

Section 5 IL Patents Law

- an invention should be sufficiently inventive — i.e., non-obvious — in order to be patented.
- *“An inventive step is a step which does not, to an average skilled person, appear obvious in the light of information published before the application date in ways said in Section 4”*

Section 5 of the Israel Patent Law defines "Inventive Step" as an advancement which would not be obvious to one of ordinary skilled in the art, on the basis of knowledge available to the public, as defined by Section 4 [of the Israel Patent Law] before the date of filing.

Who is the “**ordinary skilled in the art**” (“average skilled person”) ?

- A person who knows the relevant prior art, including fields close to his technical field .
- Professional expert in the technological field without inventive capabilities.
- A team of experts working in different fields who are used to consult one another .

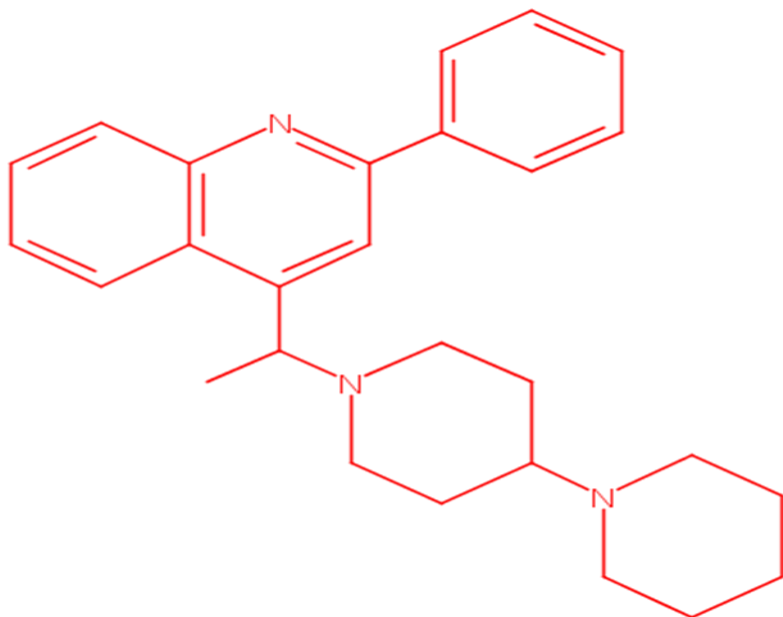
Steps of determining inventive step are as follows:

- (a) Identifying the inventive concept of the invention;
- (b) Determining the relevant prior art and the level of knowledge of a person skilled in the art;
- (c) Identifying the differences (if any) between the state of the art and the concept of the invention;
- (d) Determining whether the concept of the invention would have been obvious to a person skilled in the art due to the knowledge of the prior art.

It is not precluded to find lack of inventive step based on a single prior art reference, when the difference between the subject matter of the cited reference and the invention would be regarded as obvious by a person skilled in the art in view of the common general knowledge.

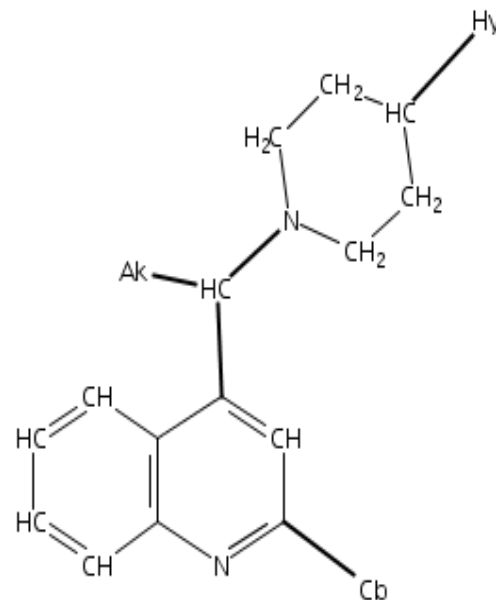
- What is claimed :

A compound having the formula :



for use in the treatment of
Alzheimer's disease

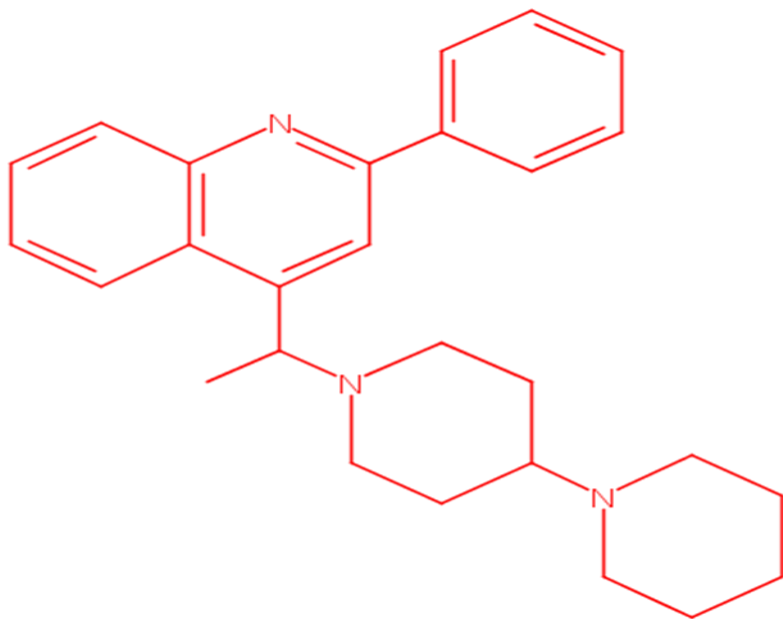
- Disclosed in D1 :



for use in the treatment of
Alzheimer's disease

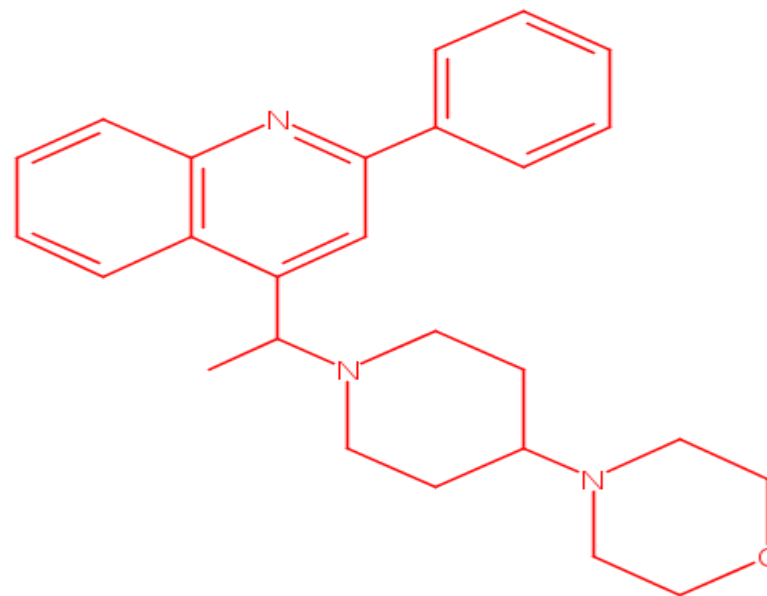
- What is claimed :

A compound having the formula :



for use in the treatment of
Alzheimer's disease

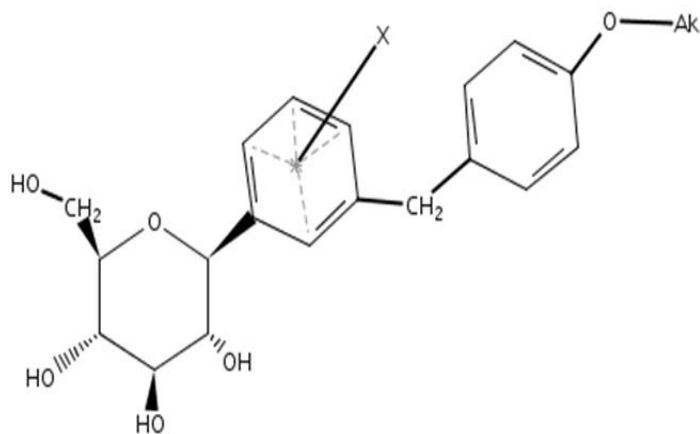
- The closest compound
exemplified in D1:



for use in the treatment of
Alzheimer's disease

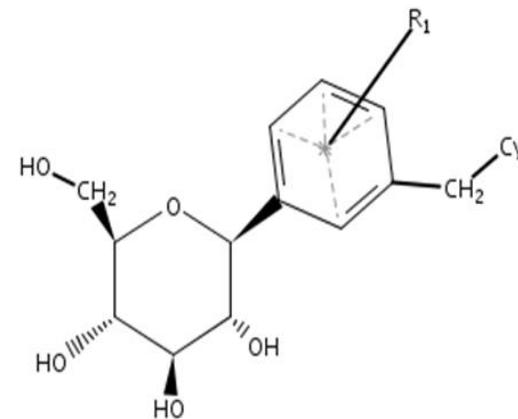
■ What is claimed :

A compound having the structure :



for use in the treatment of
neurodegenerative
diseases

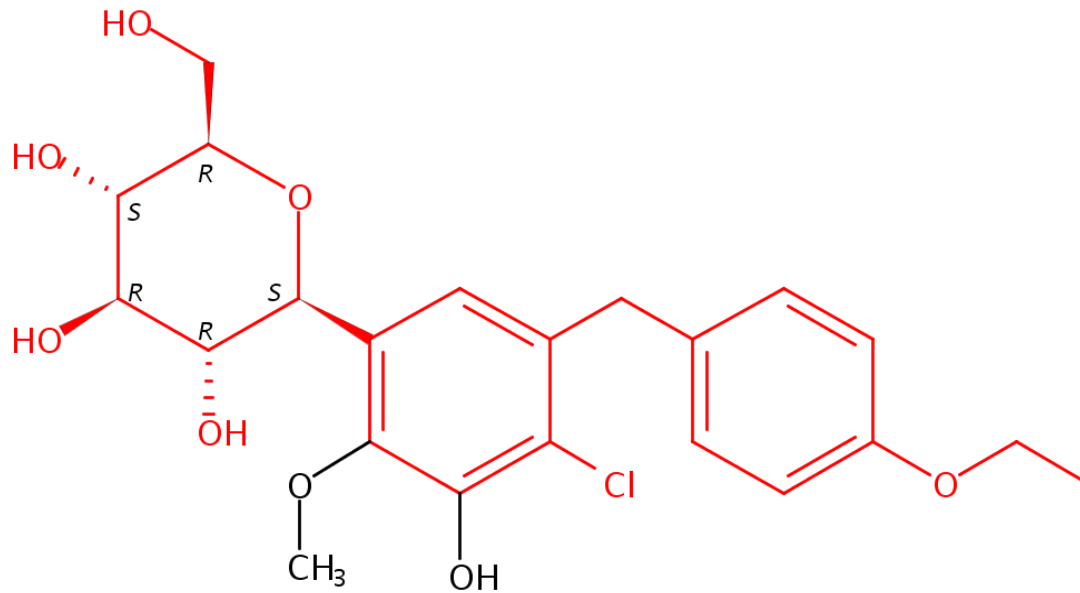
■ Disclosed in D1 :



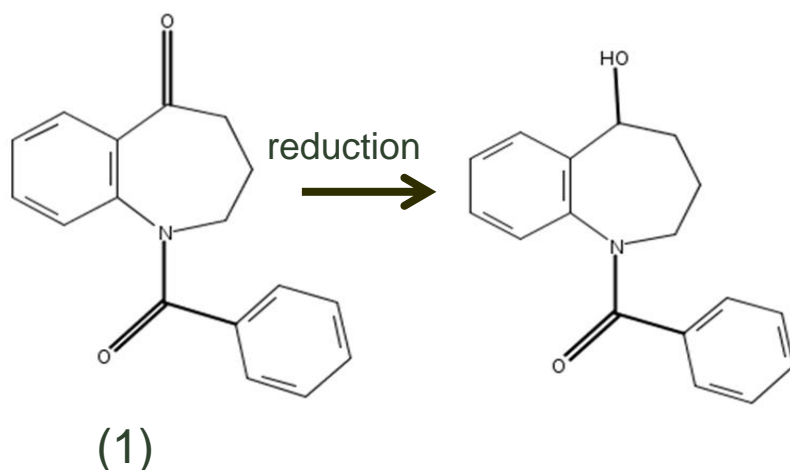
R1 H, OH, X, Ak, Alkoxy

for use in the treatment of
metabolic disorders

- it is mentioned in D1 that metabolic disorders which are implicated with abnormal PK activity include neurodegenerative diseases.
- The closest compound exemplified in D1:

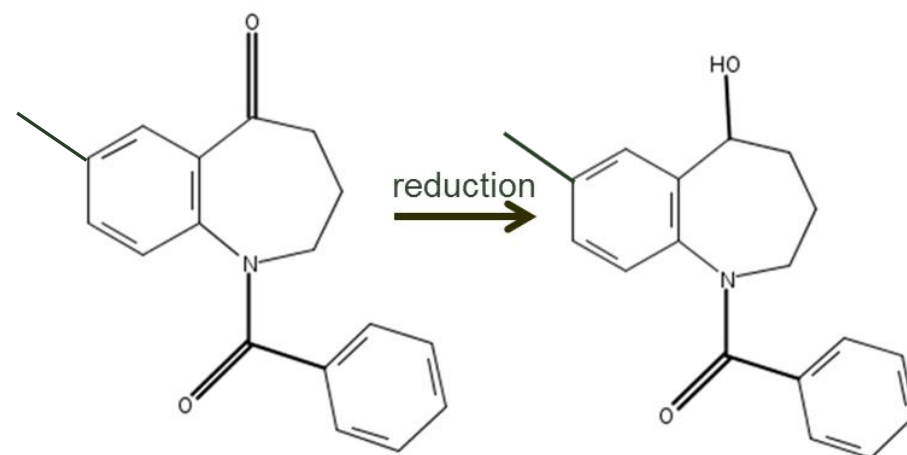


■ What is claimed :



In the presence of
hydrogenating agent in an
amount of 0.1 to 1 mole per 1
mole of compound (1)

■ D1 discloses the process



In the presence of
hydrogenating agent in an
amount of 0.1 to 1.5 mole per
1 mole of compound (1)

Two or more prior art references can be combined to determine lack of "Inventive Step", only when their combination would be considered Obvious and conventional by one of skill in the relevant art.

When do references can be combined ?

- when one of the references cites the second,
- when one of the references suggests an element of the claimed invention, and the suggested element is disclosed in the second reference.

- **What is claimed :**

A ternary insecticidal composition comprising, as active components

- a) a pyrethroid compound,**
 - b) a neonicotinoid compound and**
 - c) a benzoylphenylurea compound**
- in a synergistically effective amount**

- **D1 discloses a ternary insecticidal composition comprising a pyrethroid compound (a) and a benzoylphenylurea compound (c)**
- **D2 discloses a ternary insecticidal composition comprising a neonicotinoid compound (b) and a benzoylphenylurea compound (c)**
- **D3 mentioned that adding neonicotinoid (b) and pyrethroid (a) may cause a synergistic effect.**

Although combining two or more reference is allowed, the need to combine more than three references in a rejection incurs doubt with regard to the lack of "Inventive Step", Such doubt increases with the number of prior art references .

Circumstances in which combining more references may be permissible include the combination of references relating to well known elements.

The Supreme Court held (CA 665/84 Sanofi v. Unipharm) that there is no obligation to proof of utility (*i.e.*, proof that the invention indeed provides the claimed advantageous effects) in the specification, and it may be submitted to the examiner later or in the framework of opposition proceedings.