



202/MUM/2007



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INTELLECTUAL PROPERTY BUILDING
Near Antop Hill Post Office, S.M.Road,Antop Hill
Mumbai - 400 037

Tel No. (091)(022) 24137701,
24141026, 24150381, 24148165,
24171457
Fax No. 022 24130387
E-mail : mumbai-patent@ipic.in
Web Site : www.ipindia.nic.in

Letter No.:-CHEM/2014/

Date : 31/10/2012

To,
Y.J.TRIVEDI, JATIN TRIVEDI, GOPI TRIVEDI
Y.J.TRIVEDI & CO.
YAGNAJYOT,
OPP. KASHIRAM AGRAWAL HALL,
POLYTECHNIC, A
AHMEDABAD-380 015,
GUJARAT,
INDIA

SUB : Examination Report

APPLICATION NUMBER : 202/MUM/2007
DATE OF FILING : 05/02/2007
DATE OF REQUEST FOR EXAMINATION : 25/10/2010
DATE OF PUBLICATION : 24/10/2008

With reference to the RQ No. 3594/RQ-MUM/2010 Dated 25/10/2010 in the above mentioned application for Grant of Patent .

a) Examination has been conducted under Section 12 and 13 of the Patents Act 1970 . The following objections are hereby communicated

b) **Objections :**

The subject matter of claims does not constitute an invention u/s 2(1) (j) of the Patents Act, 1970, as the claim 1 to 5 are not new and do not involve inventive step in view of the prior published document:

DI:TKDL: AM05/810, Sami Thoda Surathirku Kudineer, Kandasamy Mudaliar Athmarakshaamirtham, Pub: Ilakkana Achagam, Chennai (1879), Page 255?

1

DI discloses the process for preparation of herbal formulation comprising the *Capparis sepriaria*, *Piper nigrum* and *Trachyspermum ammi* along with other various herbs. DI process involves the water extract of the powdered plants. Therefore, the preparation process claimed in claims 1-5 is not new and as they are not new they do not involve inventive step.

2 The formulation process claimed in claims 1 to 5 is not patentable u/s 3 (e) of the Patents Act, 1970 as it claims for the preparation process of admixture of known herbs.

3 Claims 1 to 5 are not definite and are not fully supported by the description with working example/s. The example 1 given does not specify any of the composition with % of ingredients. In the absence of any clear cut working example for the herbal formulation and preparation process, the invention claimed in claims 1 to 5 cannot be understood fully and hence these claims are not fully supported as required u/s 10 of the Patents Act, 1970.

4 Claim 1 should be worded in single sentence.

5 Claim 6 does not define the invention sufficiently as there is no technical feature for the process or the product. Hence, it is not allowable.

As per the requirement u/s. 10(4) (ii) (D) you have to disclose the source and geographical origin of the biological material used in the invention.

Your attention is hereby invited to section 6 of the Biological Diversity Act 2002, which mandates that if a biological material procured from India is used in an application for patent, permission for making an application for the patent obtained from the National Biodiversity Authority should accompany the application or if not already submitted with the application, should be submitted before the grant of the patent. Also other actions/information as required by the NBA is to be fulfilled under intimation to this Office. The relevant application form for such permission is available in the website of National Biodiversity Authority [www.nbaindia.org].

In the present case it appears that no such approval has been filed with the Patent Office. Therefore, you are advised to act as per the provisions of the Biological Diversity Act, 2002.

7 Form-1 filed is not marked/ticked the declarations given in paragraph 9 (iii) of Form-1, especially for the biological material.

8 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.

9 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 31/10/2013.

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.

(Amitava Chakraborty)

Deputy Controller of Patents & Designs

NOTE : All Communications to be sent to the Controller of Patents at INTELLECTUAL PROPERTY BUILDING S. M. Road, Antop Hill Mumbai-400 037.

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