

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MOISE AZRIA  
and THOMAS CAVANAK

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Appeal No. 94-2888  
Application 07/815,457<sup>1</sup>

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ON BRIEF

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Before WILLIAM F. SMITH, Administrative Patent Judge, FRED E. McKELVEY, Senior Administrative Patent Judge, and TEDDY S. GRON, Administrative Patent Judge.

WILLIAM F. SMITH, Administrative Patent Judge.

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<sup>1</sup> Application for patent filed December 31, 1991. According to appellants, the application is a continuation of Application 07/503,206, filed April 2, 1990; which is a continuation of Application 07/334,664, filed April 6, 1989; which is a continuation of Application 07/145,803, filed January 19, 1988; which is a continuation of Application 07/034,114, filed April 1, 1987; which is a continuation of application 06/820,491, filed January 17, 1986; which is a continuation of Application 06/723,748, filed April 16, 1985; which is a continuation of Application 06/627,845, filed July 5, 1984; which is a continuation of application 06/537,356, filed September 29, 1983, all abandoned.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 4, 8 through 14, 16, 18 through 26, and 34. Subsequent to the final Office Action, claim 35 was added. Thus, this appeal involves claims 4, 8 through 14, 16, 18 through 26, 34, and 35.

Claim 34 is illustrative of the subject matter on appeal and reads as follows:

34. A liquid pharmaceutical composition comprising 1) a pharmaceutically acceptable, aqueous liquid nasal carrier; 2) a therapeutically effective amount of a calcitonin or a pharmaceutically acceptable acid addition salt thereof, wherein said calcitonin is selected from the group consisting of salmon calcitonin, human calcitonin, porcine calcitonin and 1.7-Asu-eel calcitonin; and 3) about 0.002% to about 0.02% on a weight per volume basis of a benzalkonium chloride, said composition being in a form suitable for nasal administration.

The references relied upon by the examiner are:

Christie et al. (Christie)                      4,241,051                      Dec. 23, 1980

English Translation of                      25197                      Sep. 25, 1981  
Japanese Patent Specification  
(Teijin)

Chemical Abstracts No. 214933s, 1981<sup>2</sup>

Ziegler et al., (Ziegler), "Nasal application of calcitonin in Paget's disease of bone,"  
Acta Endocrinol. Suppl. (215) 1978, pp. 54-55

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<sup>2</sup> The examiner and appellants have relied only upon the abstract, not the underlying full text document. For the purposes of this appeal, we, in similar fashion, have considered only the abstract.

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Claims 4, 8 through 14, 16, 18 through 26, 34, and 35 stand rejected under 35 U.S.C. § 103 as unpatentable over Ziegler and Chemical Abstracts, further in view of Christie and Teijin.

Reversed.

REVERSED

William F. Smith	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
Fred E. McKelvey, Senior	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
Teddy S. Gron	)	
Administrative Patent Judge	)	

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