compound X for use in treating disease Y characterised in that:

- the compound is given 3 times a day
- the compound is given orally
- treat diseases Y by increasing receptor A
- the compound is administered to patients who do not respond to compound Z
- personalised medicines (effect in a subpopulation having a certain genotype)
Article 53(c) EPC - therapy

- mechanism of action
- dosage
- route of administration
- patient group
- disease
- 2nd medical use
- dosage regimen
- 1st medical use
Article 53(c) EPC - therapy

Compound X is **not new** and **known** as medicament

(a) compound X for use as a medicament
(b) compound X for use in treating disease Y
(c) composition A containing X for use in treating disease Y
(d) medicament containing the compound X
(e) use of X in a composition A for the treatment of disease Y
(f) use of X as a medicament for the treatment of disease Y
(g) use of X for the treatment of disease Y
(h) use of X for preparing a medicament
(i) use of X for the manufacture of a medicament for treating disease Y
(j) process for the preparation of a medicament for treating disease Y using compound X as an active ingredient
(k) method of treatment of disease Y using X
Article 53(c) EPC - therapy

Compound X is **not new**, but **no medical use**

- (a) compound X for use as a medicament
- (b) compound X for use in treating disease Y
- (c) composition A containing X for use in treating disease Y
- (d) medicament containing the compound X
- (e) use of X in a composition A for the treatment of disease Y
- (f) use of X as a medicament for the treatment of disease Y
- (g) use of X for the treatment of disease Y
- (h) use of X for preparing a medicament
- (i) use of X for the manufacture of a medicament for treating disease Y
- (j) process for the preparation of a medicament for treating disease Y using compound X as an active ingredient
- (k) method of treatment of disease Y using X
Article 53(c) EPC - therapy

Compound X is new

(a) compound X for use as a medicament
(b) compound X for use in treating disease Y
(c) composition A containing X for use in treating disease Y
(d) medicament containing the compound X
(e) use of X in a composition A for the treatment of disease Y
(f) use of X as a medicament for the treatment of disease Y
(g) use of X for the treatment of disease Y
(h) use of X for preparing a medicament
(i) use of X for the manufacture of a medicament for treating disease Y
(j) process for the preparation of a medicament for treating disease Y using compound X as an active ingredient
(k) method of treatment of disease Y using X
Article 53(c) EPC - therapy

- therapy covers also prophylactic treatment such as vaccination (T 0019/86) and removal of plaque (T 0290/86)

- non-therapeutic treatments (cosmetic, treatment of sheep / cows to promote growth or quality of wool / milk)

- Treatment of dead bodies
Therapeutical / surgical / diagnostic methods (Art.53(c), 54(4)(5))

A patent confers a monopoly to the Proprietor; however, in the pharmaceutical/medical field no freedom to operate?

Medical practice must not be hindered by protection rights (need to ensure medical care for the population). The doctors must be free of practising their profession.

Even though it may be commercial in nature, the medical profession is not a branch of industry.
Is everything patentable?
Article 53 EPC - Exceptions to patentability

European patents shall not be granted in respect of:

(a) inventions the commercial exploitation of which would be contrary to "ordre public" or morality; such exploitation shall not be deemed to be so contrary merely because it is prohibited by law or regulation in some or all of the Contracting States;

(b) plant or animal varieties or essential biological processes for the production of plants or animals; this provision shall not apply to microbiological processes or the products thereof;

(c) methods for the treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body; this provision shall not apply to products, in particular substances or compositions, for use in any of these methods.
Outline of the presentation

• Introduction
• Exclusions (Art.52 EPC)
• Exceptions (Art.53 (a) EPC)
  • Rule 28 EPC
  • Rule 29 EPC
• Exceptions (Art.53 (b) EPC)
• Exceptions (Art.53 (c) EPC)
  • Art.54 (4) (5) EPC
• Conclusions
"microbiological process" means any process involving or performed upon or resulting in microbiological material fermentation

"micro-organisms" all generally unicellular organisms with dimensions beneath the limits of vision which can be propagated and manipulated in a laboratory (GL: C-IV, 4.7.1)

Viruses
Unicellular Fungi
Yeast
Algae
Protozoa
Human, animal and vegetal cell(s) (lines)
plasmids, vectors
Is everything patentable?

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