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Date: 05/06/2014

Letter No.: BIO-TECH/2014/ 3-335

To,
SHRI. KANBUDURAI, 4B- ANAND APARTMENTS, 6TH STREET,
JP AVENUE, DR. RADHAKRISHNAN SALAI, MYLAPORE,
CHENNAI -600 004.

5 JUN 2014

E-101/28867/2014

SUB: First Examination Report


APPLICATION NUMBER : 2351/CHE/2010
DATE OF FILING : 19/08/2010
DATE OF REQUEST FOR EXAMINATION : 19/08/2010
DATE OF PUBLICATION : 31/12/2010

- a) With reference to the RQ No. 6021/RQ-CHE/2010 Dated 19/08/2010 in the above mentioned 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 :**
- 1 Claims do not sufficiently define the invention. Claim 4 should be defined in terms of its technical features. The claimed composition should be defined in terms of its constituents and their interaction instead of its functional features or intended use.
 - 2 Claims 1-4 are not patentable w/s 3(p) of the Patents Act, 1970 as they relate to Traditional knowledge. Use of the 10 claimed herbs for treatment of obesity is traditionally known. Refer the list of documents with date of publication (PRIOR ART) in enclosed TKDL documents, D1:RG/3527, D2:RG12/1026, D3:R36/87, D4:BA3/604, D5:AK10/384, D6:RG3/277, D7:MH1/2141.
D1:(pg. no. 04-06) refers to a formulation containing Commiphora wightii Bhandari Syn.: C. mukul as a single ingredient used for the treatment of Obesity. Mode of administration is as directed by physician.
D2:(pg. no. 07-09) refers to a formulation containing Embelia ribes as a single ingredient used for the treatment of Obesity through oral administration.
D3:(pg. no. 10-12) refers to a formulation containing Terminalia chebula Retz., Terminalia bellirica (Gaertn.) Roxb., Phyllanthus emblica Linn. Syn.: along with few other ingredients used for the treatment of Obesity through oral administration.
D4:(pg. no. 13-15) refers to a formulation containing Terminalia chebula Retz., Terminalia bellirica (Gaertn.) Roxb., Phyllanthus emblica Linn. Syn. used as an Antiobesity composition through oral administration.
D5:(pg. no. 18-19) refers to a formulation containing Piper longum Linn., Plumbago zeylanica Linn., Zingiber officinale Roscoe along with few other ingredients used for the treatment of Obesity. Mode of administration is as directed by physician.
D6:(pg. no. 20-24) refers to a formulation containing Zingiber officinale Roscoe, Piper longum Linn., Plumbago zeylanica Linn., Embelia ribes Burm. f., Terminalia chebula Retz., Terminalia bellirica (Gaertn.) Roxb., Phyllanthus emblica Linn. Syn.: Emblica officinalis Gaertn., Commiphora wightii Bhandari Syn.: C. mukul along with few other ingredients used for the treatment of Obesity through oral administration.
D7:(pg. no. 25-28) refers to a formulation containing Piper nigrum Linn., Zingiber officinale Roscoe, Commiphora wightii Bhandari Syn.: C. mukul, Piper longum Linn. along with few other ingredients used as an Antiobesity through oral administration.
The instant application claims the usefulness of an anti-obesity composition comprising Commiphora mukkul, Cyperus rotundus, Emblica officinalis, Emblica ribes, Piper longum, Piper nigrum, Plumbago zeylanica, Terminalia bellirica, Terminalia chebula, Zinger officinale as novel. However Commiphora wightii Bhandari Syn.: C. mukul, Cyperus rotundus Linn, Embelia ribes, Phyllanthus emblica Linn. Syn.: Emblica officinalis Gaertn., Piper longum Linn., Piper nigrum Linn., Plumbago zeylanica Linn., Terminalia bellirica, Terminalia chebula Retz, Zingiber officinale Roscoe have been used alone and in combination with few other ingredients as an antiobesity and for the treatment of obesity through oral administration in the Indian systems of Medicine since long, as it is evident from the references cited above. It would have been obvious to a person skilled in the art to have combined the teachings of the above mentioned documents and have arrived at the instantly claimed composition for treatment of obesity.
 - 3 Claims 1-4 are not patentable w/s 3(e) of the Act as they relate to a mere admixture lacking support in the description for synergistic activity between the constituents.
 - 4 Notwithstanding above mentioned objections, Claims 1-4 lack inventive step w/s 2(1)(ja) of the Act in view of cited TKDL documents.
 - 5 Attention of the applicant is invited towards Section 6 of Biodiversity Act, 2002 which mandates that if biological material procured from India is used in an application for patent, permission and other information for making application for patent should be obtained from the National Biodiversity Authority, Relevant application form (Form 3, Rule 18) for such

permission is available in website of National Biodiversity Authority. Form 1 of Patent Act should be completed w.r.t column 9 (iii). Source and geographical origin of the biological material used should be given in the specification in accordance with section 10(4)(d).

- 6 Claims 1-4 are not fully supported by the description, with working example for polyherbal composition and its preparation, as required w/s 10(5) of the Patents Act, 1970.
- 7 While filing amended claims (if any) the applicant should at the same time bring the description into conformity with the amended claims. Care should be taken during revision, not to add subject matter, which extends beyond the content of the application as originally filed. If any corrections/amendments is made in any page of the specification that page should be freshly typed and filed in duplicate along with a marked copy clearly highlighting the corrections/amendments made.
- 8 Form-1 submitted is not complete as the declarations given in paragraph 9 (iii) of Form-1 are not marked/ticked, especially for biological material. Therefore, the correct and complete Form-1 (as prescribed in the Patent Rules, 2003) should be filed in the prescribed manner by filing Form-13 for correction.
- 9 Forms 3 & 5 should be submitted within the prescribed period.
- 10 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.
- 11 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.
- 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 05/06/2015.
- 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.

Encl: 7 TKDL Citations


(Dr. Sharana Gouda)
Asst. Controller of Patents & Designs

NOTE : All Communications to be sent to the Controller of Patents at INTELLECTUAL PROPERTY BUILDING G.S.T. Road, Gulndy Chennai-600032.