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ENGLISH TRANSLATION

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Subject: Supporting information submission for the consideration of examiners to dismiss the patent application with application no. 1201003753

Attention to: Director-General of the Department of Intellectual Property

Attachments:

1. Publication of the patent application with application no. US 2006/0084627 A1
2. Publication of the patent application with application no. US 2009/0318421 A1
3. US patent no. US 6,544,961 B1
4. International search report PCT/US2011/22219 on March 28, 2011
5. Guide to Determine the Application of Chemical and Pharmaceutical Patent/Petty Patent
6. Article: Selleseth, D.W. et al. (2003) Interactions of 1263W94 with Other Antiviral Agents in Inhibition of Human Cytomegalovirus Replication. Antimicrobial Agents and Chemotherapy 47: 1468-71.

The ViiV Healthcare Company filed a patent application with the title "Antiviral Treatment", application no. 1201003753, application date on January 24th, 2011, publication no. 137274, and publication date on October 9th, 2014. Even though a patent application interference period of 90 days after the publication date has already expired, the AIDS Access Foundation and the Thai Network for People with HIV/AIDS, which are private development organizations aiming to promote access to health care and drugs, found that this patent application is in contradiction to the Patent act B.E. 2522 as amended by the Patent act (No. 2) B.E. 2535 and the Patent act (No. 3) B.E. 2542.

Therefore, the AIDS Access Foundation and the Thai Network for People with HIV/AIDS are writing to inform the supporting information for the consideration of examiners to dismiss this patent application. The important information are as follows.

1. The title of invention of this patent application is "Antiviral Treatment". This title obviously indicates the purpose of a procedure for therapeutic treatment to be practiced on humans or animals. Besides, the main point of this application, as shown in the characteristic and objective of invention page 1 line 8, and in the disclosure of the invention page 3 line 11, page 4 line 7, page 5 line 25, page 6 line 10, and page 9 line 10, states a procedure for therapeutic treatment of HIV infection. The procedure contains the administration of formula compounds to individual. As a result, the main point of this invention is the procedure for therapeutic treatment, which is in contradiction to section 9 (4), and this invention

does not obtain protection by the Patent act due to being the therapeutic treatment to be practiced on humans or animals.

2. The publication of the patent application with application no. US 2006/0084627 A1 (attachment 1), the publication of the patent application with application no. US 2009/0318421 A1 (attachment 2), and US patent no. US 6,544,961 B1 (attachment 3) are reported in the International search report PCT/US2011/22219 on March 28th, 2011 (attachment 4), which evinces that the claim of patent application no. 1201003753 does not have an inventive step. That is because the combination of those substances is so obvious that skilled person would use the aforementioned documents to adapt or modify the therapeutic treatment by combining the same substances without much effort.
3. According to the Guide to Determine the Application of Chemical and Pharmaceutical Patent/Petty Patent section 5 part 2 page 361-362 (attachment 5) states that examining of inventive step in the claim, directed to pharmaceutical combinations, should observe whether or not the synergistic effects of two active substances is obvious. The synergistic effects, which can be inventive step indications, must be explained properly, and must be proved in the patent specification, for example, biological test, bioavailability, stability test, side effect reduction and so on. This patent application refers to the synergistic effect of each drug interaction according to Selleseth, D.W. et al. (2003) Antimicrobial Agents and Chemothera 47: 1468-71. (page 20). After reading the cited document, we found that it proves the interaction of combined substances between 1263W94 (maribavir; 5,6-dichloro-2-isopropylamino-1--L-ribofuranosyl-1H-benzimidazole) and Antiviral agents in inhibiting the replication of Human Cytomegalovirus (attachment 6). The proof is totally irrelevant to this patent specification. Also, the document page 20 does not contain the referred experimental result. Therefore, the claim of the mentioned synergistic effect intentionally uses false evidence in order to wrongfully obtain patent.
4. According to the Guide to Determine the Application of Chemical and Pharmaceutical Patent/Petty Patent section 5 part 2 page 361 (attachment 5), compositions must describe ingredients and volume of each ingredient in order to seek an independent claim in compositions. Otherwise, that independent claim is considered incomplete, and does not have an essential technical feature. Therefore, the claim of the patent application no. 1201003753 is incomplete, and should be refused.

For your consideration of examining to dismiss the mentioned patent application in Thailand, as well as the patent applications, which were not published, of the drugs with the same type.

Yours faithfully,

(Nimit Tienudom)
Director of AIDS Access Foundation