

REGULATION (EC) No 1610/96 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

IN THE MATTER OF Application No. SPC/GB/98/032
in the name of American Cyanamid Company

DECISION

- 1 An application for the grant of a supplementary protection certificate (“SPC”) for the product “imazaquin, optionally in the form of an acid addition salt, chlormequat chloride and ethephon” was submitted on 21 August 1998. This application was given application no. SPC/GB/98/032. In an examination report, dated 24 October 1998, the examiner objected that the application did not comply with Article 3(1)(a) of Regulation (EC) No 1610/96 (“the Regulation”) because the basic patent, EP (UK) 0 041 623 did not protect all three active ingredients, imazaquin, chlormequat chloride and ethephon. There followed several rounds of correspondence in which the applicant for the SPC challenged the examiner’s objection and the examiner maintained it. On the 6 December 2001 I issued a decision (O/002/02) rejecting applications for SPC’s in the name of Takeda Chemical Industries Limited on similar grounds. This decision was upheld on appeal by the Patents Court. The examiner wrote to the applicant’s agent JY & GW Johnson on the 9 April 2003 repeating his objection and enclosing a copy of the Patents Court judgement in the Takeda Chemical Industries Limited case. There was no response to this letter. The examiner wrote to the applicant’s agent again on 14 July 2003 stating that a hearing officer, acting of the comptroller would now decide if the application should be rejected. This letter offered the opportunity to be heard on the matter. Once again there was no reply and the latest date set for reply has no expired. I have considered this application for an SPC and agree with the examiner that it does not comply with Article 3(1)(a) of the Regulation.
- 2 I therefore reject the application.
- 3 Any appeal against this decision must be filed within 28 days.

Dated this day of October 2003.

R J Walker
Deputy Director, acting for the comptroller

THE PATENT OFFICE