in Australia - Griffith Hack GPO Box 1285K MELBOURNE VIC 3001

767099 **Amethon Solutions (Asia Pacific) Pty Ltd** The time in which to provide search results under S45(3) has been extended to 20 Oct 2006 . Address for service in Australia - Amethon Solutions (Asia Pacific) c/- 79 Warrimoo Ave St Ives NSW 2075

Amendments, Section 104

Applications for Amendment

A person interested in opposing the allowance of the amendment may, at any time within three months from the date of this journal, give notice at the Patent Office using the approved form accompanied by the prescribed fee.

690376 Improvements in/or relating to rollformers **Hayes Plant Lease Ltd.** The nature of the proposed amendment is as shown in the statement(s) filed 6 Nov 2006. . Address for service in Australia - A J Park & Son PO Box 949 Wellington 6001 NEW ZEALAND

728310 Tamper-evident form for securely carrying information **Documotion Research, Inc** The nature of the proposed amendment is as shown in the statement(s) filed 15 Nov 2006. . Address for service in Australia - PIZZEYS PO Box 291 WODEN ACT 2606

764803 Tamper-evident form **C-Pos Pty Ltd** The nature of the proposed amendment is as shown in the statement(s) filed 18 Oct 2006 and 14 Nov 2006. . Address for service in Australia - Freehills Patent & Trade Mark Attorneys Level 43 101 Collins Street MELBOURNE VIC 3000

Applications for Amendment -cont'd

782607 Butene copolymer, resin composition comprising the copolymer and moldings of the composition, and solid titanium catalyst for producing the copolymer and method for preparing the catalyst **Mitsui Chemicals, Inc.** The nature of the proposed amendment is as shown in the statement(s) filed 31 Jan 2006. . Address for service in Australia - Davies Collison Cave Level 15 1 Nicholson Street MELBOURNE VIC 3000

784374 Synthesis of 2'-deoxy-L-nucleosides **Pharmasset Inc.** The nature of the proposed amendment is as shown in the statement(s) filed 30 Nov 2006. . Address for service in Australia - Blake Dawson Waldron Level 39 101 Collins Street MELBOURNE VIC 3000

Amendments Made

759623 **Suntory Ltd.** The nature of the amendment is as was notified in the Official Journal dated 27 Jul 2006

780612 **Curis, Inc.** The nature of the amendment is as was notified in the Official Journal dated 15 Jun 2006

Applications Accepted

Name Index

. The Nominated Person(s) (INID 70) are listed only if they differ from the Applicant(s) (INID 71). Otherwise only the Applicant(s) are listed.

(71) Assa Abloy Financial Services AB
(11) AU-B-48815/02 **(10) 785301**
(21) 48815/02 **(22)** 17.06.02
(54) A LATCH DEVICE
(51) Int. Cl.
E05C 3/06 (2006.01)
E05B 65/08 (2006.01)
E05C 3/10 (2006.01)
(31) 512510 **(32)** 20.06.01 **(33)** NZ
(43) 16.01.03
(44) 04.01.07
(72) Fountaine, H.J.; Waitai, R.J.
(74) Don Hopkins & Associates

Beath, J.I.N. see Dixon, J.G.
(11) AU-B-57843/01

(71) Dixon, J.G.; Beath, J.I.N.
(11) AU-B-57843/01 **(10) 785302**
(21) 57843/01 **(22)** 07.08.01
(54) WATERWAYS LIME SPREADER
(51) Int. Cl.
C02F 9/04 (2006.01)
C02F 1/58 (2006.01)
(31) PR5840 **(32)** 22.06.01 **(33)** AU
(43) 06.02.03
(44) 04.01.07
(72) Dixon, J.G.; Marrison, R.J.
(74) John Christiansen

(71) Doherty, P.M.
(11) AU-B-45839/02 **(10) 785300**
(21) 45839/02 **(22)** 06.06.02
(54) FORM WORK DEVICE
(51) Int. Cl.
E04G 15/06 (2006.01)
E02D 29/16 (2006.01)
E04G 9/10 (2006.01)
E02D 29/045 (2006.01)
(31) PR5549 **(32)** 08.06.01 **(33)** AU
(43) 12.12.02
(44) 04.01.07
(72) Doherty, P.M.
(74) Griffith Hack

(71) Eimeria Pty Ltd
(11) AU-B-40369/01 **(10) 785298**
(21) 40369/01 **(22)** 15.03.01
(54) PCR-BASED IDENTIFICATION OF EIMERIA SPECIES AND STRAINS
(51) Int. Cl.
C12Q 1/68 (2006.01)
(87) WO01/68909
(31) PQ6229 **(32)** 15.03.00 **(33)** AU
(43) 24.09.01
(44) 04.01.07
(72) Gasser, R.B.; Woods, W.G.; Richards, D.G.; Whithear, K.G.
(74) Davies Collison Cave

(71) Howard Foundation Holdings Ltd.
(11) AU-B-30368/01 **(10) 785304**
(21) 30368/01 **(22)** 31.01.01
(54) IMPROVEMENTS IN OR RELATING TO SOLUBILISATION OF FLAVONOLS
(51) Int. Cl.
A23L 1/30 (2006.01)
A61P 9/00 (2006.01)
A61K 31/352 (2006.01)
(87) WO01/60179
(31) 09/504747 **(32)** 16.02.00 **(33)** US
(43) 27.08.01
(44) 04.01.07
(72) Howard, A.N.
(74) Callinan Lawrie

(71) Kornbluth, R.S.
(11) AU-B-40167/00 **(10) 785297**
(21) 40167/00 **(22)** 20.03.00
(54) MULTIMERIC FORMS OF TNF SUPERFAMILY LIGANDS
(51) Int. Cl.
C07K 14/525 (2006.01)
A61K 39/00 (2006.01)
C07K 14/705 (2006.01)
(87) WO01/42298
(31) 09/454223 **(32)** 09.12.99 **(33)** US
(43) 18.06.01
(44) 04.01.07
(72) Kornbluth, R.S.
(74) Freehills Patent & Trade Mark Attorneys

(71) Pfizer Inc.
(11) AU-B-46192/01 **(10) 785303**
(21) 46192/01 **(22)** 22.05.01
(54) TREATMENT OF RUMEN ACIDOSIS WITH A-AMYLASE INHIBITORS
(51) Int. Cl.
A61K 31/7016 (2006.01)
A23K 1/14 (2006.01)
A61K 45/00 (2006.01)
A61P 3/00 (2006.01)
A61P 43/00 (2006.01)
C08B 37/00 (2006.01)
C12N 9/99 (2006.01)
C12Q 1/40 (2006.01)
A23K 1/00 (2006.01)
A23K 1/16 (2006.01)
A23K 1/18 (2006.01)
A61K 35/74 (2006.01)
A61P 1/04 (2006.01)
A61P 3/08 (2006.01)
A61P 3/12 (2006.01)
C12P 19/26 (2006.01)

Applications Accepted - Name Index cont'd

A61K 31/702 (2006.01)
A61K 31/715 (2006.01)
C07H 15/203 (2006.01)
A61K 31/7028 (2006.01)
A61K 31/7034 (2006.01)
(31) 00127605 **(32)** 24.05.00 **(33)** GB
00127936 24.05.00 GB
00174953 17.07.00 GB
(43) 29.11.01
(44) 04.01.07
(72) Banks, B.J.; Haxell, M.A.; Lunn, G.; Pacey, M.S.; Roberts, L.R.
(74) SPRUSON & FERGUSON

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(71) Progenics Pharmaceuticals, Inc.
(11) AU-B-31184/01 **(10)** **785293**
(21) 31184/01 **(22)** 26.01.01
(54) COMPOSITIONS AND METHODS FOR INHIBITION OF HIV-1 INFECTION
(51) Int. Cl.
C12P 21/00 (2006.01)
A61K 38/00 (2006.01)
C07K 14/16 (2006.01)
C07K 14/73 (2006.01)
(87) WO01/55439
(31) 09/493346 **(32)** 28.01.00 **(33)** US
(43) 07.08.01
(44) 04.01.07
(72) Olson, W.C.; Maddon, P.J.
(74) PIZZEYS

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(71) Promega Corp.
(11) AU-B-22156/00 **(10)** **785294**
(21) 22156/00 **(22)** 22.12.99
(54) THERMOSTABLE LUCIFERASES FROM PHOTURIS PENNSYLVANICA AND PYROPHORUS PLAGIOPHTHALAMUS AND METHODS OF PRODUCTION
(51) Int. Cl.
G01N 21/78 (2006.01)
C12N 1/15 (2006.01)
C12N 1/19 (2006.01)
C12N 1/21 (2006.01)
C12N 5/10 (2006.01)
C12N 9/10 (2006.01)
C12N 9/12 (2006.01)
C12N 9/24 (2006.01)
C12N 9/38 (2006.01)
C12N 15/09 (2006.01)
C12N 15/53 (2006.01)
C12Q 1/02 (2006.01)
C12Q 1/66 (2006.01)
C12N 9/02 (2006.01)
(87) WO01/20002
(31) 09/396154 **(32)** 15.09.99 **(33)** US
(43) 17.04.01
(44) 04.01.07
(72) Wood, K.V.; Hall, M.P.; Gruber, M.
(74) PHILLIPS ORMONDE & FITZPATRICK

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(71) Rohm and Haas Co.
(11) AU-B-26158/02 **(10)** **785296**
(21) 26158/02 **(22)** 18.03.02
(54) METHOD OF ADHERING COATINGS TO SUBSTRATES
(51) Int. Cl.
B05D 3/10 (2006.01)
C08J 7/00 (2006.01)
C11D 3/06 (2006.01)
C11D 3/08 (2006.01)
C11D 7/14 (2006.01)
C11D 7/16 (2006.01)
C11D 10/02 (2006.01)
C11D 11/00 (2006.01)
C23C 22/53 (2006.01)
C23C 22/56 (2006.01)
(31) 60/277744 **(32)** 22.03.01 **(33)** US
(43) 26.09.02
(44) 04.01.07
(72) Ennis, T.J.; Hill, W.H.; Kirn, W.A.; Rokowski, J.M.
(74) Davies Collison Cave

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(71) Suomen Posti Oy
(11) AU-B-44069/00 **(10)** **785295**
(21) 44069/00 **(22)** 28.04.00
(54) METHOD AND APPARATUS FOR PRE-WORK OF POSTAL DELIVERIES
(51) Int. Cl.
B07C 7/02 (2006.01)
(87) WO00/66284
(31) 990976 **(32)** 29.04.99 **(33)** FI
(43) 17.11.00
(44) 04.01.07
(72) Tikkanen, M.; Nousiainen, P.
(74) Davies Collison Cave

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(71) Uni-Charm Corp.
(11) AU-B-31410/02 **(10)** **785299**
(21) 31410/02 **(22)** 04.04.02
(54) DISPOSABLE DIAPER
(51) Int. Cl.
A61F 13/15 (2006.01)
A61F 5/44 (2006.01)
A61F 13/49 (2006.01)
A61F 13/496 (2006.01)
(31) 2001-/108630 **(32)** 06.04.01 **(33)** JP
(43) 10.10.02
(44) 04.01.07
(72) Tanaka, Y.; Mukai, H.
(74) PHILLIPS ORMONDE & FITZPATRICK

Numerical Index

IPC Index

Applications Accepted - IPC Index cont'd

C07K 14/-

785293
785297

C08B 37/-

785303

C08J 7/-

785296

C11D 3/-

785296

C11D 7/-

785296

C11D 10/-

785296

C11D 11/-

785296

C12N 1/-

785294

C12N 5/-

785294

C12N 9/-

785294
785303

C12N 15/-

785294

C12P 19/-

785303

C12P 21/-

785293

C12Q 1/-

785294

785298
785303

C23C 22/-

785296

E02D 29/-

785300

E04G 9/-

785300

E04G 15/-

785300

E05B 65/-

785301

E05C 3/-

785301

G01N 21/-

785294

Opposition Proceedings

(The name in the parentheses is that of the opponent)

Notice of Opposition under Section 223(6) and Chapter 5

770238

A Notice of Opposition to the Request for an Extension of Time to file Search Results under Section 45(3) was filed on 08 December 2006 by The Stanley Works.

Opposition Withdrawn

763260 **Wintrell, R.** (Technological Resources Pty Ltd)

Letters Patent Sealed

Standard Patents

744935 784222 784792 785002 785010 785020
785022 785026 785028 785029 785030 785032
785033 785034 785035 785036 785037 785039
785040

Assignments Registered

599855 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

608661 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

611970 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

612175 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

616599 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

649097 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

Assignments Registered - cont'd

651606 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

659852 Stewart Trustees Limited The patent has been assigned to **A-Jacks Marine Pty Limited**

667339 Perry John Underwood The patent has been assigned to **Scheky Pty Ltd**

670077 Sunpor Technology A/S The patent has been assigned to **EREMA Engineering Recycling Maschinen und Anlagen Gesellschaft m.b.H.**

679976 Perry John Underwood The patent has been assigned to **Scheky Pty Ltd**

692498 Teamwork Techniek B.V. i.o. The patent has been assigned to **AWS Ocean Energy Limited**

693382 UDR-KL Pty Ltd The patent has been assigned to **Sandvik Mining and Construction Australia Pty Limited**

708702 IMC-Agrico Company The patent has been assigned to **The Mosaic Company**

710486 Ube Industries, Ltd.; Toyota Jidosha Kabushiki Kaisha The patent has been assigned to **Mitsui Chemicals, Inc.; Toyota Jidosha Kabushiki Kaisha**

714749 Danisco (UK) Ltd The patent has been assigned to **Danisco A/S**

731187 Teijin Limited; Dupont Pharmaceuticals Research Laboratories The patent has been assigned to **Teijin Pharma Limited**

736190 A.W.S. B.V. The patent has been assigned to **AWS Ocean Energy Limited**

737482 Shun So The patent has been assigned to **Union Lucky Industrial Limited**

744685 Teijin Limited; Dupont Pharmaceuticals Research Laboratories The patent has been assigned to **Teijin Pharma Limited**

Assignments Registered - cont'd

748946 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

751328 Cryovac, Inc. The patent has been assigned to **W.R. Grace & Co.-Conn.**

751537 Cryovac, Inc. The patent has been assigned to **W.R. Grace & Co.-Conn.**

756158 Farmila-Thea Farmaceutici S.p.A. The patent has been assigned to **Sigmar Italia S.p.A.**

757102 Farmila-Thea Farmaceutici S.p.A. The patent has been assigned to **Sigmar Italia S.p.A.**

757388 Perry John Underwood The patent has been assigned to **Scheky Pty Ltd**

757411 Andras Bertha; Levente Fulop The patent has been assigned to **MDS System AG**

757595 Danisco (UK) Ltd The patent has been assigned to **Danisco A/S**

759564 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

760361 Patrick Joseph Douglas The patent has been assigned to **Broomco (3113) Limited**

761543 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

761919 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

762564 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

764595 Techstream Pty Ltd The patent has been assigned to **Immersion Technology International plc**

765125 Rhodia Chimie The patent has been assigned to **Danisco A/S**

766172 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

767857 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

768192 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

769811 Hydroscience Holdings Limited The patent has been assigned to **Absolutely Everything Limited**

770363 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

771455 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

771839 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

772941 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

Assignments Registered - cont'd

774475 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

776633 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

776646 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

776738 McKinley Medical LLC The patent has been assigned to **Curlin Medical Inc.**

777891 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

779865 Malcolm Melsetter Moodie The patent has been assigned to **Flexi-Pac (Proprietary) Limited**

780280 DBT Automation GmbH The patent has been assigned to **DBT GmbH**

780605 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

781251 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

782111 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

782338 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

782942 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

783666 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

784020 Copeland Corporation The patent has been assigned to **Emerson Climate Technologies, Inc.**

Licences Registered

(The name in parentheses is that of the licensee)

702106 **Roche Therapeutics Inc. and F. Hoffmann-La Roche AG** (Roche Products Pty Ltd)

Alteration Of Name In Register

718016 Key-Trak, Inc. The name of the patentee(s) has been changed to **Key Control Holding, Inc.**

774818 Applied Films GmbH & Co KG The name of the patentee(s) has been changed to **Applied Materials GmbH & Co. KG**

783045 TDV Technologies Corp. The name of the patentee(s) has been changed to **NewSight Corporation**

Corrigenda

In Vol 20, No 41, Page(s) 1081 under the heading **Applications Accepted - Name Index** in the name of Atronic InternationalGmbH, Serial No. 785189, INID (31) amend the priority number to read 10208943

In Vol 20, No 45, Page(s) 1101 under the heading **Applications Accepted - Name Index** in the name of Baker Hughes Incorporated, Serial No. 785227, Inid (72), amend the inventors' name to read Paul Zutz

Specifications Republished

The following specifications contained errors when advertised OPI or Accepted. They have been reissued on the AU-A or AU-B CD-ROM of this Journal date.

785189 **Atronic International GmbH**

785227 **Baker Hughes Inc.**