

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FREDRICK J. EHRGOTT, CARL J. GODDARD
and GARY R. SCHULTE

Appeal No. 1997-3040
Application No. 08/477,729

ON BRIEF

Before KIMLIN, OWENS and SPIEGEL, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 2-49, 58-64, 67-74, 77-85, 90-108, 110 and 111, all the claims remaining in the present application. A copy of illustrative claim 110 is appended to this decision.

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The examiner relies upon the following references as evidence of obviousness:

Kadin	4,569,942	Feb. 11, 1986
Young et al. (Young)	4,962,117	Oct. 09, 1990

Appellants' claimed invention is directed to 3-substituted-2-oxindole derivatives and salts thereof that are defined by the recited formula (I). The claimed compounds are used to treat inflammatory conditions, to elicit an analgesic response, to treat interleukin-1 mediated disorders and immune dysfunction, to inhibit prostaglandin H₂ synthase, and to inhibit biosynthesis of interleukin-1 in a mammal.

The present application is related to appellants' application, U.S. Application No. 08/148,764, filed November 4, 1993. An appeal was taken to this Board in the related case and, in a decision dated April 8, 1998, this Board reversed the examiner's rejections under 35 U.S.C. § 103 over the same prior art references presently applied by the examiner (Appeal No. 96-2721).

The appealed claims stand rejected under 35 U.S.C. § 103 as being unpatentable over Kadin. In addition, the appealed claims stand rejected under 35 U.S.C. § 103 as being unpatentable over Kadin in view of Young.

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We have thoroughly reviewed the respective positions advanced by appellants and the examiner. In so doing, we find ourselves in agreement with appellants that the prior art cited by the examiner fails to establish a prima facie case of obviousness for the claimed subject matter. Accordingly, we will not sustain the examiner's rejections.

Inasmuch as the issues on appeal are essentially the same as those before the Board in the related application mentioned above (Appeal No. 96-2721), we will reverse the examiner's rejections for the same reasons set forth in our opinion in the related appeal, which decision we incorporate herein.

In conclusion, the examiner's decision rejecting the appealed claims is reversed.

REVERSED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
)	
)	
)	
)	
TERRY J. OWENS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
CAROL A. SPIEGEL)	
Administrative Patent Judge)	

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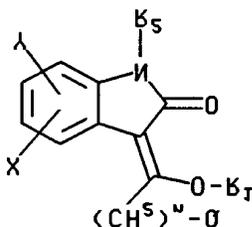
Gregg C. Benson
Pfizer Inc.
Eastern Point Road
Groton, CT 06340

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APPENDIX

110. A compound of the formula

(I)



and the pharmaceutically-acceptable salts thereof, wherein

X is H, F, Cl, Br, (C₁-C₆)alkyl, (C₃-C₈)cycloalkyl, NO₂, CF₃, CN, SH, S(O)_mR³, OR⁴, COR⁴ or CONR⁴R⁵;

Y is H, F, Cl, Br, (C₁-C₆)alkyl, (C₃-C₈)cycloalkyl, NO₂, CF₃,

CN, SH, S(O)_qR¹⁷, OR¹⁸, COR¹⁸ or CONR¹⁸R¹⁹;

R¹ is H, alkanoyl of two to ten carbon atoms, cycloalkyl-carbonyl of five to seven carbon atoms, phenylalkanoyl of seven to ten carbon atoms, chlorobenzoyl, methoxybenzoyl, thenoyl, omega-alkoxycarbonylalkanoyl, said alkoxy having one to three carbon atoms and said alkanoyl having three to five

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carbon atoms, alkoxy carbonyl of two to ten carbon atoms,
phenoxy carbonyl,
1-(acyloxy)alkyl wherein acyl has one to four carbon atoms and
said alkyl has two to four carbon atoms, 1-
(alkoxycarbonyloxy)-alkyl wherein said alkoxy has two to five
carbon atoms and said alkyl has one to four carbon atoms,
alkyl of one to three carbon atoms, alkylsulfonyl of one to
three carbon atoms, methylphenyl-sulfonyl or
dialkylphosphonate wherein each of said alkyl is one to three
carb on atoms;

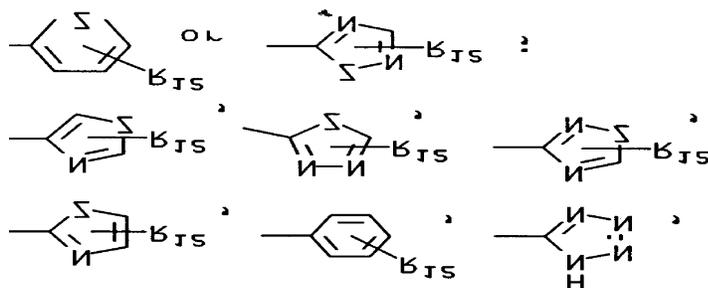
Q is q^1 $\begin{cases} A \\ B \end{cases}$ R^2 is COR^6 , $CONR^7R^8$, (C_1-C_6) alkyl, (C_3-C_8) cy cloalkyl, phenyl or mono- or disubstituted phenyl wherein the substituent or substituents are each Cl, F, Br, (C_1-C_6) alkyl, (C_1-C_6) alkoxy or CF_3 ;

A is H, F, Cl, Br, I, CF_3 , OR^9 , $S(O)_pR^{10}$, $COOR^{11}$, $CONR^9R^{11}$,
CN,
 NO_2 , COR^{10} , CH_2OR^{11} , $OCOR^{10}$, NR^9R^{11} , $N(R^9)COR^{11}$, $SO_2NR^9R^{11}$,

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B is H, F, Cl, Br, I, CF_3 , OR^{13} , $\text{S(O)}_t\text{R}^{14}$, COOR^{15} , $\text{CONR}^{13}\text{R}^{15}$,
CN, NO_2 , COR^{14} , $\text{CH}_2\text{OR}^{15}$, OCOR^{14} , $\text{NR}^{13}\text{R}^{15}$, $\text{N(R}^{13})\text{COR}^{15}$ or $\text{SO}_2\text{NR}^{13}\text{R}^{15}$;

provided that A and B cannot both be H, or A and B are
taken together, bonded to the same ring carbon of Q^1 and equal
oxo, or when A is not H, B is as defined above or $(\text{C}_1\text{-C}_4)\text{alkyl}$;



m, n, p, q and t are each zero, one or two;

W and Z are each O, S or NR¹¹;

are

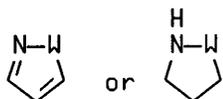


or



prov

when



and

S or NR¹⁰, the

R³, R⁶,

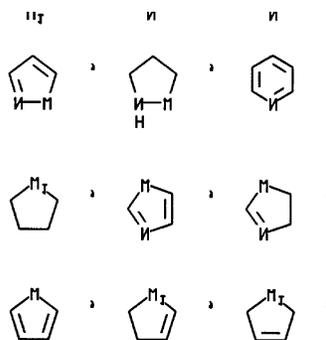
each (C₁-

R⁵, R⁸, R¹¹, R¹⁵

(C₁-C₆)alkyl or

R¹³ and R¹⁸ are

or



other is O or S;

R¹⁰, R¹⁴ and R¹⁷ are

(C₆)alkyl or phenyl;

and R¹⁹ are each H,

phenyl; R⁴, R⁷, R⁹,

each H or (C₁-

C₆)alkyl; and R¹² is H, F, Cl, Br, CF₃ or (C₁-C₆)alkyl; provided

that when Q¹ is

W¹ and W²

each O, S

NR¹⁰

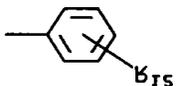
provided that

one of W¹

W² is O,

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then A is not H, F, Cl, Br, I, CF₃, OR⁹, S(O)_pR¹⁰, COOR¹¹,
CONR⁹R¹¹, CN, NO₂, COR¹⁰, CH₂OR¹¹, OCOR¹⁰, NR⁹R¹¹, N(R⁹)COR¹¹, SO₂NR⁹R¹¹
or



and A and B are not taken together to equal oxo.