

797/KOL/2009



सत्यमेव जयते

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Letter No.:-BIO-TECH/2012/

Date : 05/11/2012

To,
DR. AMARJYOTI BASU c/o DR. AMARJYOTI BASU,
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SUB : Examination Report

APPLICATION NUMBER : 797/KOL/2009
DATE OF FILING : 27/05/2009
DATE OF REQUEST FOR EXAMINATION : 12/06/2009
DATE OF PUBLICATION : 14/08/2009

With reference to the RQ No. 3135/RQ-KOL/2009 Dated 12/06/2009 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 :

1 Typographic error in claims should be corrected.

2 Source and geographical origin of the biological materials used in the present invention should be mentioned in the specification.

Attention of applicant is hereby invited to section 6 of Biological Diversity Act 2002, which mandates that if a biological material procured from India is used in an application for patent, permission and other information for making an application for the patent should be obtained from the National Biodiversity Authority. The relevant application form for such permission is available in the website of national Biodiversity Authority (www.nbaindia.org) FormIII (Rule 18).

4 Claim no 4, 5, 6(a), 6(f) are not clear as the scope of the claims are too broad.

5 Claim no 4 is not clear in respect of the expression "water or aqueous ethanol extract" as indicated therein. Claim no 6(f) is not clear in respect of the expression "oil based composition" as indicated therein.

6 Claim no. 4 and 6 are not clearly worded as indicated therein.

7 Subject matter of claim no. 6(a) does not constitute an invention according to Sec 2(1)(j) of The Act.

8 Subject matter of claim no. 6(a) does not constitute an invention according to Sec 2(1)(j) of The Act.

Subject matter of alleged claims do not constitute an invention in respect of inventive step in the view of 1. Manthana Bhairava: Anandakandah - Edited with Tamil translation by S.V. Radhakrishna Sastri, T.M.S.S.M.Library, Tanjore, Madras, Edn. 1st 1952 Pg 660-661 Formulation ill: RS13/941 Formulation Name: Kumari 2.Yogaratnakarah.: Commentary by Laksmipatisastri, Chaukhamba Sanskrit Sansthan, Varanasi Edn. 8th 2004 Pg 502 Formulation ill: RG8/ 192 7B Formulation Name: Nimbaphalasthi Tail Prayoga 3.Pandita Narahari; Rajanighantauh. - Edited with Hindi Commentary by Indradeo Tripathi; Krishnadas Academy, Varanasi, Edn. 2nd 1998 Pg 387 Formulation ill: RS81708 Formulation Name: Haritaki Sewana Ayogya Rogi 4.Kaiyadeva; Kaiyadevanighantauh - (Pathyapathyavibodhakah.) Edited and translated by P.V. Sharma and Guru Prasad Sharma, Chaukhamba Orientalia, Varanasi, Edn. 1st, 1979 Pg 6 Formulation ill: RS6/04 Formulation Name: Vasapuspa Guna 5.Susruta; Susruta Samhita - Edited & translated by P.V Sharma, Vol.-II Chaukhamba Visvabharati, Varanasi, Edn. 1st, 2000. [Time of origin 1000 BC-5th century] Pg 534-535 Formulation ill: AT/1039 Formulation Name: Yuktaratha - 01 6.Mahendra Bhaugika; Dhanvantarinighantauh). - Edited by P.V. Sharma; Translated by Guru Prasad Sharma: Chaukhamba Orientalia, Varanasi, Edn. 3rd, 2002 Pg 55 Formulation ill: AK 121/118 Formulation Name: Amalaki Guna 7.Mahendra Bhaugika; Dhanvantarinighantauh). - Edited by P.V. Sharma; Translated by Guru Prasad Sharma: Chaukhamba Orientalia, Varanasi, Edn. 3rd, 2002 Pg 260 Formulation ill: AK12/698 Formulation Name: Triphala Guna 8.Soghala: Gadanigraha ed,Ganga Sahaya Pandeya & Com.- Indradeva Tripathi, Part-I(Prayoga Khandal Chaukhamba Sanskrit Sansthan, Varanasi, Ed. 3rd 1999 Pg 213 Formulation ill: HG/2332 Formulation Name: Kutherakadyamcurnam 9.Rasayoga Sagara - Compiled and Translated by Vaidya

Pandita Hariprapanna Ji , VoL-II: Krishnadas Academy, Varanasi, Edn. Reprint, 1998. [This book contains back references from 1000 B.c.to 20th century] Pg 594 Formulation ill: VS/2057 Formulation Name: Hamsamanduram 10. Bharata Bhaisajya Ratnakara - Compiled by Naginadasa Chaganalala Saha ,Translated by Gopinath Gupta - Vol.-II : B. Jain Publishers, New Delhi, Edn. 2nd. Reprint, August 1999. [This book contains back references from 1000 B.C.to 20th century] Pg 203 Formulation ill: BP/771 Formulation Name: Caturmukhorasah (02) 11. Bhavamisra - Bhavaprakasa Edited and Translated by Brahmasankara Misra Part II Chaukhamba Sanskrit Sansthan Varanasi Edn. 7 2000. page 70. 12. Sarngadhara - Sarngadhara Samhita- Translated by Smt Shailaja Srivastava : Chaukhamba Orientalia Varanasi Edn. 2nd. 1998. page 151.

10 Claim No. 1 - 8 fall within the scope of such clause (p) of Section 3 of the Act. Claim No. 1 - 8 fall within the scope of such clause (e) of Section 3 of the Act.

11 Novelty of the alleged invention is anticipated by prior publications; see for instance Govinda Dasa. Bhaisajya Ratnavali - Edited by Rajeshvaradutta Shastri, Translated by Ambikashastri Chaukhamba Sanskrit Sansthan Varanasi Edn. 14Th 2001. page 68.

12 Proper form 1 should be filed. Form 1 should be submitted with declaration by the applicant(para 9 iii of submitted Form 1) clearly indicating "The invention as disclosed in the specification uses the biological material from India and the necessary permission from the competent authority shall be submitted by me/us before the grant of patent to me/us. There is no lawful ground of objection to the grant of the Patent to me/us".

13 Foreign filing particulars if any should be filed with necessary petition.

14 A pregrant opposition under section 25(1) against the instant application has been filed by TKDL, CSIR. The detail notice of opposition will be communicated to you shortly.

15 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.

16 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 05/11/2013.

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.

(Soumen Ghosh)

Asst. Controller of Patents & Designs

NOTE : All Communications to be sent to the Controller of Patents at INTELLECTUAL PROPERTY BUILDING Sector V, Salt Lake City Kolkata-700091.

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