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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/194,437	03/08/2021	David Arthur STRUGIS	15149CC	1043
27752 7590 05/31/2022 THE PROCTER & GAMBLE COMPANY GLOBAL IP SERVICES CENTRAL BUILDING, C9 ONE PROCTER AND GAMBLE PLAZA CINCINNATI, OH 45202			EXAMINER MERCIER, MELISSA S	
			ART UNIT 1615	PAPER NUMBER
			NOTIFICATION DATE 05/31/2022	DELIVERY MODE 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):

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DETAILED ACTION

Notice of Pre-AIA or AIA Status

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Information Disclosure Statement

Receipt of the Information Disclosure Statements filed on August 3, 2021; September 30, 2021; and May 18, 2022 is acknowledged. Signed copies are attached to this office action.

In the IDS dated August 3, 2021 US 2011/01986786 drawn to determining trustworthiness and familiarity of users of an electronic billing and payment system and NPL documents 1-7 and 11-12 have not been considered.

Claim Objections

Claim 2 is objected to because of the following informalities: salicylic is spelled incorrectly in line 5. Appropriate correction is required.

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art is that of Lee et al. (US 2002/0086039). Lee discloses cosmetic compositions, for example antiperspirant and deodorant products that can be in the form of a stick. Lee additionally discloses components such as PPG-14 butyl ether, baking soda, dimethicone, isopropyl myristate, mineral oil, octyl dodecanol and stearyl alcohol can be included in said sticks. Lee,

however, discloses active ingredients such as aluminum zirconium tetrachlorohydrate gly or aluminum chlorohydrate are included.

Additional prior art includes Oblong et al. (US 2007/0203240). Oblong discloses personal care compositions comprising niacinamide, stearyl alcohol, dimethicone, and petrolatum. However, the composition is a moisturizing skin cream/lotion. Examples of solid antiperspirants comprise aluminum zirconium tetrachlorohydrate glycinate.

Scavone (US 6,485,717) and (US 7,033,579) discloses anhydrous antiperspirant and deodorant composition comprising stearyl alcohol, niacinamide, and dimethicone, however, Scavone also requires the use of aluminum zirconium tetrachlorohydrate glycinate.

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art is that of Osipow et al. (US 5,433,943). The teachings of Osipow are discussed below. Osipow does not disclose the use of magnesium hydroxide is not disclosed, nor is there any teaching within the art to indicate that magnesium hydroxide can be used in deodorant stick compositions.

Claim Rejections - 35 USC § 102

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 –

(a)(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention.

Claims 1-7 and 11-14 are rejected under 35 U.S.C. 102(a)(1) as being anticipated by Osipow et al. (US 5,433,943).

Osipow discloses a deodorant composition.

Example 1 discloses a deodorant stick composition comprising:

*Calcium carbonate (antimicrobial);

*Wax blend-stearyl alcohol has a melting point of 59.4-59.8 °Celsius, which meets the limitation of a primary structurants in the instant claim.

*Example 1 does not disclose a secondary structurants greater than 8% having a melting point of at least 60 °Celsius.

*Example 1 additionally does not disclose the use of an aluminum salt.

Regarding claim 2, as noted above, Example 1 discloses the use of calcium carbonate.

Regarding claim 3, calcium carbonate has a water solubility of 15 mg/L, which meets the limitation of at most about 90 g/L at 25 °Celsius.

Regarding claim 4, Example 1 is not disclosed as containing baking soda.

Regarding claim 5, Example 1 discloses 0.5% fragrance. As noted in the instant specification, “substantially free of” is defined as “about 2% or less” (page 3).

Regarding claim 6-7, Example 1 is not disclosed as containing a silicone.

Regarding claim 11, stearyl alcohol is present in the amount of 7.3%, it is the position of the Examiner that 7.3% is “about” 8%.

Regarding claim 12, as note above, stearyl alcohol has a melting point of 59.4-59.8 °Celsius, which meets the limitation of a primary structurants in the instant claim.

Regarding claim 13, as noted above, Example 1 does not disclose a secondary structurants greater than 5% having a melting point of at least 60 °Celsius.

Regarding claim 14, the stick formulation is prepared by melting the waxes, mixing until homogenous, and pouring into chilled containers while being kept cold until the sticks set (column 4, lines 44-60).

Since Osipow discloses the same composition as recited in the instant claims, it would necessarily also possess the same properties as recited, absent a showing of evidence to the contrary.

Osipow, therefore, anticipates the rejected claims.

Claim Rejections - 35 USC § 103

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

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries for establishing a background for determining obviousness under 35 U.S.C. 103 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 the examiner presumes that the subject matter of the various claims was commonly owned as of the effective filing date of the claimed invention(s) absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and effective filing dates of each claim that was not commonly owned as of the effective filing date of the later invention in order for the examiner to consider the applicability of 35 U.S.C. 102(b)(2)(C) for any potential 35 U.S.C. 102(a)(2) prior art against the later invention.

Claims 1-7, 9, 11-14 are rejected under 35 U.S.C. 103 as being unpatentable over Osipow et al. (US 5,433,943).

The teachings of Osipow are discussed above.

Osipow does not exemplify the use of baking soda or sodium bicarbonate.

Osipow discloses in deodorant compositions may contain sodium bicarbonate as a deodorant ingredient (column 4, lines 6-7).

It would have been obvious to one of ordinary skill in the art prior to the effective filing date of the invention to have used any of the recited deodorant ingredients disclosed since they are disclosed as being functional equivalents to each other by Osipow. Therefore, the skilled artisan would expect the deodorant stick to skill function as claimed.

Double Patenting

A rejection based on double patenting of the “same invention” type finds its support in the language of 35 U.S.C. 101 which states that “whoever invents or discovers any new and useful process... may obtain a patent therefor...” (Emphasis added). Thus, the term “same invention,” in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Vogel*, 422 F.2d

438, 164 USPQ 619 (CCPA 1970); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the claims that are directed to the same invention so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claim 8 is directed to the same invention as that of claim 1 of commonly assigned 10,543,164. Under 35 U.S.C. 101, more than one patent may not be issued on the same invention.

The USPTO may not institute a derivation proceeding in the absence of a timely filed petition. The U.S. Patent and Trademark Office normally will not institute a derivation proceeding between applications or a patent and an application having common ownership (see 37 CFR 42.411). The applicant should amend or cancel claims such that the reference and the instant application no longer contain claims directed to the same invention.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46

USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on nonstatutory double patenting provided the reference application or patent either is shown to be commonly owned with the examined application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement. See MPEP § 717.02 for applications subject to examination under the first inventor to file provisions of the AIA as explained in MPEP § 2159. See MPEP § 2146 *et seq.* for applications not subject to examination under the first inventor to file provisions of the AIA. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO Internet website contains terminal disclaimer forms which may be used. Please visit www.uspto.gov/patent/patents-forms. The filing date of the application in which the form is filed determines what form (e.g., PTO/SB/25, PTO/SB/26, PTO/AIA/25, or PTO/AIA/26) should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal Disclaimers, refer to www.uspto.gov/patents/process/file/efs/guidance/eTD-info-I.jsp.

Claims 1-14 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 10,966,915. Although the claims at issue are not identical, they are not patentably distinct from each other because the

instant and patented claims are drawn to deodorant sticks comprising an antimicrobial agent, a primary structurants having a melting point of at least 50 ° Celsius, and being free of an aluminum salt in the independent claim while additional limitations including secondary structurants, and liquid triglyceride components are recited in dependent claims.

Claims 1-7 and 9-14 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 10,543,164. Although the claims at issue are not identical, they are not patentably distinct from each other because the instant and patented claims are drawn to deodorant sticks comprising an antimicrobial agent, a primary structurants having a melting point of at least 50 ° Celsius, and being free of an aluminum salt in the independent claim while additional limitations including secondary structurants, and liquid triglyceride components are recited in dependent claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA S MERCIER whose telephone number is (571)272-9039. The examiner can normally be reached M-F 5:30 am to 4 pm EST.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Wax can be reached on 571-272-0623. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of published or unpublished applications may be obtained from Patent Center. Unpublished application information in Patent Center is available to registered users. To file and manage patent submissions in Patent Center, visit: <https://patentcenter.uspto.gov>. Visit

<https://www.uspto.gov/patents/apply/patent-center> for more information about Patent Center and <https://www.uspto.gov/patents/docx> for information about filing in DOCX format. For additional questions, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MELISSA S MERCIER/
Primary Examiner, Art Unit 1615

Appl. No. 17/194437
Docket No. 15149CC
Reply to Office Action mailed on May 31, 2022
Response filed July 26, 2022
Customer No. 27752

AMENDMENTS TO THE CLAIMS

The following listing of claims replaces all prior versions and listings of the claims in the application.

What is claimed is:

1. (Currently Amended) A deodorant stick comprising:
 - a. at least one antimicrobial comprising magnesium hydroxide; and
 - b. a primary structurant with a melting point of at least about 50°C; and
 - c. ~~less than 8% of secondary structurants having a melting point at least about 60°C;~~said stick being free of an aluminum salt; and
said stick having a hardness from about 80 mm*10 to about 140 mm*10, as measured by penetration with ASTM D-1321 needle.
2. (Cancelled)
3. (Original) The deodorant stick of claim 1, wherein the antimicrobial is a powder with a water solubility of at most about 90 g/L at 25°C.
4. (Original) The deodorant stick of claim 1, wherein the deodorant stick is substantially free of baking soda.
5. (Original) The deodorant stick of claim 1, wherein the deodorant stick is substantially free of a synthetic fragrance.
6. (Original) The deodorant stick of any claim 1, wherein the deodorant stick is substantially free of silicones.

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7. (Original) The deodorant stick of claim 1, wherein the deodorant stick comprises from 0% to 5% silicones.
8. (Original) The deodorant stick of claim 1, comprising at least about 25% of a liquid triglyceride.
9. (Currently Amended) The deodorant stick of claim 1, ~~wherein~~ further comprising an additional ~~the~~ antimicrobial comprising ~~es~~ baking soda.
10. (Cancelled)
11. (Original) The deodorant stick of claim 1, wherein the stick comprises from about 8% to about 20% of the primary structurant.
12. (Original) The deodorant stick of claim 1, wherein the primary structurant has a melting point from about 50°C to 75°C.
13. (Original) The deodorant stick of claim 1, comprising less than 5% of secondary structurants having a melting point above 60°C.
14. (Original) A method of making the deodorant stick of claim 1, comprising the steps of combining the deodorant components in an open tank system, mixing the components, heating the components, and cooling the components.
15. (New) The deodorant stick of claim 1, further comprising less than 8% of secondary structurants having a melting point at least about 60°C.
16. (New) The deodorant stick of claim 1, wherein the primary structurant is stearyl alcohol.
17. (New) The deodorant stick of claim 1, further comprising shea butter.
18. (New) The deodorant stick of claim 1, further comprising tapioca starch.

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REMARKS

Claim Status

Claims 1-14 are pending in the present application. No additional claims fee is believed to be due.

Claim 1 is amended to state that the deodorant stick comprises an antimicrobial comprising magnesium hydroxide and to remove the limitation regarding secondary structurants. Claim 9 is amended and new claims 15-18 are added. Claim 2 and 10 are cancelled.

Applicants submit that these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Claim Objections

Claims 2, 8 and 10 are objected to. Claims 2 and 10 are now cancelled, rendering the objections moot. Due to amendments, Applicants respectfully request that the objection to Claim 8 be withdrawn.

Rejection Under 35 U.S.C. § 102(a)(1) (AIA) Over Osipow et al. (US 5,433,943).

Claims 1-7 and 11-14 are rejected under 35 U.S.C. § 102(a)(1) (AIA) as being anticipated by Osipow et al.

Rejection Under 35 U.S.C. § 103 (AIA) Over Osipow et al.

Claims 1-7, 9, and 11-14 are rejected under 35 U.S.C. § 103 (AIA) as being unpatentable over Osipow et al.

Applicants have amended Claim 1 to state that the deodorant stick comprises an antimicrobial comprising magnesium hydroxide and to remove the limitation regarding secondary structurants. As noted in the Office Action, Osipow does not disclose or teach

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the use of magnesium hydroxide in deodorant stick compositions. Thus, Osipow does not anticipate the present invention, nor make it obvious. Applicants respectfully request that the rejections be withdrawn.

Non-Statutory Double-Patenting Rejection

Claims 1-14 are rejected on the ground of non-statutory obviousness-type double patenting over claims 1-15 of U.S. Patent No. 10,966,915.

Claims 1-7 and 9-14 are rejected on the ground of non-statutory obviousness-type double patenting over claims 1-15 of U.S. Patent No. 10,543,164.

Applicants are submitting a terminal disclaimer over U.S. Patents 10,966,915 and 10,543,164 and respectfully request that the rejections be withdrawn.

Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, the Applicant respectfully requests the Examiner to reconsider this application, and allow the pending claims.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By /Kathleen Y. Carter/

Signature

Kathleen Y. Carter

Registration No. 60583

(513) 983-2114

Date: July 26, 2022

Customer No. 27752

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 17/194,437
Inventor(s) : David Arthur STRUGIS
Filed : March 08, 2021
Art Unit : 1615
Examiner : Melissa S Mercier
Docket No. : 15149CC
Confirmation No. : 1043
Customer No. : 27752
Title : DEODORANT COMPOSITIONS

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT

The applicant, The Procter & Gamble Company, owner of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior Patent No. 10,966,915 (P&G Case No. 15149C) and Patent No. 10,543,164 (P&G Case No. 15149) as the term of said prior patent is presently shortened by any terminal disclaimer. The applicant hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the applicant does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term of the prior patent, as the term of said prior patent is presently shortened by any terminal disclaimer, in the event that said prior patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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Paper dated July 26, 2022
Reply to Office Action mailed on May 31, 2022

Authorization is given to charge Deposit Account No. 16-2480 for the fee required under 37 C.F.R. §1.20 (d) for submission of this Terminal Disclaimer.

I hereby acknowledge that any willful false statements made are punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.

The undersigned is an attorney or agent of record.

Respectfully Submitted,

THE PROCTER & GAMBLE COMPANY

By /Kathleen Y. Carter/
Kathleen Y. Carter
Registration No. 60583
(513) 983-2114

Date: July 26, 2022
Customer No. 27752

Application Number * 17/194,437 *	Application/Control No. 17/194,437	Applicant(s)/Patent under Reexamination STRUGIS et al.	
	Examiner MERCIER, MELISSA S	Art Unit 1615	
Document Code - DISQ		Internal Document - DO NOT MAIL	

TERMINAL DISCLAIMER	☒ APPROVED	☐ DISAPPROVED
Date Filed: <u>26 July 2022</u>	This patent is subject to a Terminal Disclaimer	

Approved/Disapproved by:
/LAWANA R HIXON/ Technology Center: <u>OPLC</u> Telephone: <u>(571)272-6074</u> _____

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Docket No. 15149CC
Reply to Office Action mailed on May 31, 2022
Supplemental Response filed July 28, 2022
Customer No. 27752

AMENDMENTS TO THE CLAIMS

The following listing of claims replaces all prior versions and listings of the claims in the application.

What is claimed is:

1. (Currently Amended) A deodorant stick comprising:
 - a. at least one antimicrobial comprising magnesium hydroxide; and
 - b. a primary structurant with a melting point of at least about 50°C; and
 - c. ~~less than 8% of secondary structurants having a melting point at least about 60°C;~~said stick being free of an aluminum salt; and
said stick having a hardness from about 80 mm*10 to about 140 mm*10, as measured by penetration with ASTM D-1321 needle.
2. (Cancelled)
3. (Original) The deodorant stick of claim 1, wherein the antimicrobial is a powder with a water solubility of at most about 90 g/L at 25°C.
4. (Original) The deodorant stick of claim 1, wherein the deodorant stick is substantially free of baking soda.
5. (Original) The deodorant stick of claim 1, wherein the deodorant stick is substantially free of a synthetic fragrance.
6. (Original) The deodorant stick of any claim 1, wherein the deodorant stick is substantially free of silicones.

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7. (Original) The deodorant stick of claim 1, wherein the deodorant stick comprises from 0% to 5% silicones.
8. (Original) The deodorant stick of claim 1, comprising at least about 25% of a liquid triglyceride.
9. (Currently Amended) The deodorant stick of claim 1, ~~wherein~~ further comprising an additional ~~the~~ antimicrobial comprising ~~es~~ baking soda.
10. (Cancelled)
11. (Original) The deodorant stick of claim 1, wherein the stick comprises from about 8% to about 20% of the primary structurant.
12. (Original) The deodorant stick of claim 1, wherein the primary structurant has a melting point from about 50°C to 75°C.
13. (Original) The deodorant stick of claim 1, comprising less than 5% of secondary structurants having a melting point above 60°C.
14. (Original) A method of making the deodorant stick of claim 1, comprising the steps of combining the deodorant components in an open tank system, mixing the components, heating the components, and cooling the components.
15. (New) The deodorant stick of claim 1, further comprising less than 8% of secondary structurants having a melting point at least about 60°C.
16. (New) The deodorant stick of claim 1, wherein the primary structurant is stearyl alcohol.
17. (New) The deodorant stick of claim 1, further comprising shea butter.
18. (New) The deodorant stick of claim 1, further comprising tapioca starch.

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19. (New) The deodorant stick of claim 1, comprising at least about 25% caprylic / capric triglyceride.
20. (New) The deodorant stick of claim 1, comprising at least about 25% of a triglyceride.



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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NOTICE OF ALLOWANCE AND FEE(S) DUE

27752 7590 10/20/2022
THE PROCTER & GAMBLE COMPANY
GLOBAL IP SERVICES
CENTRAL BUILDING, C9
ONE PROCTER AND GAMBLE PLAZA
CINCINNATI, OH 45202

EXAMINER

MERCIER, MELISSA S

ART UNIT PAPER NUMBER

1615

DATE MAILED: 10/20/2022

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/194,437	03/08/2021	David Arthur STRUGIS	15149CC	1043

TITLE OF INVENTION: DEODORANT COMPOSITIONS

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$1200	\$0.00	\$0.00	\$1200	01/20/2023

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via EFS-Web.

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Alexandria, Virginia 22313-1450

By fax, send to: (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

27752 7590 10/20/2022
THE PROCTER & GAMBLE COMPANY
GLOBAL IP SERVICES
CENTRAL BUILDING, C9
ONE PROCTER AND GAMBLE PLAZA
CINCINNATI, OH 45202

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being transmitted to the USPTO via EFS-Web or by facsimile to (571) 273-2885, on the date below.

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/194,437	03/08/2021	David Arthur STRUGIS	15149CC	1043

TITLE OF INVENTION: DEODORANT COMPOSITIONS

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$1200	\$0.00	\$0.00	\$1200	01/20/2023

EXAMINER	ART UNIT	CLASS-SUBCLASS
MERCIER, MELISSA S	1615	424-065000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/AIA/122 or PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/AIA/47 or PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) The names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. Fees submitted: ☐ Issue Fee ☐ Publication Fee (if required) ☐ Advance Order - # of Copies _____

4b. Method of Payment: (Please first reapply any previously paid fee shown above)

☐ Electronic Payment via EFS-Web ☐ Enclosed check ☐ Non-electronic payment by credit card (Attach form PTO-2038)

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

5. Change in Entity Status (from status indicated above)

☐ Applicant certifying micro entity status. See 37 CFR 1.29

☐ Applicant asserting small entity status. See 37 CFR 1.27

☐ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/194,437	03/08/2021	David Arthur STRUGIS	15149CC	1043
27752 7590 10/20/2022 THE PROCTER & GAMBLE COMPANY GLOBAL IP SERVICES CENTRAL BUILDING, C9 ONE PROCTER AND GAMBLE PLAZA CINCINNATI, OH 45202			EXAMINER MERCIER, MELISSA S	
			ART UNIT	PAPER NUMBER
			1615	
DATE MAILED: 10/20/2022				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (Applications filed on or after May 29, 2000)

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. 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 1.14. This collection is estimated to take 30 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, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.** Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Notice of Allowability	Application No. 17/194,437	Applicant(s) STRUGIS et al.	
	Examiner MELISSA S MERCIER	Art Unit 1615	AIA (FITF) Status Yes

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to See Continuation Sheet.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

3. ☒ The allowed claim(s) is/are 1,3-9 and 11-20. As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to **PPHfeedback@uspto.gov**.

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

Certified copies:

a) ☐ All b) ☐ Some* c) ☐ None of the:

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)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)	5. ☐ Examiner's Amendment/Comment
2. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____.	6. ☒ Examiner's Statement of Reasons for Allowance
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material _____.	7. ☐ Other _____.
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.	

/MELISSA S MERCIER/ Primary Examiner, Art Unit 1615	
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Continuation of 1. This communication is responsive to: Applicant's remarks and amended claims filed on July 28, 2022 and terminal disclaimer filed on July 26, 2022 is acknowledged.

DETAILED ACTION

Notice of Pre-AIA or AIA Status

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Summary

Receipt of Applicant's remarks and amended claims filed on July 28, 2022 is acknowledged. Receipt of the Terminal Disclaimer filed on July 27, 2022 is acknowledged. Claims 1, 3-9, and 11-20 are pending. Claims 1 and 9 have been amended. Claims 2 and 10 have been cancelled. Claims 15-20 are new.

Information Disclosure Statement

Receipt of the Information Disclosure Statement filed on July 22, 2022 is acknowledged. A signed copy is attached to this office action.

Withdrawn Objections/Rejections

Claim Objections

The objection to claim 2 because salicylic is spelled incorrectly in line 5 has been withdrawn in view of Applicant's cancellation of the claim.

The objection of claim 8 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims has been withdrawn in view of Applicants amendment to claim 1 to incorporate the limitations of claim 10 into claim 1.

The objection to claim 10 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims has been withdrawn in view of Applicants cancellation of the claim.

Claim Rejections - 35 USC § 102

The rejection of claims 1-7 and 11-14 under 35 U.S.C. 102(a)(1) as being anticipated by Osipow et al. (US 5,433,943) has been withdrawn in view of Applicants amendment to claim 1 to incorporate the limitations of claim 10.

Claim Rejections - 35 USC § 103

The rejection of claims 1-7, 9, 11-14 under 35 U.S.C. 103 as being unpatentable over Osipow et al. (US 5,433,943) has been withdrawn in view of Applicants amendment to claim 1 to incorporate the limitations of claim 10.

Double Patenting

The rejection of claim 8 to the same invention as that of claim 1 of commonly assigned 10,543,164. Under 35 U.S.C. 101, more than one patent may not be issued on the same invention has been withdrawn in view of Applicant's amendment to claim 1 to recite the antimicrobial agent comprises magnesium hydroxide.

The rejection of claims 1-14 on the grounds of nonstatutory double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 10,966,915 has been withdrawn in view of Applicant's filing of a terminal disclaimer.

The rejection of claims 1-7 and 9-14 on the ground of nonstatutory double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 10,543,164 has been withdrawn in view of Applicants filing of a terminal disclaimer.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The closest prior art is that of Lee et al. (US 2002/0086039). Lee discloses cosmetic compositions, for example antiperspirant and deodorant products that can be in the form of a stick. Lee additionally discloses components such as PPG-14 butyl ether, baking soda, dimethicone, isopropyl myristate, mineral oil, octyl dodecanol and stearyl alcohol can be included in said sticks. Lee, however, discloses active ingredients such as aluminum zirconium tetrachlorohydrate gly or aluminum chlorohydrate are included;

Oblong et al. (US 2007/0203240) which discloses personal care compositions comprising niacinamide, stearyl alcohol, dimethicone, and petrolatum. However, the composition is a moisturizing skin cream/lotion. Examples of solid antiperspirants comprise aluminum zirconium tetrachlorohydrate glycinate;

Scavone (US 6,485,717) and (US 7,033,579) which disclose anhydrous antiperspirant and deodorant composition comprising stearyl alcohol, niacinamide, and dimethicone, however, Scavone also requires the use of aluminum zirconium tetrachlorohydrate glycinate; and

Osipow et al. (US 5,433,943) discloses a deodorant composition. Example 1 discloses a deodorant stick composition comprising:

*Calcium carbonate (antimicrobial);

*Wax blend-stearyl alcohol has a melting point of 59.4-59.8 °Celsius, which meets the limitation of a primary structurant in the instant claim.

*Example 1 does not disclose a secondary structurants greater than 8% having a melting point of at least 60 °Celsius.

*Example 1 additionally does not disclose the use of an aluminum salt.

Osipow does not disclose the use of magnesium hydroxide is not disclosed, nor is there any teaching within the art to indicate that magnesium hydroxide can be used in deodorant stick compositions.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA S MERCIER whose telephone number is (571)272-9039. The examiner can normally be reached M-F 5:30 am to 4 pm EST.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Robert Wax can be reached on 571-272-0623. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of published or unpublished applications may be obtained from Patent Center. Unpublished application information in Patent Center

is available to registered users. To file and manage patent submissions in Patent Center, visit: <https://patentcenter.uspto.gov>. Visit

<https://www.uspto.gov/patents/apply/patent-center> for more information about Patent Center and <https://www.uspto.gov/patents/docx> for information about filing in DOCX format. For additional questions, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MELISSA S MERCIER/
Primary Examiner, Art Unit 1615