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PATENTS / DESIGNS / TRADE MARKS
GEOGRAPHICAL INDICATIONS

1577/DEL/2006

No. 1577/DEL/2006

Dated the : 29/03/2011

To

L.S. DAVAR & CO
PATENT AND TRADE MARKS ATTORNEYS
5/1 (1ST FLOOR) KALKAJI EXTENSION
NEW DELHI-110019 INDIA.

SUB : First Examination Report

REF :- Patent Application No. 1577/DEL/2006

NAME OF APPLICANT :- DIRECTOR, CENTRAL COUNCIL FOR RESEARCH IN UNANI
MEDICINE

a) This report is the First/ Consequent Examination Report prepared on the basis of the examination conducted on the instant application under Section 12 and 13 of the Patents Act 1970.

b) The report contains the official requirements broadly on the following grounds:

- i. Whether the application and the specification and other documents relating thereto are in accordance with the requirements of this Act and of any rules made thereunder.
- ii. Whether there is any lawful ground of objection to the grant of the patent under this Act in pursuance of the application.
- iii. The result of investigations made under section 13; and
- iv. Other prescribed matters.

c) The application under reference will be treated as deemed to have been abandoned under Section 21(1) of the Act unless all the requirements imposed by the Act and rules made there under are complied with within prescribed period of 12 months from the issuance of this report.

2. Detailed Examination Report:

(Dr.S.S.Singh)

Controller of Patents &
Designs

Encl:-

NOTE : All Communications to be sent to the Controller of Patents at the above address.

Subject matter of claims lack novelty and inventive step under section 2(1)(j) of Patents Act, 1970, Amendment 2005 in view of all documents cited below:

IPD1-RS21/683 Ardhavabhedakahara Yoga

Useful in the Treatment of following Diseases : Hemicrania / Migraine (ardh?vabhedaka).

Knowledge Known Since : 50 years

Bibliography : Rasatantras?ra? Evam Siddhaprayogasa?graha?;

Ingredient(s) : Lavandula stoechas Linn.(ustakhudd?sa, dh?r? (y?.)) Flower(pu?pa), Coriandrum sativum Linn.(dh?nyaka) Fruit (phala), Piper longum Linn.(pippal?) Fruit(phala), Coral / Corallium rubrum(prav?la/vidruma) , Tinospora cordifolia Miers(gu??c?) Stem(k??a), Mica / Biotite(abhraka)-

IPD2-AA1/344 Atoos Bara-e- Siql-e- Raas

Useful in the Treatment of following Diseases : Heaviness of head(Siql-al-Raas).

Knowledge Known Since : 1000 years

Bibliography : Kitaab al Haawi fil Tibb,

Keyword(s)/Ingredient(s) : Citrullus colocynthis (Linn.) Schrad.(Ilanzal) Fruit pulp(Goodah-e-Samar), Piper nigrum Linn.(Filfil (Safaid/Siyah)) Seed(Tukhm/Bazr/Buzoor), Schoenocaulon officinale (Schl. & Cham.) A.Gray(Kundush) , Lavandula stoechas Linn. (Ustakhudoos / Nudd) , Castorium / Beaver(Jundbedastar/Ood Belaa/ Khazmeyaan).

IPD3-US7070817-Herbal composition for treating or alleviating vascular headaches- relates to a herbal composition comprising extract of plant Moringa Oleifera, a member of family Moringaceae, plant Piper Nigrum, a member of family Piperaceae and plant Nicotiana Tabacum, a member of family Solanaceae for treating or alleviating of vascular headaches, neurological...

IPD4-BA3/705C Zimaad Suda'-e- Haar

Useful in the Treatment of following Diseases : Hot headache(Suda?-e-Haar), Headache (Congestive)(Suda?-e-Damvi), Headache (Bilious)(Suda?-e-Safraavi), Headache (Migraine)(Suda?-e-Nisfi/Shaqeeqa), Insomnia(Sahar), Meningitis(Sarsaam), Facial erysipelas (Maashraa), Tic douloureux(Asaaba),

Knowledge Known Since : 100 years

Bibliography : Quaraabaadeen Azam wa Akmal,

Keyword(s)/Ingredient(s) : Santalum album Linn.(Sandal Safaid/Sandal Zard) , Coriandrum sativum Linn.(Kishneez) Fresh (Taaazah), Papaver somniferum Linn.(Khashkhaash / (Safaid/Siyaah)/Afiyun/Khashkhaash Barri / Khashkhaash Zabdi / Khashkhaash Manzoor / Khashkhaash Bahri) ,

IPD5-BA3/705CI Zimaad Qurs-e- Musallas

Useful in the Treatment of following Diseases : Hot headache(Suda?-e-Haar), Headache (Congestive)(Suda?-e-Damvi), Headache (Bilious)(Suda?-e-Safraavi), Headache (Migraine)(Suda?-e-Nisfi/Shaqeeqa), Insomnia(Sahar), Meningitis(Sarsaam), Facial erysipelas (Maashraa), Tic douloureux(Asaaba),

Knowledge Known Since : 100 years

Bibliography : Quaraabaadeen Azam wa Akmal,

Keyword(s)/Ingredient(s) : Coriandrum sativum Linn.(Kishneez) Fresh(Taaazah), Papaver somniferum Linn.(Khashkhaash / (Safaid/Siyaah)/Afiyun/Khashkhaash Barri / Khashkhaash Zabdi / Khashkhaash Manzoor / Khashkhaash Bahri) ,

IPD6- BA3/711A Zimaad Bara-e- Shaqeeqa Haar

Useful in the Treatment of following Diseases : Headache (Migraine)(Suda?-e-Nisfi/Shaqeeqa),

Knowledge Known Since : 100 years

Bibliography : Quaraabaadeen Azam wa Akmal,

Keyword(s)/Ingredient(s) : Coriandrum sativum Linn.(Kishneez) St.Bark, Leaf, Flower, Fruit&Root(Nabat Musallam), Vinegar(Khall) Papaver somniferum Linn.(Khashkhaash / (Safaid/Siyaah)/Afiyun/Khashkhaash Barri / Khashkhaash Zabdi / Khashkhaash Manzoor / Khashkhaash Bahri) Exudate(Taraavush / Samagh / Samagh-e-Kaaj/Raal),

Interpretation:

Novelty under section 2(1)(j) of Patents Act, 1970:

IPD1 discloses all the ingredients of the composition as disclosed in the present invention and is used for treatment of migraine. Thus the present claims lack novelty in view of the cited document.

Inventive step under section 2(1)(j)(a) of Patents Act, 1970:

IPD2 cites Piper and Lavandula and is used for treatment of headache.

IPD3 discloses the use of Piper for the treatment of migraine.

IPD4 discloses the use of coriandrum for the treatment of migraine.

IPD5, IPD6 discloses the use of coriandrum for the treatment of migraine.

The problem to be solved by the present invention seems to be the provision of a herbal composition containing Lavandula, Coriandrum and Piper which is effective against migraine. All the above mentioned documents disclose the use of the components singly as well as in mosaic of citations used in the composition of the invention for the same use. Given the similarity in between the components of IPD1-IPD6 and claimed composition, it would be obvious to a person skilled in the art to make the composition to solve the technical problem. The person skilled in the art would have expected that relatively minor changes in the components would have no fundamental impact on properties of the ingredients known. Thus no inventive step can be acknowledged for the present set of claims.

1 a) Claims 1-4 falls within the scope of such clause(p) of section 3 of Patents Act,1970-The problem to be solved by the present invention seems to be the provision of a herbal composition containing Lavandula, Coriandrum and Piper which is effective against migraine. It is observed that the documents above have all been in the public domain since 1000 to 50 years. Since the composition of the invention appears to be part of traditional knowledge of India the composition as claimed falls under section 3(p) of the Patents Act,1970.

2 b) Claims 1-4 falls within the scope of such clause(e) of section 3 of Patents Act,1970 -In the absence of the ratio of the ingredients of the components claims fall under the said clause/section. Kindly provide the ratio of the ingredients of the composition.

3 c) Claims 1-4 falls within the scope of such clause(d) of section 3 of Patents Act,1970-above mentioned documents disclose the use of the components singly as well as in mosaic of citations used in the composition of the invention for the same use. All the ingredients of the invention are known and for the same use for the treatment of migraine. Thus technical advancement of the composition over the prior art cited documents should be provided by means of efficacy details. In the absence of the same the composition would be considered as "same substance" as per the clause/Act.

4 Claims 1-4 not clear in respect of the expression such as:

5 a) The ratio of the components of the composition should be defined in claim 1 to make it definitive.

6 b) Claim 4 relates to the process for preparing the composition-kindly provide all inventive process parameters in the claim to make it definitive.

7 Claims 1-4 not clearly worded. As mentioned above the claims are not clearly worded.

8 Claims do not sufficiently define the invention, should be more clearly stated to support the main claim and to describe the novel features of the invention clearly and supportively.

9 Claims 1-4 not fairly based on the matter disclosed in the specification.

10 Distinguishing features as compared with prior art given is not clear and should be provided. The complete specification does not provide the advantages of the claimed invention vis a vis drawbacks of the compound/compositions/processes already known in the prior art.

11 Details of Biological materials like Deposit in authorised depository Institution, Date of Deposit of Biological materials and Source/ Geographical origin in the specification should be provided in accordance to section 10(4)(ii)(A)-(D).

12 Reference to foreign patent applications/patents should be replaced by Indian patent numbers.

13 Title is not precise and does not sufficiently indicate the subject.

A Concise summary of the invention along with precise title should be filed in accordance to Rule 13(7) of Patents Act, 1970, Amendment 2005.

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.

The Drawings referred to in the specification should be prepared in accordance with the instructions contained in the Rule 15 of the Patent Rules, 2003(as amended in 2006).