

Señores

SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO
DIVISIÓN DE NUEVAS CREACIONES

E. _____ S. _____ D. _____

Expediente No. 06-106.466

Solicitud de Patente de Invención titulada: "COMPOSICIONES DE DALBAVANCINA
PARA EL TRATAMIENTO DE INFECCIONES BACTERIANAS".

Solicitante: VICURON PHARMACEUTICALS, INC.

RESPUESTA AL OFICIO No. 13919 NOTIFICADO
POR FIJACION EN LISTA No. 425, DE FECHA 1 DE DICIEMBRE DE 2006
(EXAMEN DE FORMA)

CARLOS R. OLARTE, mayor de edad y vecino de Bogotá, identificado tal como aparece al pie de mi firma, en mi carácter de apoderado de la sociedad en referencia, me permito dar respuesta al auto emanado de ese Despacho, dentro del término legal previsto en el Artículo 39 de la Decisión 486, en los siguientes términos:

1. En respuesta a la única observación del Examinador, me permito aclarar al despacho que la presente solicitud entra en Fase Nacional Capítulo I y no Capítulo II como inicialmente se presentó. Para tal efecto, adjunto copia del Reporte Preliminar Internacional de Patentabilidad, el cual, valga aclarar, no contiene anexos.

Atentamente,


CARLOS R. OLARTE
CC. No. 79.782.747 de Bogotá
T.P. 74.295

Anexo: Reporte Preliminar Internacional de Patentabilidad

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 892,280-600	FOR FURTHER ACTION	See item 4 below
International application No. PCT/US2005/014355	International filing date (day/month/year) 26 April 2005 (26.04.2005)	Priority date (day/month/year) 27 April 2004 (27.04.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant VICURON PHARMACEUTICALS INC.		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | |
|---|---|
| ☒ Box No. I | Basis of the report |
| ☐ 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 Article 35(2) with regard to novelty, inventive step or 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 |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

	Date of issuance of this report 01 November 2008 (01.11.2008)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Masashi Honda
Facsimile No. +41 22 338 82 70	e-mail: pt08@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
JOHN C. KAPPOS
OMELVENY & MYERS LLP
114 PACIFICA, SUITE 100
IRVINE, CA 92618

PCT

REC'D 03 AUG 2006

WIPO

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year) 31 JUL 2006

Applicant's or agent's file reference

892,280-600

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US05/14355

International filing date (day/month/year)

26 April 2005 (26.04.2005)

Priority date (day/month/year)

27 April 2004 (27.04.2004)

International Patent Classification (IPC) or both national classification and IPC

IPC: A 61K 38/16; C07K 9/00 (2006.01)

USPC: 514/8; 530/322

Applicant

VICURON PHARMACEUTICALS INC.

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 or 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 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 56.1bis(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.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Date of completion of this opinion

13 July 2006 (13.07.2006)

Authorized officer

Elia Pesolev

Telephone No. (571) 272-1600

Form PCT/ISA/237 (cover sheet) (April 2005)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US05/14355

4
386

Box No. I Basis of this 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. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
☐ filed together with the international application in electronic form.
☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto 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.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US05/14355

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>NONE</u>	<u>YES</u>
	Claims <u>1-163</u>	<u>NO</u>
Inventive step (IS)	Claims <u>NONE</u>	<u>YES</u>
	Claims <u>1-163</u>	<u>NO</u>
Industrial applicability (IA)	Claims <u>1-163</u>	<u>YES</u>
	Claims <u>NONE</u>	<u>NO</u>

2. Citations and explanations:

Claims 1-163 lack novelty under PCT Article 33(2) as being anticipated by Malabarba et al (U.S. Patent No. 5,750,509). Malabarba et al disclose pharmaceutical compositions comprising dalbavancin factor B0 and a method of treating bacterial infections with said composition (columns 3 and 27).

Claims 1-163 meet the criteria set out in PCT Article 33(4), and thus meet industrial applicability because the subject matter claimed can be made or used in industry.