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Act. 412 REPOSPRESRECU Folios: 27

As. 105.388

Señor

**DIRECTOR DIVISIÓN DE NUEVAS CREACIONES
SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO**

E.

S.

D.

REF: Expediente No. **07 110393**– solicitud de patente de invención a favor de **EISAI R & D MANAGEMENT CO LTD** Título **SALES DE MONO LISINA DE COMPUESTOS DE AZOL**

RECURSO DE REPOSICIÓN

JUAN PABLO CADENA SARMIENTO, portador de la tarjeta profesional No. 57.492 del C.S.J., obrando como apoderado de la sociedad solicitante, manifiesto a usted que debidamente notificado de la Resolución No. 40751 del 28 de junio de 2012 interpongo contra ella en debido término, **RECURSO DE REPOSICIÓN**, para que sea revocada en su totalidad, y en su lugar se conceda el Privilegio de Patente, para el objeto de la solicitud en referencia

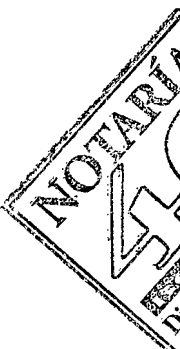
Respaldo el RECURSO en los siguientes

HECHOS:

1. La resolución arriba citada No. 40751 niega el Privilegio exclusivo de Patente de Invención para el objeto de la solicitud de la referencia considerando que el capítulo reivindicatorio carece de nivel inventivo. Lo anterior, de acuerdo con las siguientes consideraciones:

i. Determinación del Estado de la Técnica

Consultadas las fuentes de información con que se cuenta se encontraron los siguientes documentos, anteriores a la fecha de prioridad invocada y relacionados con la materia de la solicitud en estudio.



Nº	Documento	Título	Fecha de Publicación
D1	WO 01/52852	Water soluble prodrugs ofazole compounds	26-07-2001
D2	Berge, Journal of pharmaceutical science	Pharmaceutical salts	01-1977

Nivel Inventivo

Considera el señor Examinador que la presente invención no cumple con el requisito de nivel inventivo, ya que las características técnicas esenciales podían derivarse de manera obvia a partir de las enseñanzas combinadas de las anterioridades D1 y D2 y por tanto se

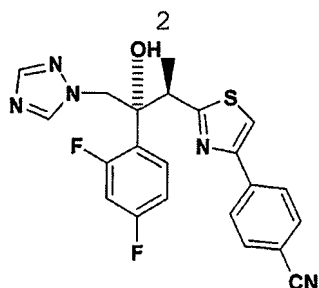
RESUELVE:

ARTÍCULO PRIMERO: Denegar la patente de invención a la creación titulada **SALES DE MONO LISINA DE COMPUESTOS DE AZOL**.

FUNDAMENTOS

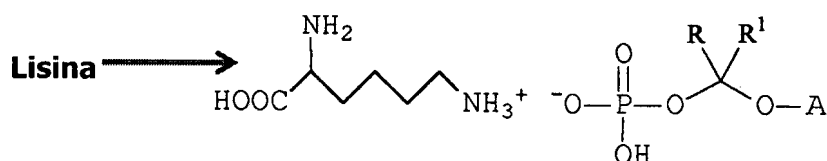
Para entender el aporte real de la presente invención al estado de la técnica, deseamos aclararle al señor examinador el problema técnico que resuelve la presente invención:

La presente invención busca proporcionar compuestos anti fúngicos con un excelente perfil de estabilidad que permita su formulación en formas farmacéuticas inyectables y orales. En el estado de la técnica existen compuestos potentes anti fúngicos de tipo triazol como el que exponemos a continuación:



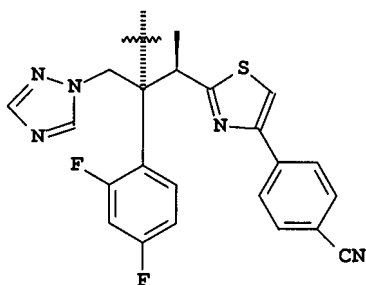
Sin embargo, el anterior compuesto presente un grave inconveniente para su formulación en formas farmacéuticas parenterales debido a su muy baja solubilidad en agua. Específicamente, este compuesto anti fúngico presenta una solubilidad de tan solo 0.0006 mg/ml.

De acuerdo a lo anterior, lo que la presente invención intenta resolver es precisamente la baja o casi nula solubilidad de este compuesto triazol anti fúngico en agua que no permite su adecuada manipulación y formulación en una forma farmacéutica inyectable. Para resolver este grave problema de baja solubilidad, los inventores de la presente invención lograron desarrollar una sal de mono lisina fosfato como la que se reivindica en la presente invención:



I

En donde cada uno de R y R1 es un hidrógeno o alquilo (C₁-C₆); y A se selecciona del grupo constituido por:



Adicionalmente a su excelente solubilidad, la sal de mono lisina del compuesto de formula I reivindicada presenta una mejorada estabilidad física debido a baja higroscopicidad lo que conlleva a una mejor manipulación durante la manufactura. Esta baja higroscopicidad se debe a que la sal de mono lisina presenta una reabsorción de humedad baja en comparación con la sal de bis lisina. Así, la sal de mono lisina es altamente estable y menso propensa a la degradación.

Además debido a la excelente solubilidad de estos compuestos su formulación para administración oral, tópica y parenteral es mucho más adecuada con respecto a la sal de bis lisina.

En las figuras 1 -4 de la presente invención, se evidencia claramente que la absorción de humedad entre la sal de mono lisina del compuesto de formula I reivindicada y la sal de bis lisina como la descrita en D2 a una humedad relativa superior al 50 % es muy diferente. Específicamente, para el monoetanolato de mono lisina, el cambio en peso es del 2-3 % a una HR de 60 % frente a un 10 % de ganancia en peso del monoetanolato de bis lisina a la misma humedad relativa.

FIG.1

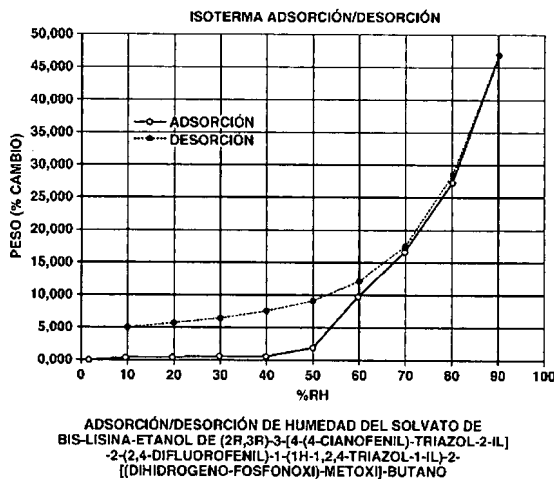
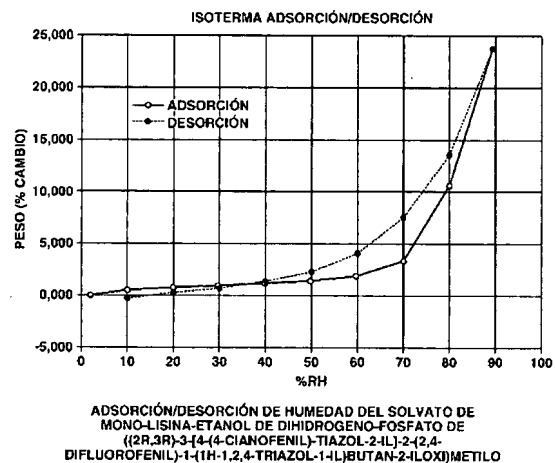


FIG.2



En la figura 4, el señor examinador también podrá observar que la absorción de humedad para la sal de bis lisina es mucho mayor que para la sal de mono lisina reivindicada lo que demuestra que esta última tiene una menor higroscopicidad en comparación a la sal de bis lisina. Adicionalmente, en la tabla 8 de la descripción el señor examinador podrá notar que la sal de bis lisina es estable bajo condiciones de almacenamiento acelerado y en donde se observa ningún tipo de degradación.

Así, otra de las ventajas de la sal de mono lisina del compuesto de formula I reivindicada está en que esta presenta una compactación mucho mejor en comparación a las sales de bis lisina como las enseñadas en D1 lo que permite que las sales de mono lisina de la presente invención sean mucho más adecuadas para la manufactura de formas farmacéuticas solidas como tabletas por ejemplo.

No obstante las anteriores ventajas, la señora examinadora considera que la sal de mono lisina reivindicada era obvia y evidente a partir de las enseñanzas de D1-D2 a pesar de todas las ventajas previamente expuestas, precisamente, frente a la sal de bis lisina revelada en D1.

El señor examinador establece que la diferencia entre la invención y el compuesto de D1 consiste en que el compuesto de formula (I) reclamado está en forma de sal mono lisina. Sin embargo, se encuentra sugerido en el documento D1 que se pueden obtener sales de mono lisina.

Frente al anterior argumento, es precisamente esta diferencia la que hace que la presente invención sea inventiva sobre el arte previo. Como establecimos anteriormente, la sal de mono lisina reivindicada presenta una serie de ventajas sorprendentes como una mejor solubilidad, una mejor estabilidad debido a su baja higroscopicidad lo que conlleva una mejor manipulación durante su manufactura lo que no ocurre en el caso de las sal de bis lisina de D1 la cual debido a su elevada higroscopicidad no permite su adecuada manipulación durante el proceso de manufactura. Entre otra de las ventajas de la sal de mono lisina reivindicada, está el hecho de que es altamente estable y menos propensa a la degradación debido a su baja reabsorción de humedad. Adicionalmente, debido a que la sal de mono lisina presenta una mejor compactación, la hace bastante útil en la fabricación de formas farmacéuticas solidas como tabletas.

En consecuencia, estos efectos mejorados de la sal de mono lisina reivindicada frente a la sal de bis lisina descrita en D1, deben considerarse como un aporte significativo al estado de la técnica en la medida que se obtiene un producto altamente estable, con excelente solubilidad y que permite la manufactura del compuesto anti fúngico de triazol en condiciones adecuadas y que además puede administrarse por vía parenteral y oral debido a su excelente solubilidad.

En la página 3 de la Resolución 40751 el señor examinador presenta una comparación entre las características técnicas de la invención y las reveladas en D1 y D2 para lo cual establece un cuadro comparativo. Frente a dicho cuadro comparativo, notamos que para D2 no se incluyen características técnicas simplemente el señor examinador establece lo siguiente:

Enseña que las propiedades de compuestos con actividad terapéutica se pueden modificar y optimizar con las utilización de sales

Frente a esta afirmación, notamos que lo anterior no corresponde a una característica técnica de D2 sino que por el contrario corresponde a una enseñanza de dicho documento relacionada con el hecho de que la formación de sales modifica las propiedades de los compuestos.

Además, el hecho de que la formación de sales de compuestos con actividad terapéutica ayuda a mejorar las propiedades de estos compuestos como solubilidad, biodisponibilidad o higroscopicidad tal como establece la señora examinadora en la página 4, no hace que la presente invención sea obvia o evidente. Para sustentar esto, exponemos los siguientes argumentos:

Por ejemplo, en el área de compuestos anticancerígenos, la característica deseable es que los compuestos con esta actividad actúen solamente sobre el tumor (es decir que sean altamente específicos) y no sobre otro tipo de células benéficas. Sin embargo, el hecho de que esta característica o ventaja sea deseable en este tipo de compuestos no hace que el nuevo desarrollo de compuestos con esta actividad específica sobre tumores sean obvios o evidentes.

Otro ejemplo, puede ser la búsqueda de compuestos con actividad herbicida pero que no afecten los cultivos útiles. El hecho de que esta sea una ventaja para los compuestos herbicidas no quiere decir que todos los compuestos que sean altamente específicos por las malezas sean obvios y evidentes.

En este caso, observamos lo mismo, el hecho de que las sales mejoren las propiedades físico-químicas de un compuesto no quiere decir que el desarrollo de una nueva sal sea obvia o evidente. Lo que el señor examinador debe analizar es si la sal reivindicada es obvia o no partir del estado de la técnica.

Para el presente caso, notamos que D2 no enseña ni sugiere que la sal de mono lisina tenga higroscopicidad mejorada. No vemos en ninguna parte de D2 que se haga referencia a las sales de mono lisina como tal o que dichas sales sean altamente estables debido a su baja higroscopicidad y por lo tanto, no puede ser un documento válido que afecte el nivel inventivo de la invención.

De acuerdo al análisis del señor examinador con relación a D2, nada sería patentable puesto que el desarrollo de nuevos compuestos sería obvio ya que determinada característica es deseable. Específicamente, no se puede decir que un nuevo compuesto anticancerígeno es obvio porque el estado de la técnica establece que obtener compuestos anti cáncer altamente específicos es una característica deseable. De la misma manera, no se puede decir que un anticuerpo con elevada especificidad es obvio porque el estado de la técnica establece que los anticuerpos deben ser altamente específicos para lograr mejores efectos. El señor examinador no debe basarse en características deseables para afectar el nivel inventivo de una invención.

En este orden de ideas, solicitamos al señor examinador no tener en cuenta los argumentos que expuso el señor examinador con relación al documento D2.

Para finalizar, deseamos hacer referencia al Reporte Preliminar Internacional sobre Patentabilidad de la solicitud PCT/JP2006/309435 (adjunto) de la cual la presente solicitud fase nacional se deriva. En dicho reporte también se citó el documento D1 (documento A en dicho reporte) citado por el señor examinador y se establece lo siguiente:

Los documentos (A) y (B) revelan esteres fosfonatos de compuestos anti fúngicos bajo el alcance de la reivindicación 1. La preparación de sales de lisina se sugiere en la página 10, línea 19 de (A) donde se establece que estas sales se prefieren debido a su buena solubilidad y estabilidad. El ejemplo 3 de este documento revela una sal de bis lisina.

La descripción contiene datos comparativos que demuestran que la sal de mono lisina reivindicada del fungicida de triazol preparado en el ejemplo 1 tiene una mejor higroscopicidad y estabilidad en comparación a la sal de bis lisina preparada en el ejemplo comparativo 1 (...). La persona versada en la materia, no habría esperado esta mejora a partir de las enseñanzas de A o C. se reconoce entonces nivel inventivo porque el problema de proporcionar profármacos de compuestos anti fúngicos con mejor solubilidad y estabilidad se ha resuelto de manera no obvia

De acuerdo a lo anterior es claro que aunque D1 revela que las sales de lisina tiene buena solubilidad y estabilidad, la presente invención logra demostrar mediante ejemplos comparativos que la sal de mono lisina del compuesto de formula I reivindicado, presenta mejor estabilidad e higroscopicidad cuando se compara con la sal de bis lisina revelada en D1. Adjuntamos para referencia del señor examinador copia de la patente europea EP 1877403 B1.

En cuanto a la objeción de la reivindicación de proceso en vista de D3 citado en la página 6) consideramos que una vez demostrada el nivel inventivo de la sal de monolisina del compuesto de formula I, el nivel inventivo del proceso para la obtención de dicha sal también debería considerarse inventivo.

En vista de los argumentos previamente expuestos, solicitamos al señor examinador reconsidere su posición y conceder el privilegio de patente a la presente invención.

PETICIÓN

Por las razones anteriormente expuestas, solicito a ese despacho **REVOCAR** la decisión tomada mediante la Resolución No. 40751 del 28 de Junio de 2012 y tendiente a obtener la concesión del Privilegio de Patente de conformidad con los artículos 14 y 48 de la Decisión 486 de la comunidad Andina, arriba citados.

Recibiré notificaciones en la Secretaria General de la Superintendencia de Industria y Comercio, o en su defecto, en mi Oficina de Abogado, situada en la Calle 70A No. 4-41 de esta ciudad de Bogotá.

Del Señor Director



JUAN PABLO CADENA SARMIENTO

Calle 70 A No. 4 - 41

6

AD
Encargada

En P. S. (B. 2)

DILIGENCIA DE PRESENTACIÓN
PERSONAL

El anterior escrito dirigido a: Superintendencia y Comercio

fue presentado personalmente por su signatario
Cadenc Sarmiento Juan Pablo
quien se identificó con C.C. No: 80410377
de USA 900-TP 5749265-7
en la Notaría Cuarenta del Circuito de Bogotá D.C.,
hoy 27 JUL. 2012
EL NOTARIO CUARENTA DE BOGOTÁ D.C.



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 E0006VP05W	FOR FURTHER ACTION		See item 4 below
International application No. PCT/JP2006/309435	International filing date (day/month/year) 01 May 2006 (01.05.2006)	Priority date (day/month/year) 03 May 2005 (03.05.2005)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant EISAI R&D MANAGEMENT CO., Ltd.			

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 7 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 06 November 2007 (06.11.2007)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Authorized officer Yoshiko Kuwahara e-mail: pt07.pct@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To: see form PCT/ISA/220		WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)	
Applicant's or agent's file reference see form PCT/ISA/220		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)	
International application No. PCT/JP2006/309435		International filing date (day/month/year) 01.05.2006	
Priority date (day/month/year) 03.05.2005		FOR FURTHER ACTION See paragraph 2 below	
International Patent Classification (IPC) or both national classification and IPC INV. C07D405/14 C07D417/06 C07C229/26 A61K31/4196 A61K31/427 A61P31/04			
Applicant EISAI CO., LTD.			
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 usually 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 66.1bis(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:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Date of completion of this opinion see form PCT/ISA/210	
Authorized Officer Helps, I Telephone No. +49 89 2399-8209			

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/JP2006/309435

Box No. I Basis of the 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 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:

Box No. II Priority

1. ☒ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43*bis*.1 and 64.1) is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/JP2006/309435

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of

☐ the entire international application

☒ claims Nos. 31-33(part)

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international search (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

☒ no international search report has been established for the whole application or for said claims Nos. 31-33(part)

☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13*ter*.1(a) or (b).

☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See Supplemental Box for further details

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/JP2006/309435

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

1. Statement

Novelty (N)	Yes: Claims	1-43
	No: Claims	
Inventive step (IS)	Yes: Claims	1-43
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-13, 15-30, 34-43
	No: Claims	14, 31-33 see below

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)

and /or

2. Non-written disclosures (Rules 43bis.1 and 70.9)

see form 210

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/JP2006/309435

V. CITATIONS AND EXPLANATIONS

The following documents are mentioned in this Written Opinion.

WO-A-01 52852 (A)
WO-A-95 19983 (B)
Bioorganic and Medicinal Chemistry Letters,
vol. 13, p.3669-72 (2003) (C)
Journal of Antimicrobial Chemotherapy,
vol. 56, p. 899-907 (2005) (D)

The novel feature of the salts of claim 1 is the 1:1 ratio of lysine cation to the anion derived from the phosphonate ester of triazole fungicides. The dependent claims 2-9 and 24-25, as well as claims 10-12 and 26-28 drawn to solvate of the salts of claim 1, claims 13, 29 and 30 drawn to pharmaceutical compositions containing compounds of claim 1, claims 14 and 31-33 drawn to methods of treatment using compounds of claim 1, claims 15-23 and 34-41 drawn to processes for the preparation of salts of claim 1, and claims 42-43 drawn to the use of salts of claim 1 for the preparation of medicaments are novel by consequence. Claims 1 to 43 therefore meet the Novelty requirements of Article 33(2) PCT.

Documents (A) and (B) disclose phosphonate esters of antifungal compounds under the scope of claim 1. The preparation of lysine salts is suggested on page 10, line 19 of (A), stating that these salts are preferred because of their good solubility and stability. Example 3 of this document discloses a bis-lysine salt. This salt is also disclosed in document (C) (Scheme 1, compound 2). Lysine salts are also suggested for the antifungal triazole derivatives of document (B) (see page 4, line 21).

The description contains comparative data which show that the presently claimed mono-lysine salt of the triazole fungicide as prepared in example 1 has better hygroscopicity and stability compared to the bis-lysine salt, as prepared in comparative example 1 (this corresponds to compound 2 of document (C)). The skilled man would not have been led to expect this improvement from the disclosure of documents (A) to (C). Inventive step (Article 33(3) PCT) can be recognised because the problem of providing prodrugs of antifungal compounds having better solubility and stability has been solved in a non

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/JP2006/309435

obvious manner.

For the assessment of the present claims 14 and 31-33 on the question whether they are industrially applicable, no unified criteria exist in the PCT Contracting States. The patentability can also be dependent upon the formulation of the claims. The EPO, for example, does not recognize as industrially applicable the subject-matter of claims to the use of a compound in medical treatment, but may allow, however, claims to a known compound for first use in medical treatment and the use of such a compound for the manufacture of a medicament for a new medical treatment.

VI. CERTAIN DOCUMENTS CITED.

At present no priority document is available. The examination has been carried out assuming that the priority date is validly claimed. If during the subsequent procedure (e.g. EPO examination) the priority date is found to be invalid for some or all of the presently claimed subject matter, the intermediate document (D) may be taken into consideration for the evaluation of Novelty and/or inventive step.

VII. CERTAIN DEFECTS IN THE INTERNATIONAL APPLICATION.

In order to meet the requirements of Rule 5.1(a)(ii) PCT, documents (A) and (C) should be mentioned in the description and the relevant prior art disclosed therein should be briefly discussed.



(11) EP 1 877 403 B1

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C07C 229/26 (2006.01) A61K 31/4196 (2006.01)
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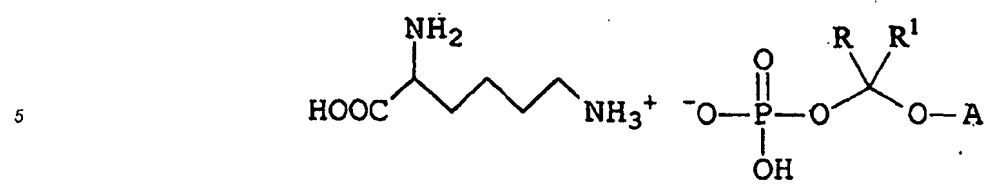
(87) International publication number:
WO 2006/118351 (09.11.2006 Gazette 2006/45)

(54) MONO-LYSINE SALTS OF AZOLE COMPOUNDS
MONOLYSINSALZE VON AZOLVERBINDUNGEN
SELS MONO-LYSINES DE COMPOSES AZOLES

(84) Designated Contracting States: AT BE BG CH CY CZ DE DK EE ES FI FR GB GR HU IE IS IT LI LT LU LV MC NL PL PT RO SE SI SK TR Designated Extension States: AL BA HR MK YU (30) Priority: 03.05.2005 US 676932 P (43) Date of publication of application: 16.01.2008 Bulletin 2008/03 (73) Proprietor: Eisai R&D Management Co., Ltd. Tokyo 112-8088 (JP) (72) Inventors: • GAO, Qi Wallingford, Connecticut 06492 (US) • CHEN, Chung-Pin, H. Madison, Connecticut 06443 (US) • FAKES, Michael, G. Belle Mead, New Jersey 08502 (US) • PENDRI, Yadagiri, R. South Glastonbury, Connecticut 06073 (US) • KIAU, Susanne North Brunswick, New Jersey 08902 (US)	• VAKKALAGADDA, Blisse North Brunswick, New Jersey 08902 (US) (74) Representative: HOFFMANN EITLE Patent- und Rechtsanwälte Arabellastraße 4 81925 München (DE) (56) References cited: WO-A-01/52852 WO-A-95/19983 • YASUTSUGA UEDA ET. AL.: "Phosphonooxymethyl Prodrugs of the Broad Spectrum Antifungal Azole, Ravuconazole: Synthesis, and Biological Properties." BIOORGANIC AND MEDICINAL CHEMISTRY LETTERS, vol. 13, 2003, pages 3669-3672, XP002397062 • A. H. GROLL ET. AL.: "Compartmental Pharmacokinetics and Tissue distribution of the Antifungal Triazole Ravuconazole Following Intravenous Administration of its Di-lysine Phosphoester Prodrug (BMS-379224) in Rabbits." JOURNAL OF ANTIMICROBIAL CHEMOTHERAPY, vol. 56, 2005, pages 899-907, XP002397063
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Note: Within nine months of the publication of the mention of the grant of the European patent in the European Patent Bulletin, any person may give notice to the European Patent Office of opposition to that patent, in accordance with the Implementing Regulations. Notice of opposition shall not be deemed to have been filed until the opposition fee has been paid. (Art. 99(1) European Patent Convention).

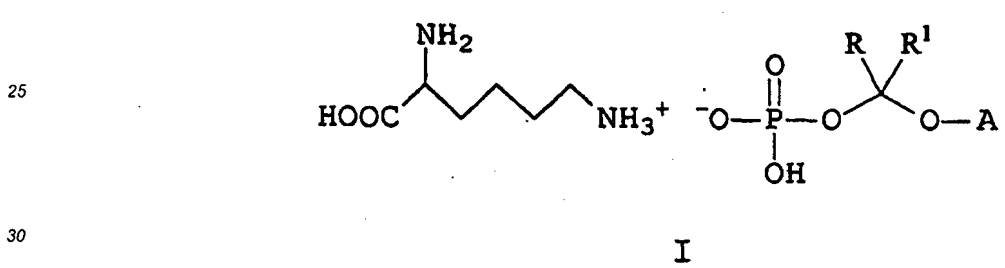
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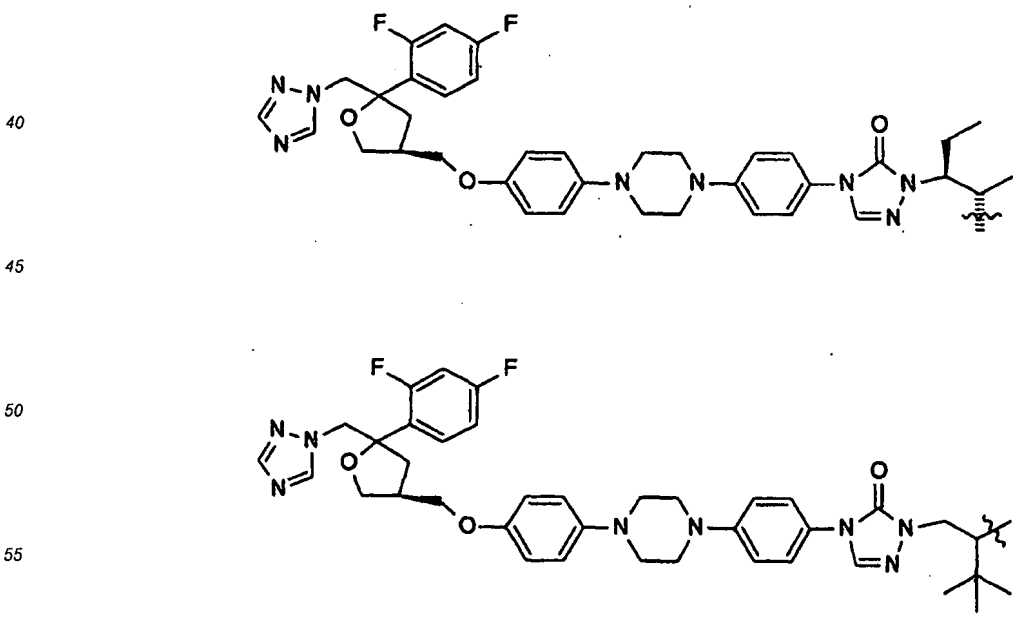
wherein each of R and R¹ is a hydrogen atom or a (C₁-C₆)alkyl group, and A represents the non-hydroxy portion of a triazole antifungal salt compound of the type containing a secondary or tertiary hydroxyl group. These mono-lysine salts or pharmaceutically acceptable solvates thereof according to the present invention are useful for the treatment of, for instance, serious systemic fungal infections.

Claims

1. A mono-lysine salt of a compound of formula I, or a solvate thereof:



wherein each of R and R¹ is a hydrogen or (C₁-C₆) alkyl; and A is selected from the group consisting of:



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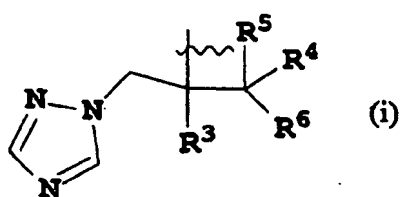
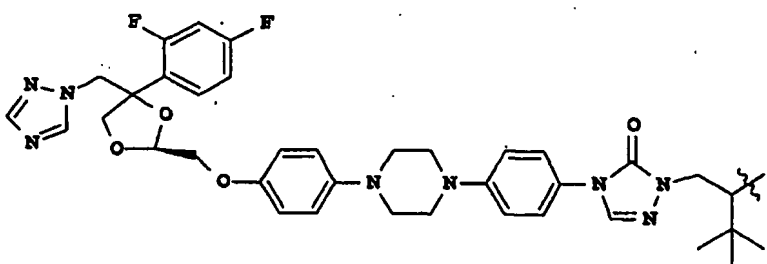
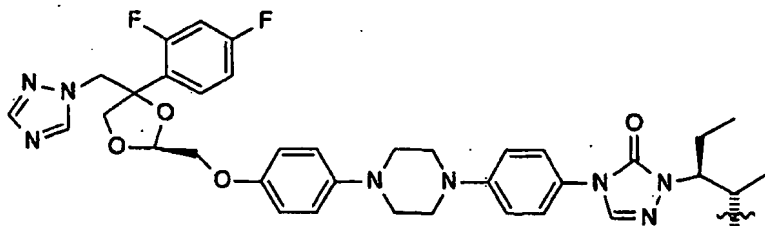
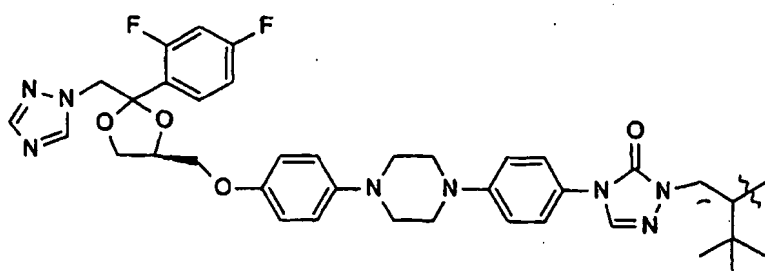
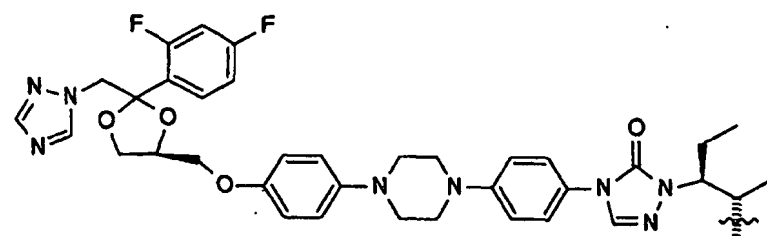
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and a formula (i):

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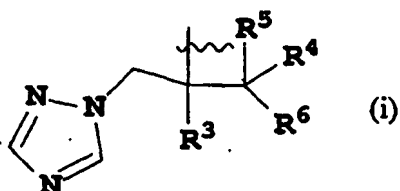


wherein in formula (i)

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R³ represent a phenyl group substituted by one or more halogen atoms;
 R⁴ represents a hydrogen or CH₃;
 R⁵ represents a hydrogen, or taken together with R⁴ represent =CH₂; and
 R⁶ represents a thiazolyl, pyrimidinyl or triazolyl wherein each ring is optionally substituted by one or more groups selected from the group consisting of a halogen, =O, CH=CH- (C₆H₄) -OCH₂CF₂CHF₂, and a phenyl substituted by one or more groups selected from the group consisting of CN and OCH₂CF₂CHF₂, or a phenyl substituted by one or more groups selected from the group consisting of a halogen and methylpyrazolyl.

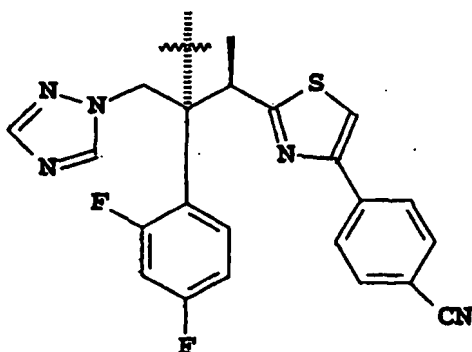
2. The mono-lysine salt or solvate thereof according to claim 1, wherein A represents the formula (i):



wherein

R³ represents a phenyl group substituted by one or more halogen atoms;
 R⁴ represents a hydrogen or CH₃;
 R⁵ represents a hydrogen, or taken together with R⁴ represent =CH₂; and
 R⁶ represents a thiazolyl, pyrimidinyl or triazolyl wherein each ring is optionally substituted by one or more groups selected from the group consisting of a halogen, =O, CH=CH- (C₆H₄) -OCH₂CF₂CHF₂, and a phenyl substituted by one or more groups selected from the group consisting of CN and OCH₂CF₂CHF₂, or a phenyl substituted by one or more groups selected from the group consisting of a halogen and methylpyrazolyl.

3. The mono-lysine salt or solvate thereof according to claim 1 or 2, wherein R³ of formula (i) is 2,4-difluorophenyl.
4. The mono-lysine salt or solvate thereof according to any one of claims 1 to 3, wherein R⁴ of formula (i) is methyl and R⁵ is hydrogen.
5. The mono-lysine salt or solvate thereof according to any one of claims 1 to 4, wherein R⁶ of formula (i) is 4-(4-cyanophenyl)-thiazol-2-yl.
6. The mono-lysine salt or solvate thereof according to any one of claims 1 to 5, wherein each of R and R¹ of formula I is hydrogen.
7. The mono-lysine salt or solvate thereof according to claim 1 or 2, wherein A is

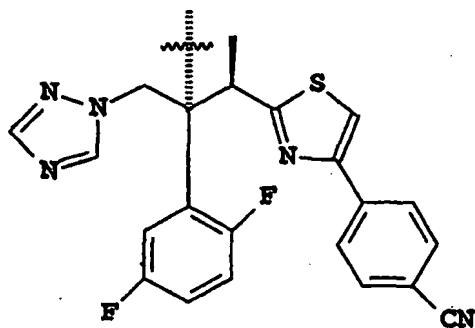


or

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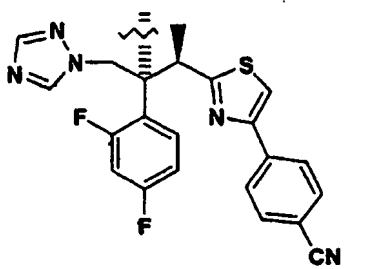


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8. The mono-lysine salt or solvate thereof according to claim 1, wherein A is selected from the group consisting of

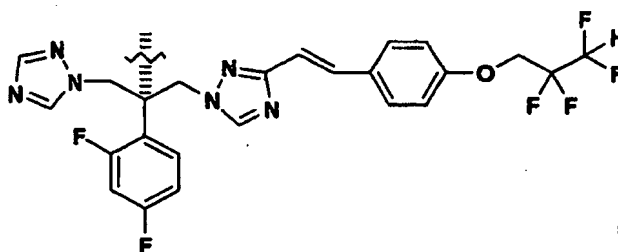
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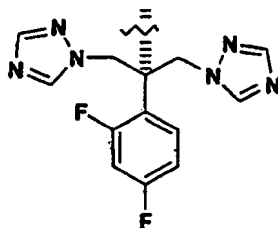
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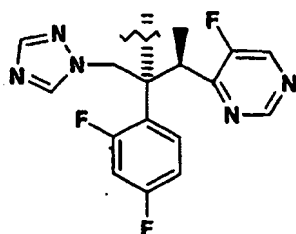
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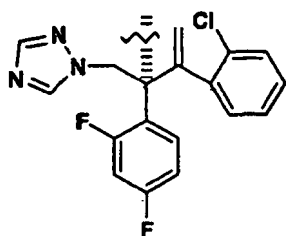
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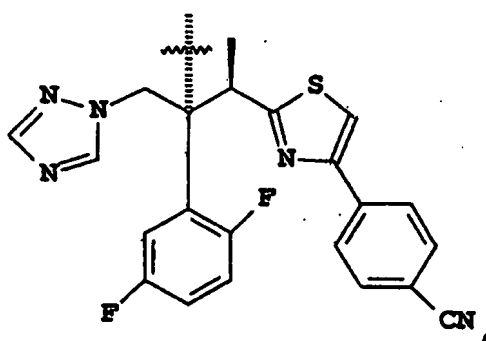
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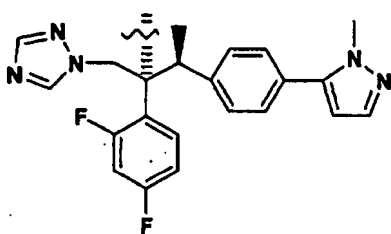
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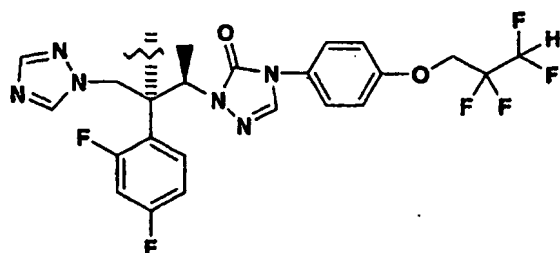
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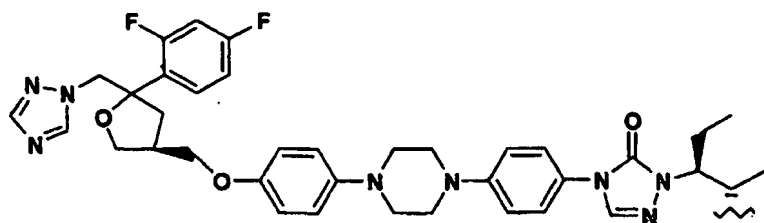
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9. The mono-lysine salt or solvate thereof according to claim 1, wherein said A is selected from the group consisting of:

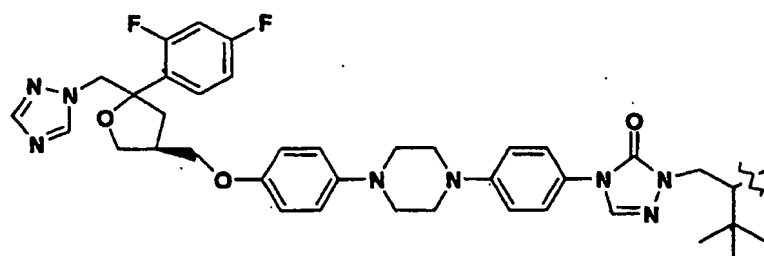
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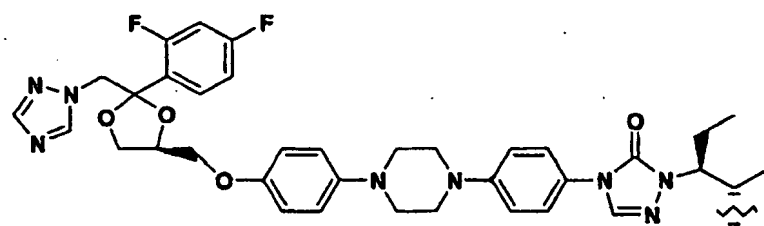
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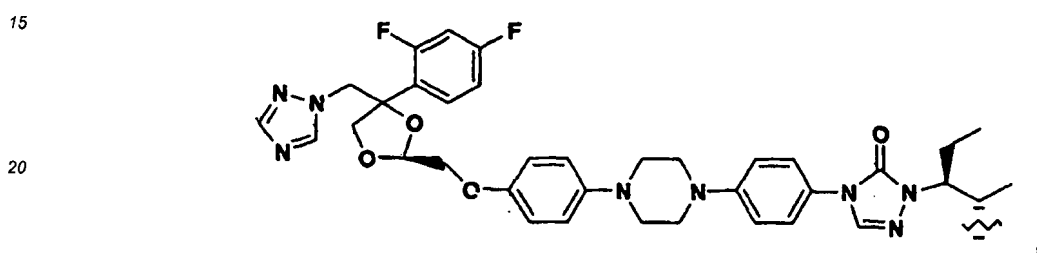
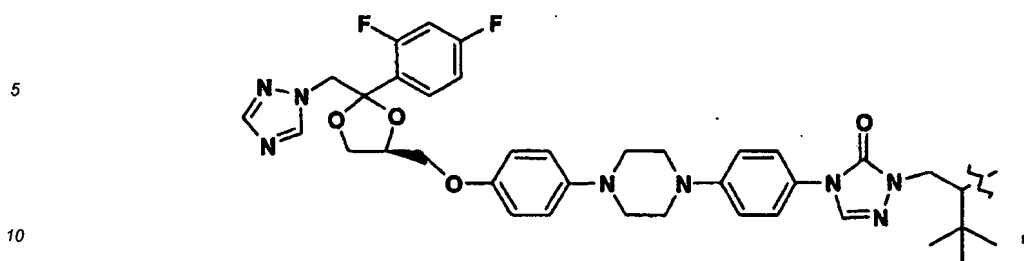
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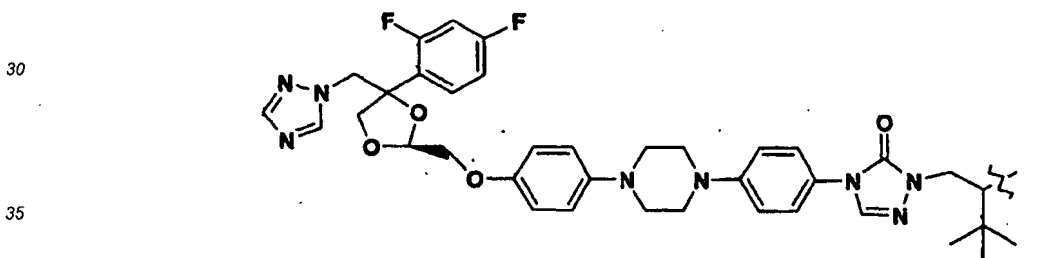
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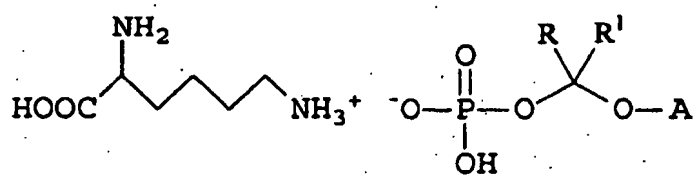


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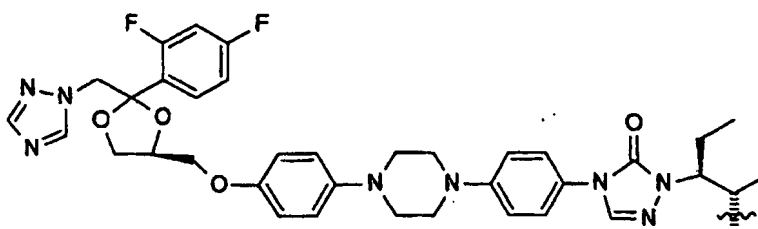
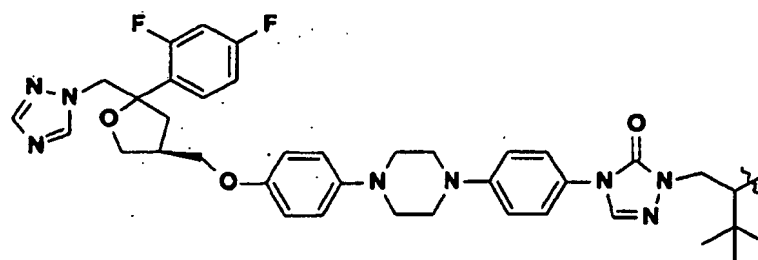
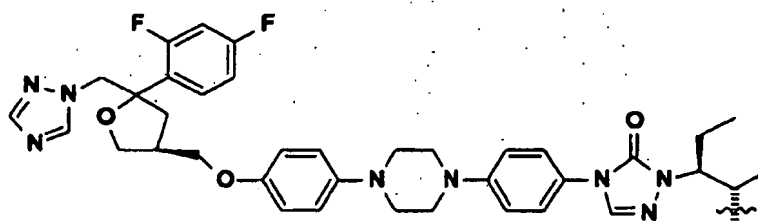
- 40 10. A solvate of the mono-lysine salt according to any one of claims 1 to 9, wherein said solvate thereof is an ethanol solvate.
11. A solvate of the mono-lysine salt according to any one of claims 1 to 9, wherein said solvate thereof is an isopropyl alcohol solvate.
- 45 12. A solvate of the mono-lysine salt according to any one of claims 1 to 9, wherein said solvate thereof is a n-propyl alcohol solvate.
13. A pharmaceutical composition comprising:
- 50 the mono-lysine salt according to any one of claims 1 to 9, or a pharmaceutically acceptable solvate thereof; and a pharmaceutically acceptable adjuvant, diluent, or carrier.
14. Mono-lysine salt according to any one of claims 1 to 9, or a pharmaceutically acceptable solvate thereof for use in a method for treatment of fungal infections.
- 55 15. A process for the preparation of a water-soluble mono-lysine salt of the formula I:

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I

wherein each of R and R' is a hydrogen or (C₁-C₆) alkyl; and
A is selected from the group consisting of:



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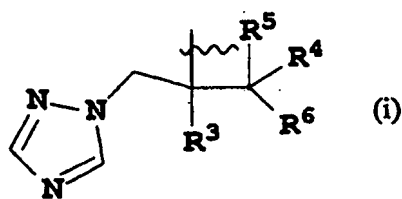
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and a formula (i):

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wherein in formula (i)

R³ represents a phenyl group substituted by one or more halogen atoms;

R⁴ represents a hydrogen or CH₃;

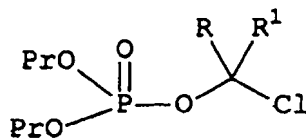
R⁵ represents a hydrogen, or taken together with R⁴ represent =CH₂; and

R⁶ represents a thiazolyl, pyrimidinyl or triazolyl wherein each ring is optionally substituted by one or more groups selected from the group consisting of a halogen, =O, CH=CH- (C₆H₄) -OCH₂CF₂CHF₂, and a phenyl substituted by one or more groups selected from the group consisting of CN and OCH₂CF₂CHF₂, or a phenyl substituted by one or more groups selected from the group consisting of a halogen and methylpyrazolyl;

said method comprising:

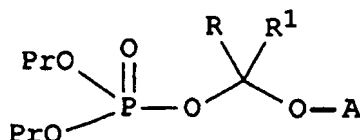
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(a) reacting a compound of formula A-OH wherein A is as defined above in formula I with a compound of formula III:



III

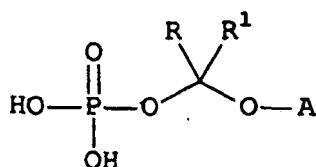
wherein R and R¹ in formula III are each independently hydrogen or (C₁-C₆)alkyl, and Pr represents a hydroxyl-protecting group; said reaction is in an inert organic solvent in the presence of base at a temperature of from about 25°C to 50°C to form a first intermediate of formula IV:



IV

wherein R and R¹ in formula IV are each independently hydrogen or (C₁-C₆)alkyl, Pr represents a hydroxyl-protecting group, and A is as defined in formula I;

(b) removing the protecting groups Pr of formula IV with an organic solvent to form a second intermediate of formula V:



V

wherein R and R¹ in formula V are each independently hydrogen or (C₁-C₆)alkyl, and A is as defined in formula I; and

(c) reacting said second intermediate of formula V with lysine in a solvent at a pH in the range of 4.2-5.5 to produce said mono-lysine salt of formula I.

16. The process according to claim 15, wherein the protecting group of Pr is tertiary-butyl.

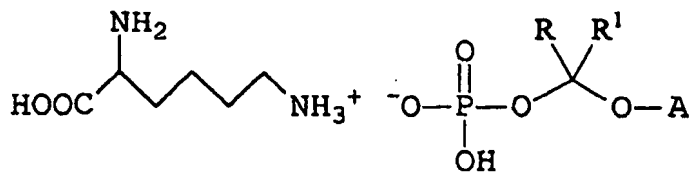
17. The process according to claim 15 or 16, wherein the solvent in step (a) is tetrahydrofuran.

18. The process according to any one of claims 15 to 17, wherein the base used in step (a) is sodium hydride.

19. A process for the preparation of a water-soluble solvate of a mono-lysine salt, said mono-lysine salt having the formula I:

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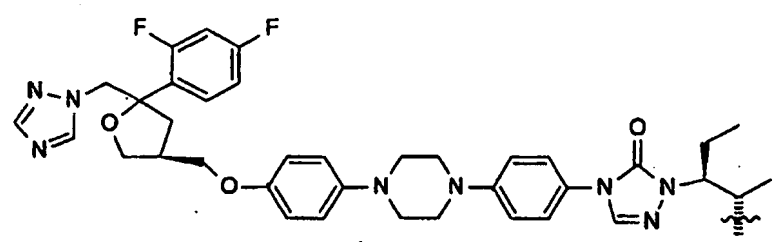
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I

wherein each of R and R¹ is a hydrogen or (C₁-C₆) alkyl; and A is selected from the group consisting of:

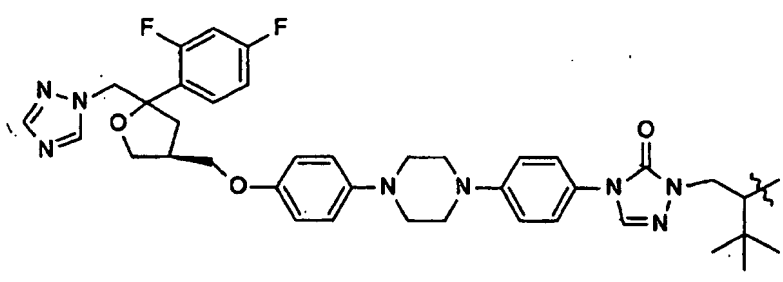
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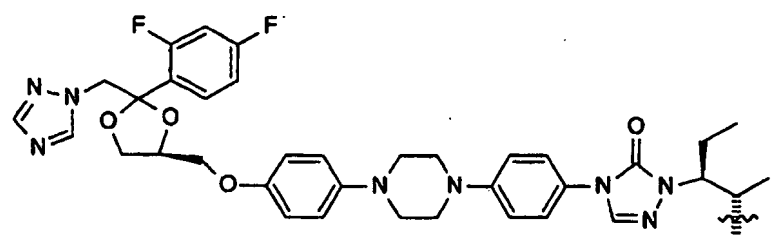
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