

Office Action Summary

Application No. 13/463.014

Applicant(s) MEIJS ET AL.

Examiner Amy L. Clark

Art Unit 1655

AIA (First Inventor to File) Status No

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 C.F.R. 1.135(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 C.F.R. 1.204(b).

Status

- 1) [X] Responsive to communication(s) filed on 25 February 2013. [] A declaration(s)/affidavit(s) under 37 CFR 1.130(b) was/were filed on _____.
2a) [] This action is FINAL. 2b) [X] This action is non-final.
3) [] An election was made by the applicant in response to a restriction requirement set forth during the interview on _____. The restriction requirement and election have been incorporated into this action.
4) [] Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) [X] Claim(s) 1-19 is/are pending in the application. 5a) Of the above claim(s) _____ is/are withdrawn from consideration.
6) [] Claim(s) _____ is/are allowed.
7) [X] Claim(s) 1-19 is/are rejected.
8) [] Claim(s) _____ is/are objected to.
9) [] Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the Patent Prosecution Highway program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) [] The specification is objected to by the Examiner.
11) [X] The drawing(s) filed on 03 May 2012 is/are: a) [X] accepted or b) [] objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

- 12) [] Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) [] All b) [] Some * c) [] None of the:
1. [] Certified copies of the priority documents have been received.
2. [] Certified copies of the priority documents have been received in Application No. _____.
3. [] Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCI Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Interim copies:

- a) [] All b) [] Some c) [] None of the: Interim copies of the priority documents have been received.

Attachment(s)

- 1) [X] Notice of References Cited (PTO-892) 3) [] Interview Summary (PTO-413) Paper No(s)/Mail Date _____
2) [X] Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ 4) [] Other _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of 35 U.S.C. 112(b):

(B) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4, 6 and 15-19 are rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor, or for pre-AIA the applicant regards as the invention.

Regarding claim 2, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

The metes and bounds of claim 2 are rendered uncertain by the phrase "a resin derived from asafoetida" because it is unclear if Applicant is claiming a resin obtained from asafetida or if Applicant is claiming that the asafetida is a resin or if the resin is formulated using or from asafetida. The lack of clarity renders the claims indefinite since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired.

The metes and bounds of claim 3 are rendered uncertain by the phrase "wherein the parasites are resistant to substance that expels parasites that are not-resistant" because it is unclear if Applicant is claiming that the parasites are not resistant to the substance or to the asafetida. The lack of clarity renders the claims indefinite since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired.

The metes and bounds of claim 3 are rendered uncertain by the phrase "or derived therefrom" because it is unclear if Applicant is claiming compounds derived from the substances claimed or parts of the compound. The lack of clarity renders the claims indefinite since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired.

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Regarding claim 4, the phrase "more particularly" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 5, the phrase "including" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

The metes and bounds of claim 6 are rendered uncertain by the phrase "consisting of endoparasites, comprising tapeworms...comprising *Cryptosporidium*...and ectoparasites comprising" because it is unclear if Applicant is claiming that the endoparasites are tapeworms and the parasites thereafter or if Applicant is claiming endoparasites and additionally tapeworms and the parasites that follow and it is unclear if Applicant is claiming the other types of parasites from other groups that follow as an example of endoparasites or as their own entities. The lack of clarity renders the claims indefinite since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired.

The metes and bounds of claim 15 are rendered uncertain by the phrase "consisting of endoparasites, comprising tapeworms...comprising *Cryptosporidium*...and ectoparasites comprising" because it is unclear if Applicant is claiming that the endoparasites are tapeworms and either further claiming the parasites thereafter as separate parasites (not as part of an endoparasite group) or part of the endoparasite group and it is unclear if Applicant is claiming the other types of parasites (such as ectoparasites) from other groups as an example of endoparasites or as their own entities. The lack of clarity renders the claims indefinite since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired.

Claim 15 recites the limitation "the preparation" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the preparation" in line 1. There is insufficient antecedent basis for this limitation in the claim.

The metes and bounds of claims 15-18 are rendered uncertain by the phrase "taking the form of" because it is unclear if Applicant is claiming that the *Ferula asafetida*/preparation is in the form for administration or that it is part of a formulation for administration. The lack of clarity renders the claims

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indefinite since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired.

The metes and bounds of claim 19 are rendered uncertain by the phrase "preferably... and most preferably" because it is unclear which range Applicant is claiming. The lack of clarity renders the claims indefinite since the resulting claims do not clearly set forth the metes and bounds of the patent protection desired.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by HG/518 (U).

HG/518 teaches a therapeutic formulation comprising 12 grams of *Ferula foetida* regel (*asafetida*) exudate (which reads on sap and resin, since both are exudates) for treating worm infestation (which reads on an endoparasite that occurs in humans, birds, and the instantly claimed animals), wherein the composition is administered orally, wherein the composition is formulated as a pill or a bolus like sweet preparation in a dosage of 500 mg (which reads on the range claimed by Applicant) and wherein the composition can be administered with ginger, juice or warm water. HG/518 further teaches additional active ingredients for treating the worms formulated with the *Ferula foetida* regel (*asafetida*) exudate.

Although HG/518 does not expressly teach that the parasites are resistant to a substance, the claimed functional properties are inherent to the method and parasites taught by HG/518 because the ingredients, the amounts of the ingredients, and the route of administration for the delivery of the ingredients taught by HG/518 are one and the same as disclosed in the instantly claimed invention of Applicant. Thus, the formulation taught by HG/518 would inherently have the same activity and would have the same effectiveness against resistant parasites as the ingredients claimed by Applicant.

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Therefore, the reference anticipates the instantly claimed invention.

Conclusion

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy L. Clark whose telephone number is (571)272-1310. The examiner can normally be reached on Monday to Friday 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571)272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Amy L Clark/
Primary Examiner, Art Unit 1655

