



GOVERNMENT OF INDIA
PATENT OFFICE
INTELLECTUAL PROPERTY
BUILDING
Plot No. 32, Sector-14, Dwarka
New Delhi - 110 078

Tel No. (091)(011)
28034304-06,22
Fax No. 011
28034301,28034302
E-mail : delhi-patent@nic.in
Web Site : www.ipindia.nic.in



Letter No.:-CHEM/2012/

Date : 01/12/2011

To,
M/s. H. Subramaniam & Associates,
Attorneys-At-Law,
Patent And Trade Mark Attorneys,
E-556, Greater Kailash ?II,
New Delhi - 110048

SUB : Examination Report

APPLICATION NUMBER : 1608/DELNP/2007
DATE OF FILING : 28/02/2007
DATE OF REQUEST FOR
EXAMINATION : 20/06/2008
DATE OF PUBLICATION : 03/08/2007

With reference to the RQ No. 6072/RQ-DEL/2008 Dated 20/06/2008 in the above mentioned

- a) application for Grant of Patent , Examination has been conducted under Section 12 and 13 of the Patents Act 1970 , The following objections are hereby communicated
- b) **Objections :**

The claims fall under the scope of section 3(p) of Patents Act 1970 as the subject matter of claimed is related to traditional knowledge and mere duplication of known properties (1)AK/3284 Dantarogeekits?yoga? (8), (2)AK2/157 Irimedadyam Tailam ,(3)AK2/158 Khadiradyam Tailam ,(4)AK2/432 Sapta Vimshantika Guggulu Gutika (01) ,(5)AK2/432A Sapta Vimshantika Guggulu Gutika (02) ,(6)AT/1000 Rodhr?dilepa? ,(7)AT/1001 S?riv?digh?tam ,(8)AT/1014 Ik?v?dikavala .

2 The claims 1-10 appear to fall within the scope of section 3 (e) of Patents Act 1970 as it appears that the claimed composition is obtained by mere admixing of the constituents resulting only in the aggregation of their properties. The specification does not disclose any synergistic effects of the components that comprise the said composition.

3 The claimed invention is very broad and not definitive as the group A and group B has several essential oils which are individually also known for medicinal properties in prior art and traditionally as well. Mere admixing them in 6:1:1 to 2:1:1 does not constitute an invention for a person skilled in the art. The composition best supported by the way of examples should only be claimed.

The claims fall under the scope of section 2 (1)(j) of Patents Act 1970 in view of cited art [EP1336346](#), [FR2618670](#), [FR2576212](#), [WO02098439](#). D1 discloses a dentifrice comprising essential oils from peppermint, spearmint and clove (50%) in combination with essential oils from orange and lemon (7%). D2 teaches a dentifrice comprising the following essential oils: 0,1 g menthe, 0,1 g cinnamon, 0,1g savory (representing a botanical of the Labiatae family) and 0,1 g lemon. Thus, D2 discloses a consumer product wherein essential oils are added at a ratio of 1 mint: 1 spice: 1 citrus. D3 claims a pharmaceutical composition comprising the following essential oils: mint, botanicals of the Labiatae family and lemon wherein the ratio of mint plus Labiatae family: lemon is 3.35:1. D4 discloses an insect repellent composition comprising essential oils from the Labiatae family, peppermint and spearmint and an essential oil from grapefruit and neroli oil. Thus, the subject-matter of claims 1-3,5-6 is not considered novel.

4 Document 2, which is considered to represent the most relevant state of the art, discloses a dentifrice comprising the following essential oils: 0,1g menthe, 0,1 g cinnamon, 0,1 g savory (representing a botanical of the Labiatae family) and 0,1 g lemon. Thus, D2 discloses a consumer product wherein essential oils are added at a ratio of 1 mint: 1 spice: 1 citrus. The subject-matter of claims 4 and 7-10 differs from document D2 either in the specific use of spearmint, cinnamon and orange or in a specific ratio of mint: spice: citrus. However, it is noted that the ratio given in D2 is 1 mint: 1 spice: 1 citrus whereas the present application uses 2 mint: 1 spice: 1 citrus.

Thus, the ratios given in the present application are nearly identical to the ratios of the prior art. In the light of the present claims, description and having regard to the prior art, the problem to be solved by the above claims can be formulated as provision of a further oral care composition comprising essential oils. The mere replacement of mint by spearmint and lemon by orange appears to represent a mere replacement of two equivalents. Moreover, it is noted that the present application does not provide any detailed information about the effect achieved by the replacement of one essential oil by another. It just says that the combination of essential oils from the different groups at the specified ratios results in an oral benefit. However, the present application does not appear to provide any evidence supporting this oral benefit. Thus, nothing inventive can be seen in slight changes of oral products known in the prior art without any technical effect.

5 The composition claims are not definitive as specific components and their ratio is not defined. The claim 1 is very broad. The expression "consumer product" also makes the claim very unclear.

6 Abstract should be filed according to Rule 13(7) of Patents Rule, 2003 (as amended in 2006).

7 Due Power of authority with prescribed stamp duty and the particulars of the case should be filed. 2005 and rule 135 of the Patents (Amendment) Rules, 2006.

8 Re-numbering of pages of Complete Specification should be done and extraneous matter should be deleted from page-2 of complete specification

9 The Claims? part of Complete Specification should to be super scribed as " We Claim: -? according to form 2 column 5 .

10 Details regarding the search and/or examination report including claims of the application allowed, as referred to in Rule 12(3) of the Patent Rule, 2003, in respect of same or substantially the same invention filed in all the major Patent offices along with appropriate translation where applicable, should be submitted within a period of Six months from the date of receipt of this communication as provided under section 8(2) of the Indian Patents Act.

11 Details regarding application for Patents which may be filed outside India from time to time for the same or substantially the same invention should be furnished within Six months from the date of filing of the said application under clause(b) of sub section(1) of section 8 and rule 12(1) of Indian Patent Act.

c) You are requested to comply with the objections by filing your reply by way of explanation and/or amendments within 12 months from the date of issue of FER failing which your application will be treated as "Deemed to have been abandoned" under section 21(1) of the Act. The last Date is 03/12/2012.

d) You are advised to file your reply at the earliest so that the office can further proceed with application and complete the process within the prescribed period.

(Shah Alam)

Asst. Controller of Patents & Designs

NOTE : All Communications to be sent to the Controller of Patents at INTELLECTUAL PROPERTY BUILDING Plot No. 32, Sector-14,Dwarka New Delhi - 110 078.

Back

Close