

CSIR

913/DEL/2006



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Date : 18/09/2012

Letter No.: -BIO-TECH/2014/

To,  
A.K. BOSE  
HEAD, IPM DIVISION, CSIR,  
NISCAIR BUILDING,  
14 SATSNAG VIHAR MARG,  
NEW DELHI-110067, INDIA

SUB : Examination Report

APPLICATION NUMBER : 913/DEL/2006  
DATE OF FILING : 30/03/2006  
DATE OF REQUEST FOR EXAMINATION : 31/01/2008  
DATE OF PUBLICATION : 30/03/2012

With reference to the RQ No. 960/RQ-DEL/2008 Dated 31/01/2008 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 :

Claims 1 to 6 fall u/s 3(p) of the Patents (Amended) Act, 2005 as prima facie it appears that the said claims are based on traditional knowledge.

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Claims 1-6 also falls u/s 3 (e) of the Patents act 1970 as the claims relate to a herbal formulation which appears to be a mere admixture. In the absence of proper experimental data it is not clear if a greater technical effect is produced by using this formulation in comparison to what is already known from the prior art documents

Claims 1-6 lacks inventive step u/s 2(1)(a) of the Patents act 1970 in the light of the documents cited below

1. Herbal Cosmetics for Skin and Hair care, Kapoor, V P, Aug-2005, CSIR source- [NPR Vol.4\(1\) July-August 2005](#) The document describes the antibacterial and antifungal herbal cosmetics used for the treatment of dermal conditions.

2. US10/313,912 Document describes the compositions with turmeric used for the treatment of medical conditions like psoriasis

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3. US6368639. The document describes herbal skin care formulation containing sandalwood oil and also traditionally known herbs

4. **VS/2473 Mah?I?k??ditailam** : [http://www.tkdil.res.in/tkdil/tangdefault.Ayurveda.Ayur\\_Advancesearch.asp?Cl=11ng](http://www.tkdil.res.in/tkdil/tangdefault.Ayurveda.Ayur_Advancesearch.asp?Cl=11ng) The document from TKDIL describe a herbal formulation containing curcuma longa and sandalwood along with other spices and leaf extracts used for the treatment of skin disorders and other medical conditions.

The claims of the present invention are directed towards a formulation for treatment of dermal skin infections. The claims are anticipated by the prior art documents mentioned above leading to lack of inventive step.

3

The practice of including an omnibus claim (claim no 7) does not have any legal basis under the Patents Act. In fact, such a claim cannot be allowed as per Section 10(4)(c) of the Patents Act 1970. As such claims are unclear, vague and unsearchable, it is desirable to avoid omnibus claims in a patent application.

Attention of the applicant is invited towards section 6 of the Biodiversity act which mandates that if biological material procured from India is used in the application for patent, permission and other information for making application for patent should be obtained from the national biodiversity authority and details should be furnished in form 1 column 9 (iii).

4

Relevant application form (form 3, rule 18) for such permission is available in the website of national biodiversity authority.

5

Source & Geographical origin of Biological materials in the specification should be disclosed.

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.

7 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 18/09/2013.

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.

**(Dr. N. Mukherjee)**

Asst. Controller of Patents & Designs

NOTE : All Communications to be sent to the Controller of Patents at INTELLECTUAL PROPERTY BUILDING Plot No. 32, Sector-14, Dwarka New Delhi - 110 078.

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