

The examination is being carried out on the **following application documents**

Description, Pages

1-28 as published

Claims, Numbers

1-15 filed with entry into the regional phase before the EPO

Drawings, Sheets

1/5-5/5 as published

- 1 An International Preliminary Report on Patentability / International Preliminary Examination Report has already been drawn up for the present application in accordance with the PCT.

Some of the deficiencies mentioned in said report have been overcome by deletion of the originally filed claims 16, 18-20.

Nevertheless the outstanding deficiencies mentioned in that report gives rise to an objection under the corresponding provisions of the EPC.

- 2 The third-party observation submitted in the regional phase has been taken into account and was considered relevant for an inventive step of the claimed subject-matter, see Exhibits 3, 5 and 6 (Art. 52(1) and 56 EPC).
Exhibit 3 discloses a formulation comprising *Myrtus communis* and *Vitis vinifera* Linn in the form of a tablet which is useful as mouth fresher.
Exhibit 5 discloses a composition comprising inter alia ingredients (drugs) of different parts of the plant *Myrtus communis* Linn for use in the treatment of Fetid breath. The Exhibit 5 drugs are prepared by soaking in water and straining it.
Exhibit 6 discloses a liquid preparation comprising *Myrtus communis* Linn, *Punica granatum*, potas Alum, vinegar for rinsing the mouth.

- 3 The present application application deals with the problem of improving and/or maintaining oral health in an animal. Said problem is solved by the combination of myrtle with a food product. According to claim 1 the food product comprises an outer portion and an inner portion, wherein the inner portion comprises myrtle and has a moisture content of from about 10% to about 25%. With regard to the known activity of myrtle in particular with regard to oral health described in the prior art and with regard to the objections raised under clarity and inventive step in the PCT report, the claimed subject-matter appears not to involve an inventive step over Exhibits 3, 5, 6, D1 and D3 (Art. 52(1) and 56 EPC and Art. 84 EPC).
- 4 Nevertheless the applicant is invited to file a new (independent) claim which takes account of the above comments.
- 5 In order to comply with the requirements of Rule 137(4) EPC, the applicant should clearly identify the amendments made, irrespective of whether they concern amendments by addition, replacement or deletion, and indicate the passages of the application as filed on which these amendments are based (see Guidelines H III, 2.1).

If the applicant considers it appropriate, these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.
- 6 The description has to be brought in consistency with the claims (Art. 84 EPC). Furthermore the term "about" with regard to ranges detracts from clarity and should be deleted in the claims and throughout the description (Art. 84 EPC and see also the Guidelines F-IV, 4.7).