



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/520,479	09/12/2006	Neil P. Desai	638772000109	8972
25226	7590	05/02/2013	EXAMINER	
MORRISON & FOERSTER LLP			LOVE, TREVOR M	
755 PAGE MILL RD			ART UNIT	PAPER NUMBER
PALO ALTO, CA 94304-1018			1611	
			NOTIFICATION DATE	DELIVERY MODE
			05/02/2013	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):

EOfficePA@mofo.com
PatentDocket@mofo.com

DETAILED ACTION

Acknowledgement is made to Applicant's response filed 01/27/2012.

Claims 66-68, 70-72, and 74-94 are pending.

Claims 79-84 remain withdrawn.

Claims 85-94 are newly added.

Claims 66, 72, and 74-78 are currently amended.

Claims 66-68 and 70-72, 74-78, and 85-94 are currently under consideration.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 01/27/2012 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the Examiner.

Withdrawn Rejections

The rejection of claim 73 under 35 U.S.C. 103(a) as being unpatentable over Desai et al (U.S. Patent number 5,439,686, Patent issued Aug. 8, 1995) in view of Shively (U.S. Patent number 5,407,683, Patent issued Apr. 18, 1995) is withdrawn in view of Applicant's cancellation of said claim.

Rejections Maintained and Made Again in view of Applicant's amendments and newly added claims 85-94.

Art Unit: 1611

Claim Rejections - 35 USC § 103

The following is a quotation of 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.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 66-68, 70-72, 74-77, and 85-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desai et al (U.S. Patent number 5,439,686, Patent issued

Art Unit: 1611

Aug. 8, 1995) in view of Shively (U.S. Patent number 5,407,683, Patent issued Apr. 18, 1995).

Desai teaches a pharmaceutical suspension comprising taxol (paclitaxel) and albumin (see example 4). Said taxol composition of example 4 (and subsequently 9) comprises 13mg of taxol (2 mg/ml * 6.5ml) and 3ml of 5% human serum albumin (2.85ml water). Desai further teaches that a higher loading of taxol can be achieved by utilizing an additional solvent such as ethyl acetate, which is removed. Said taxol suspension is taught as being protein walled polymeric shells enclosing an oil/taxol solution (example 4) and a solid taxol with a shell of protein (example 9), wherein said core is not taught as comprising a substantial amount of polymer. Desai teaches that the composition of Desai is stable for 27 days at temperatures of 4°C, 25°C, and 38°C (see example 5). Desai teaches that the crystalline taxol can be ground to a size less than 1 micron, which allows for intravenous delivery, wherein preferred particle radii for the invention of Desai are 0.1 to 5 microns (see column 6, lines 14-16). It is noted that the albumin is taught as being substantially crosslinked by way of disulfide bonds (see claim 1), wherein it is further noted that the remaining (free) albumin would necessarily associate with the taxol.

Desai fails to directly teach that the concentration of taxol (paclitaxel) is between 5 mg/ml and 15 mg/ml (claim 66) or 5mg/ml (claim 68).

Shively teaches that "[f]or therapeutic use, emulsions containing between about 0.5 and about 5 mg/ml taxol [...] are [...] administered orally or intravenously" (see column 9, lines 51-54).

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.