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Oxycodone, Federal Patent Court (Bundespatentgericht), 24 March 2009

Anja Lunze · Tuesday, March 24th, 2009

The Federal Patent Court has decided that an inventive step according to Article 56 EPC is not established if the person skilled in the art has only to conduct routine exploratory analysis based on the prior art. Against this legal background the Federal Patent Court nullified the patent in suit arguing that in a situation where the prior art already teaches the formulation for a retard presentation of an active agent the retard formulation for the hydrochloride of this active agent could be found without involving inventive steps, especially if the prior art also teaches the formulation for a retard presentation of a hydrochlorid of a similar active agent.

The [full summary](#) of this case has been published on [Kluwer IP Law](#).

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