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Request for Continued Examination (RCE) Transmittal

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Application Number	10/927,857
Filing Date	August 27, 2004
First Named Inventor	Andrew Acheampong
Art Unit	1654
Examiner Name	Marcela M. Cordero Garcia
Attorney Docket Number	17618(AP)

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
- a. Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
 - i. Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
 - ii. Other _____
 - b. Enclosed
 - i. Amendment/Reply
 - ii. Affidavit(s)/ Declaration(s)
 - iii. Information Disclosure Statement (IDS)
 - iv. Other _____

2. **Miscellaneous**

- a. Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. Other _____

3. **Fees**

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed. The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 01-0885. I have enclosed a duplicate copy of this sheet.
- a. RCE fee required under 37 CFR 1.17(e)
 - ii. Extension of time fee (37 CFR 1.136 and 1.17)
 - iii. Other _____
 - b. Check in the amount of \$ _____ enclosed
 - c. Payment by credit card (Form PTO-2038 enclosed)

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	Joel B. Gorman	Date	June 15, 2009
Name (Print/Type)	Joel B. Gorman	Registration No.	48,876

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

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This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Acheampong et al

Examiner: Marcela M. Cordero Garcia

Serial No.: 10/927,857

Group Art Unit: 1654

Filed: August 27, 2004

Confirmation No.: 2409

For: METHODS OF PROVIDING
THERAPEUTIC EFFECTS USING
CYCLOSPORIN COMPONENTS

Customer No.: 051957

Response

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicants request continued examination of the above-referenced application, thereby withdrawing their pending appeal. They submit with this paper a list of amended claims at page 2. Remarks follow at page 3.

CLAIMS

The following listing of claims will replace all previous versions of claims presented in this application:

1. – 40 (Canceled).

41. (New) A composition for treating an eye of a human or animal comprising cyclosporin A, castor oil, Pemulen, glycerin, and water, wherein the cyclosporin A is in an amount less than 0.05% by weight; the Pemulin is in amount equal to or greater than 1.0% by weight; the glycerin is in amount equal to or less than 1.0% by weight; and wherein the ratio of cyclosporin A to castor oil is less than 0.04.

REMARKS

The applicants have reviewed the prosecution history of the present application and co-pending application no. 11/897,177, and have found significant errors. The purpose of this request for continued examination is to bring those errors to the attention of the examiner, to file an IDS, and to submit new claims.

The Ding reference and obviousness

The present application describes two compositions at Example 1. Composition II is as follows:

Present Application

	Composition II
Cyclosporin A	0.05 %
Castor Oil	1.25 %
Polysorbate 80	1.00 %
Pemulin®	0.05 %
Glycerine	2.20 %
NaOH	qs
Purified water	qs
pH	7.2-7.6
Ratio cyclosporin to castor oil	0.04

Composition II fell within the scope of the claims that the applicants previously presented for prosecution.

In a final action dated July 2, 2007, the Office rejected the claims under 35 U.S.C. § 103 in view of U.S. Patent No. 5,474,979 (the “Ding reference”). The Ding reference discloses at Examples 1B, 1D, and 1E the compositions shown on the following page.

Ding Reference

	Example 1B	Example 1D	Example 1E
Cyclosporin A	0.40 %	0.05 %	0.05 %
Castor Oil	5.00 %	0.625 %	0.625 %
Polysorbate 80	1.00 %	1.00 %	1.00 %
Pemulin®	0.05 %	0.05 %	0.05 %
Glycerine	2.20 %	2.20 %	2.20 %
NaOH	qs	qs	qs
Purified water	qs	qs	qs
pH	7.2-7.6	7.2-7.6	7.2-7.6
Ratio cyclosporin to castor oil	0.08	0.08	0.08

The only difference between Composition II of the present application, and Examples 1D and 1E of the Ding reference, is that Example 1D has more cyclosporin, and Example 1E has less castor oil. The only difference between Composition II and Example 1B, is that Example 1B has less cyclosporin and less castor oil, although both compositions have cyclosporin and castor oil in the same proportion. Stated differently, Composition II has the same amount of cyclosporin as Example 1E, the same amount of castor oil as Example 1D, and the same proportion of cyclosporin to castor oil as Example 1B. As shown on the following page, the compositions are otherwise the same.

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