Ministry of Economic Development
Manatū Ōhanga
Intellectual Property Office of New Zealand

20 March 2008

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Singapore

Patent Application No: 540943
In the Name of: Lin Zhen Man
Your ref:

Examination Report

Thank you for your letter of 29 February 2008.

Receipt of amended pages 1-19 is acknowledged.

1 Regulation 12:

1.1 Pages have been renumbered and the objection is withdrawn.

2 Section 10(4):

2.1 Claim 1 wording is still unclear. 1) The applicant states that the surface to be treated "is the same as applying alcohol disinfect of derma". This does not indicate clearly the tissue to be treated. Is skin ("derma") to be treated? Elsewhere in the application it appears that lungs were to be treated. 2) The formulation also remains unclear as written. The applicant states that "Because the liquid medicine is one huge chemical group and not a single substance" The question remains: is the PFC mixed with ozone?

The applicant needs to change the text of the claim to clarify points 1) and 2) above. The objection is maintained.

2.2 Claim 2 wording is still unclear. The applicant states that "... F atom is they had common characteristic". The claim appears to encompass all possible compounds containing F atom, which is overly broad and speculative, because the applicant has not explored sufficiently the range of possible F atom containing compounds in the specification.

The applicant needs to change the text of the claim to clarify and limit the scope of the claim to the matter disclosed in the specification. The objection is maintained.

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2.3 Claim 3 wording is still unclear. The applicants states that "... claims encompasses substitute liquid which was stated that does not have the "F" atom content in the liquid and "... the single oxygen is decomposed by other element" ...". It appears that compounds without F atom together with something else is intended. The wording "single oxygen is decomposed by other element" is unclear. The claim as a whole is unclear and appears overly broad and speculative, because it includes all possible compounds without F atom.

The applicant needs to change the text of the claim to clarify and limit the scope of the claim to the matter disclosed in the specification. The objection is maintained.

2.4 Claim 4: In view of amendments, the objection is withdrawn.

2.5 Claim 5 still lacks clarity. The term "substantially as herein described" includes the prior art described in the disclosure. In order to be fairly based on the disclosure some amendment is necessary, for example by making the claim dependent on one or more of the preceding claims.

The applicant needs to change the text of the claim to clarify and limit the scope of the claim to the matter disclosed in the specification. The objection is maintained.

3 Section 13:

3.1 Claims 1-6: It appears that the invention lies in the combination of PFC compound mixed with ozone, but this needs to be clarified (see objection under section 10(4) above for claim 1).

The applicant states that 1) the US patent 6,242,472 is for medical treatment which is not allowed in New Zealand, and 2) "the US patent 6,242,472 is an invention of single substance, but my claims of application invention is a liquid medicine and include two substance only". Firstly, although the claims in the US patent are for a method of delivery of a medicament, the US patent also discloses a formulation similar to the claimed matter. Secondly, the US patent claims also include two substances, the medicine and the perfluorochemical, and in addition in claim 5 also oxygen (= a therapeutic mixed with a perfluorochemical liquid carrier which is oxygenated). Therefore the US patent 6,242,472 is considered to be prior art and the objection is maintained.

Claims 1-5 of the US 6,242,472 are listed below for your information.

> 1. A method for the delivery of a therapeutic or diagnostic biological agent to pulmonary air passages of a patient in need thereof comprising the steps of:
>
> combining said therapeutic or diagnostic biological agent in the form of a solid or immiscible liquid with a perfluorochemical liquid carrier to provide a pharmaceutical preparation; and
>
> administering said pharmaceutical preparation to the pulmonary air passages of said patient.
>
> 2. The method of claim 1 wherein the biological agent is selected from the group consisting of antibody-linked radionuclides, vasoconstrictors, vasodilators, bronchoconstrictors, bronchodilators, anti-cancer agents,

surfactants, steroids, antibiotic agents, chemotactic agents, chemotherapeutic agents, contrast agents, antioxidants and antiproteases, or a combination thereof.

3. The method of claim 1 wherein said perfluorochemical liquid carrier comprises a perfluorocarbon having a boiling point greater than about 55.degree. C.

4. The method of claim 1 wherein said perfluorochemical liquid carrier is selected from the group consisting of FC-84, FC-72, RM-82, FC-75, RM-101, FC-43, RM-175, FC-5311, FC-5312, trimethylbicyclononane, dimethyladamantine and perfluorodecalin, or a combination thereof.

5. The method of claim 1 wherein said pharmaceutical preparation is oxygenated.

4 Section 10(3)(b):

4.1 The applicant states that the empty tables are only for a guide of medical treatment. In that case, there appears to be no fair basis in the specification to indicate that the invention actually works as intended. Therefore the objection is maintained.

The applicant is again urged to consult a professional patent lawyer for assistance in clarifying the claims and in dealing with the formalities in using correct application forms etc. This is important, because there is already little time left for completion of all matters. Relevant information can be found on the IPONZ website at www.iponz.govt.nz.

The time for completion of all matters expires on **23 March 2008**. An extension of time of up to three months may be requested under section 19(2).

Please note that a reply to this report may optionally be sent through our online correspondence facility at www.iponz.govt.nz (select 'Information Library', 'Using the IPONZ website', and 'NZ Online Correspondence - Overview').

Please contact me if you have any questions.

Yours sincerely

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