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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
95/001,774 10/19/2011 8,030,348 AKBM-32174 1897

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COOLEY LLP
ATTN: Patent Group
1299 Pennsylvania Avenue, NW
Suite 700
Washington, DC 20004

EXAMINER

CAMPELL, BRUCE R

ART UNIT PAPER NUMBER

3991

MAIL DATE DELIVERY MODE

05/14/2013

PAPER

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

The time period for reply, if any, is set in the attached communication.

Petition for Inter Partes Review
Of U.S. Patent 8,278,351
Exhibit
ENZYMOTEC - 1064

<b>Transmittal of Communication to Third Party Requester <i>Inter Partes</i> Reexamination</b>	Control No.	Patent Under Reexamination	
	95/001,774	8,030,348	
	Examiner	Art Unit	
	BRUCE CAMPPELL	3991	

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

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

J. Mitchell Jones, ESQ.  
Casmir Jones, S.C.  
2275 Deming Way  
Suite 310  
Middleton, Wisconsin 53562

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

**All correspondence** relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

<b>ACTION CLOSING PROSECUTION (37 CFR 1.949)</b>	Control No.	Patent Under Reexamination
	95/001,774	8,030,348
	Examiner	Art Unit
	BRUCE CAMPPELL	3991

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

**Responsive to the communication(s) filed by:**

Patent Owner on 19 March, 2012

Third Party(ies) on 14 August, 2012

Patent owner may once file a submission under 37 CFR 1.951(a) within 1 month(s) from the mailing date of this Office action. Where a submission is filed, third party requester may file responsive comments under 37 CFR 1.951(b) within 30-days (not extendable- 35 U.S.C. § 314(b)(2)) from the date of service of the initial submission on the requester. **Appeal cannot be taken from this action.** Appeal can only be taken from a Right of Appeal Notice under 37 CFR 1.953.

**All correspondence** relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

**PART I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1.  Notice of References Cited by Examiner, PTO-892
2.  Information Disclosure Citation, PTO/SB/08
3.  \_\_\_\_\_

**PART II. SUMMARY OF ACTION:**

- 1a.  Claims 1-148 are subject to reexamination.
- 1b.  Claims \_\_\_\_\_ are not subject to reexamination.
2.  Claims \_\_\_\_\_ have been canceled.
3.  Claims \_\_\_\_\_ are confirmed. [Unamended patent claims]
4.  Claims \_\_\_\_\_ are patentable. [Amended or new claims]
5.  Claims 1-148 are rejected.
6.  Claims \_\_\_\_\_ are objected to.
7.  The drawings filed on \_\_\_\_\_  are acceptable  are not acceptable.
8.  The drawing correction request filed on \_\_\_\_\_ is:  approved.  disapproved.
9.  Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d). The certified copy has:
  - been received.  not been received.  been filed in Application/Control No \_\_\_\_\_
10.  Other \_\_\_\_\_

***Inter Partes Reexamination  
Action Closing Prosecution***

U.S. Patent 8,030,348 (the '348 patent) is subject to reexamination. A non-final Office action rejecting claims 1-21 was mailed December 19, 2011.

Patent Owner filed a response on March 19, 2012. The response included claim amendments, new claims 22-148, and declarations by Fotini Sampalis, Earl L. White, Faustinus Yeboah, Fereidoon Shahidi, Chong M. Lee, Anthony P. Bimbo and Jacek Jaczynski.

Requester filed comments and declarations by Bjorn Ole Haugsgierd (supplemental declaration), Thomas Gundersen (supplemental declaration), Richard B. van Breemen and Ivar Storrø on April 18, 2012.

A Notice Re Defective Paper was mailed August 3, 2012.

Requester filed corrected comments on August 14, 2012.

***Status of the Claims***

Claims 1-21 and newly added claims 22-148 are subject to reexamination. Claims 10 and 15-18 have been amended.

***Documents Submitted by Requester***

The following documents were submitted by Requester.

WO 00/23546, published April 27, 2000 by Beaudoin et al. (Beaudoin I)

Canadian Application 2,251,265, published April 21, 2000 by Beaudoin et al. (Beaudoin II)

Japanese Laid Open Application 2909508, published August 28, 1990 by Maruyama et al.

Araki et al., Positional distribution of fatty acids glycerolipids of the marine red alga, *Porphyra yezoensis* 28(5):761-766 (1987)

Japanese Laid Open Publication 64-50890, published February 27, 1989 by Nishizawa et al.

Art Unit: 3991

FAO Fisheries Technical Paper 441, Chapter 8, Seaweeds Used as Human Food (2003)

Eichberg, "Lecithin - Its Manufacture and Use in the Fat and Oil Industry," Oils and Soap 51-54, (1939)

Johnson and Lucas, Comparison of Alternative Solvents for Oils Extraction, JAOCS 60(2):229-242 (1983)

U.S. Pat. No. 4,714,571, issued December 22, 1987 to Tremblay et al.

WO 97/39759, published October 30, 1997 by Stoll et al.

#### ***Documents Cited by Examiner***

Masson et al. (1990) Influence of hazelnut oil phospholipids on the skin moisturizing effect of a cosmetic emulsion. International Journal of Cosmetic Science 12,243-251

[http://www.ewg.org/skindeep/product/40396/Glycolix\\_Elite\\_Treatment\\_Pads\\_10%25\\_%282010\\_formulation%29/#jumptohere](http://www.ewg.org/skindeep/product/40396/Glycolix_Elite_Treatment_Pads_10%25_%282010_formulation%29/#jumptohere) [accessed 3/7/2013]  
("Environmental Working Group")

#### ***Scope of the Claims***

In reexamination, patent claims are construed broadly. In re Yamamoto, 740 F.2d 1569, 1571, 222 USPQ 934, 936 (Fed. Cir. 1984) (claims given "their broadest reasonable interpretation consistent with the specification"). The independent claims read as follows:

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