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Date of issue: 6 August 2013

Patent Examination Report No. 2

Application Details

Patent Application No.: 2008239318
Applicant/s: Suntory Holdings Limited
Your reference: 865515
Earliest Priority Date: 15 March 2007
Examination Request Date: 21 October 2011

Your application has been examined under Section 45 of the *Patents Act 1990*. I consider that the application does not meet the requirements of the Act for the reasons indicated below.

Actions you can take

You have until **13 April 2014** to overcome all my objection(s) otherwise your application will lapse.

You will need to pay a monthly fee for any response you file after 12 months from the date of the first report.

You will also need to pay any annual continuation fees that apply. Information about fees may be obtained by phoning 1300 651 010 or by visiting www.ipaustralia.gov.au.

Basis of the report

Last amendment item no. 5 .

In examining your application I have taken into account:

- the verified translation of the PCT pamphlet as originally filed



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This data, for application number 2008239318, is current as of 2014-02-20 22:09 AEST



- the proposed amendments under S104 filed on 14 October 2009
- the proposed amendments under S104 filed on 05 July 2013

Statement of Novelty, Inventive Step and Patentable Subject Matter

Novelty/Inventive Step	Claim No. 2, 5, 8, 11	Yes
	Claim No. 1, 3-4, 6-7, 9-10	No
Patentable Subject Matter	Claim No. 1-11	Yes
	Claim No. NONE	No

Documents Cited or Considered Relevant

D4 : TKDL Abstract No. BA3/502;

& Mohammad Akmal Khan, "Hab Hindi", Qaraabaadeen Azam wa Akmal (20th century AD), Matba Siddiqi, Delhi / Matba Mustafaj, Delhi, 1909 *

Category: **X** Claims: 1, 3-4, 6-7, 9-10

D5 : TKDL Abstract No. RG9/584B

& P.V. Sharma (Ed) , "Tila Taila Prayoga", Sodhalanighantauh - (Namasamgraha Va Gunasamgraha), Oriental Institute, Baroda, 1st Edition, 1978. *

Category: **X** Claims: 1, 3-4, 6-7, 9-10

* Cited in the EP Citation Filed by a Third Party dated 14 July 2010 for Publication No. 2135606.

Note that this report has cited non-patent literature document/s. Copies of non-patent literature document/s can be requested for a fee (see Patent Regulations, schedule 7, fee item 234) by emailing assist@ipaustralia.gov.au.

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New Documents

I apologise for any inconvenience that raising new citation/s at this stage may have caused.

Special categories of cited documents:

X: The claimed invention cannot be considered novel under subsection 7(1) in light of the document and/or cannot be considered to involve an inventive step under subsection 7(2) of the Act in light of the common general knowledge considered together with the document.

Novelty and Inventive Step

4 Claims 1, 3-4, 6-7 and 9-10 are not novel (and do not involve an inventive step) in the light of documents **D4-D5**.

D4 discloses a therapeutic composition comprising Sesamun indicum Linn. (sesame) which is

suitable for use in the treatment of fatigue following intercourse. As sesamin and episesamin are derived from sesame, it is considered that the aboveforementioned claims lack novelty in the light of D4.

D5 discloses a therapeutic composition comprising *Sesamun indicum* Linn. (sesame) which is suitable for use in removing tiredness (considered to be a disorder involving fatigue). As sesamin and episesamin are derived from sesame, it is considered that the aboveforementioned claims lack novelty in the light of D5.

Hence, as all of the essential features are disclosed, claims 1, 3-4, 6-7 and 9-10 lack novelty (and an inventive step).

Additional Comments

I apologise for any inconvenience resulting from your application not being considered within the time limit set out in our Customer Service Charter.

How to contact us

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