
Kluwer Patent Blog

Fettsäuren, Federal Court of Justice (Bundesgerichtshof), 24 September 2013

Thorsten Bausch (Hoffmann Eitle) · Wednesday, February 12th, 2014

The later finding of the biological relationships underlying the activity of a drug does not constitute a new teaching for technical action if the indication, the dosage and the way of using the drug coincide with an the prior disclosed use of a drug for the treatment of a disease (confirmed by FCJ 9 June 2011 – X ZR 68/08, GRUR 2011, 999 – “Memantine”). The selection of a value within a known range does not render an invention patentable, unless for special circumstances (e.g. the dosage instruction achieves a particular technical effect vis à vis the prior art).

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

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