

1752/DEL/2007



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Date : 06/09/2012

Letter No.:-BIO-TECH/2014/

To,
I.S. Davar & Co.
Patent and Trademarks Attorney,
5/1, (First Floor), Kalkaji Extension,
N. Delhi - 110 019

SUB : **Examination Report**

APPLICATION NUMBER : 1752/DEL/2007
DATE OF FILING : 17/08/2007
DATE OF REQUEST FOR EXAMINATION : 24/09/2008
DATE OF PUBLICATION : 24/04/2009

With reference to the RQ No. 9474/RQ-DEL/2008 Dated 24/09/2008 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 1-4 lacks novelty and inventive step u/s 2(1)(j) of the patents act 1970 in the light of the documents cited below.

1. **[BOOK] Herbal Cure**: AASDS Charan - 2000 - books google com

This book describes the effect and uses of various traditionally known plants and compounds used in the treatment of psoriasis and eczema

2. **Herbal cosmetics for skin and hair care**: VP Kapoor - Indian Journal of Natural Products and Resources (? , 2005 - nopr.niscair.res.in

1 Document describes herbal compositions used for skin complications.

3 http://www.tkdil.res.in/tkdil/langdefault/Unani/Una_Advancesearch.asp?GL_Eng

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From these documents it is clear that the ingredients used in the present composition are traditionally known. The ingredients used are of unani medicinal origin.
1. claims 1-4 falls u/s 3(p) of the Patents act 1970 as the subject matter is related to traditional knowledge. The ingredients used for the preparation of the herbal composition is traditionally known as unani medicine for the same purpose as that of the present invention.

2. claim 1 also falls u/s 3(e) of the Patents act 1970 as the claims are related to a herbal composition which appears to be a mere admixture. In the absence of sufficient experimental data it is not clear if any unknown technical effect is produced by using this composition in comparison to what is already known from the prior art documents.

3. Claims 2-4 falls u/s 3(d) of the Patents act 1970 as they are directed to a process which is a common process already known in prior art.

1. Claim 1 do not sufficiently define the invention. The major technical features of the invention are not clearly indicated. The ingredients of the herbal composition are not clearly defined in the claim.

3 2. The scientific name of the constituents should be clearly included in claim 1 and subsequent claims.

3. The term "comprising" used in the claims should be removed and replaced with appropriate terminology as the term is vague and unclear.

4 The practice of including an omnibus claim (claim no.5) 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.

5 Clerical errors in page 2 and 3 of the Complete specification should be corrected.

6 Endorsement by or assignment from the inventor to the applicant should be filed u/s7(2)of the Patent Act 1970

7 Power of Authority should be filed in accordance to the Patent Rules 135 of The Patents Act 1970,with the prescribed stamp duty as under the Indian stamp act, 1899.

8 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) .

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

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

10 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.

11 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.

You are requested to comply with the objections by filing your reply by way of explanation and/or amendments within 12 months c) from the date of issue of FER failing which you application will be treated as "Deemed to have been abandoned" under section 21(1) of the Act. The last Date is 06/09/2013.

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

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