

EXHIBIT 1014:

PATENT APPLICATION 09/521,163; 7/31/2002 OFFICE ACTION.

Pharmatech Solutions, Inc.: EXHIBIT 1014
REQUEST FOR *INTER PARTES* REVIEW



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/521,163	03/08/2000	Oliver W.H. Davies	FBDP001	1567

21121 7590 07/31/2002
OPPEDAHL AND LARSON LLP
P O BOX 5068
DILLON, CO 80435-5068

EXAMINER
NOGUEROLA, ALEXANDER STEPHAN

ART UNIT PAPER NUMBER

1743

9

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Office Action Summary	Application No. 09/521,163	Applicant(s) DAVIES ET AL.	
	Examiner ALEX NOGUEROLA	Art Unit 1743	

CALC

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 April 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 21-42 is/are pending in the application.

 4a) Of the above claim(s) ____ is/are withdrawn from consideration.

5) Claim(s) 40-42 is/are allowed.

6) Claim(s) 21-39 is/are rejected.

7) Claim(s) ____ is/are objected to.

8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a)

11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

 a) All b) Some * c) None of:

 1. Certified copies of the priority documents have been received.

 2. Certified copies of the priority documents have been received in Application No. ____.

 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

 * See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.

4) Interview Summary (PTO-413) Paper No(s) ____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

Response to Amendment

1. Applicant's amendment of April 22, 2002 does not render the application allowable.

Response to Arguments

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new grounds of rejection. It will be noted that although Horii "relates to a liquid environment and electrode failure, rather than filling sufficiency", as stated by applicant, the device of Claims 21-29 and that of Claims 30-36 do not have determination of filling sufficiency as even intended use and the method of Claims 37-39 does not have a step of determining filling sufficiency.

Claim Rejections - 35 USC § 112

3. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

- a) Claim 28: what structure is implied by having the device of Claim 21 arranged to measure the currents after a predetermined time following application of the sample? This seems like a method step.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 21-27 and 30-35 are rejected under 35 U.S.C. 102(b) as being anticipated by newly cited Yee (US 5,672,256).

Addressing Claim 21, Yee teaches a device for measuring the concentration of a substance in a sample liquid, the device comprising

a first working sensor part for generating charge carriers in proportion to the concentration of the substance in the sample liquid (col. 3, ll. 33-37 and col. 4, ll. 29-42, especially lines 31 and 40-41);

a second working sensor part also for generating charge carriers in proportion to the concentration of the substance in the sample liquid (col. 3, ll. 33-37 and col. 4, ll. 29-42, especially lines 31 and 40-41); and

a reference sensor part which is a common reference for both the first and second working sensor parts (col. 3, ll. 33-37 and col. 4, ll. 28-32), wherein the first and second working sensor parts and the reference sensor parts are provided on a disposable test strip (Figure 3 and col. 1, ll. 16-20).

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