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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/007,209	09/17/2004	5969156		3367

7590 11/23/2005
Francis J. Tinney
Warner-Lambert Company
2800 Plymouth Road
Ann Arbor, MI 48105

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Intent to Issue
Ex Parte Reexamination Certificate**

Control No.	Patent Under Reexamination	
90/007,209	5969156	
Examiner	Art Unit	
Deborah C. Lambkin	1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. Cf. 37 CFR 1.313(a). A Certificate will be issued in view of
- (a) Patent owner's communication(s) filed: 14 October 2005.
 - (b) Patent owner's late response filed: _____.
 - (c) Patent owner's failure to file an appropriate response to the Office action mailed: _____.
 - (d) Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
 - (e) Other: _____.
- Status of *Ex Parte* Reexamination:
- (f) Change in the Specification: Yes No
 - (g) Change in the Drawing(s): Yes No
 - (h) Status of the Claim(s):
 - (1) Patent claim(s) confirmed: 3, 6-8, 14, 15, 20-25, 30, 32-35, 37 and 39-44.
 - (2) Patent claim(s) amended (including dependent on amended claim(s)): 1-2, 4-5, 9, 13, 16-17, 28-29, 31, 36 and 38
 - (3) Patent claim(s) cancelled: _____.
 - (4) Newly presented claim(s) patentable: 45-117.
 - (5) Newly presented cancelled claims: _____.
2. Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
3. Note attached NOTICE OF REFERENCES CITED (PTO-892).
4. Note attached LIST OF REFERENCES CITED (PTO-1449 or PTO/SB/08).
5. The drawing correction request filed on _____ is: approved disapproved.
6. Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of the certified copies have
 been received.
 not been received.
 been filed in Application No. _____.
 been filed in reexamination Control No. _____.
 been received by the International Bureau in PCT Application No. _____.
- * Certified copies not received: _____.
7. Note attached Examiner's Amendment.
8. Note attached Interview Summary (PTO-474).
9. Other: _____.


DEBORAH C. LAMBKIN
PRIMARY EXAMINER

cc: Requester (if third party requester)

U.S. Patent and Trademark Office
PTOL-469 (Rev.9-04)

Notice of Intent to Issue Ex Parte Reexamination Certificate

Part of Paper No 11


Art Unit: 1626

STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION

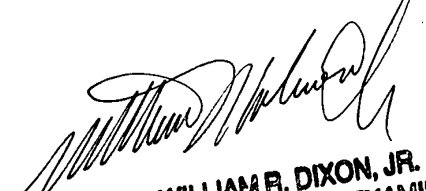
The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding:

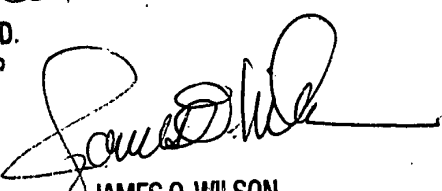
Claims 1-117 are allowed because they are directed to crystalline forms of atorvastatin which are not found in the prior art. More specifically, the prior ^{art} form of atorvastatin found in Mills et al (US 5,686,104) and Roth (US 5,273,995) are amorphous compared to the instant claims which are crystalline forms of the same compound.

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.


DEBORAH C. LAMBKIN
PRIMARY EXAMINER

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EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/007,209.

PATENT NO. 5969156.

ART UNIT 1600.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).