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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,354	06/30/2004	Masayo Higashiyama	2004_1016A	2612
513	7590	08/30/2013	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503			FRAZIER, BARBARA S	
			ART UNIT	PAPER NUMBER
			1611	
			NOTIFICATION DATE	DELIVERY MODE
			08/30/2013	ELECTRONIC

**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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com  
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Continuation of Status 1).Responsive to communication(s) filed on: 30 May 2012, 14 September 2012 and 15 February 2013.

### DETAILED ACTION

1. The present application is being examined under the pre-AIA first to invent provisions.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 30 May 2012 has been entered.

#### ***Status of Claims***

3. Claims 1, 3, 5-9, and 12-15 are pending in this application.
4. Cancellation of claims 2, 4, and 10 is acknowledged; claim 11 already stands canceled.
5. Addition of new claims 14 and 15 is acknowledged.
6. Claims 1, 3, 5-9, and 12-15 are examined.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The rejection of claims 1-10, 12, and 13 under 35 U.S.C. 103(a) as being unpatentable over Kita in view of Lehmuusaari is modified as follows:

9. **Claims 1, 3, 5-9, 12, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmuusaari et al. (“Lehmuusaari”, US Patent 5,795,913, previously cited) in view of Kita et al. (“Kita”, US Patent 6,307,052, previously cited) and optionally further in view of Araki et al. (“Araki”, WO 01/80858).** US 2003/0139436 is the national stage entry of WO 01/80858, and thus serves as an English translation of WO 01/80858; accordingly, relevant passages will be taken from the US '436 reference.

Regarding claims 1 and 13, Lehmuusaari teaches an ophthalmic composition in the form of a topical aqueous solution consisting essentially of an ophthalmologically active agent containing basic groups, an ion sensitive hydrophilic polymer containing acidic groups, and at least one salt selected from the group of inorganic salts and buffers in a total amount of from 0.01 to 2.0% by weight (abstract). The ophthalmologically active agent may be an antiallergic agent containing basic groups, including basic heterocycles, such as pyridine and piperidine (col. 4, lines 2-9). The

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