

August 14, 2017

Via E-mail and Federal Express

Mr. Steven J. Hultquist
Hultquist IP
Suite 201
1414 Raleigh Road
Chapel Hill, North Carolina 27517

Re: U.S. Patents 8,939,388; 9,332,776; and 9,551,527 of ZoomEssence, Inc., and
October 14, 2011, Mutual Nondisclosure Agreement Between ZoomEssence, Inc.
and FONA International Inc.

Dear Mr. Hultquist:

This firm represents FONA International Inc. ("FONA") in connection with patent matters. We have reviewed your July 6, 2017, correspondence requesting assurances that FONA's current and prospective activities do not embody any usage of ZoomEssence's proprietary information, or conflict with ZoomEssence Patent Nos. 8,939,388, 9,332,776, and 9,551,527. Please allow this letter to serve as FONA's response to your correspondence.

Initially, be advised that FONA respects the value of intellectual property rights of others. FONA has therefore conducted an investigation into the matters raised in your correspondence. We can find no evidence that FONA has used proprietary information and materials furnished by ZoomEssence for any purpose other than for the purpose stated in the Mutual Nondisclosure Agreement, dated October 14, 2011. If ZoomEssence is aware of evidence to the contrary, please let us know. If we do not hear back from you on this point by October 1, 2017, FONA shall assume that Zoom Essence likewise has no evidence of any such improper use.

We have also reviewed the ZoomEssence patents identified in your letter. Each of the ZoomEssence patents states that the slurry used in the spray drying system is not a conventional slurry. The patents also state that there are significant differences between conventional slurries and the slurries disclosed in the ZoomEssence patents. In particular, the ZoomEssence patents note that conventional slurries have viscosities between about 10-200 mPas, and an amount of water between about 50-70% by weight.

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By contrast, the ZoomEssence patents recite that the viscosity of the ZoomEssence nonconventional slurries is at least greater than 300 mPas, and that the amount of water is between about 20-50% by weight. The '388 patent claims recite this non-conventional slurry feature and require that the slurry have a viscosity of 500 to 16,000 mPas. The '527 patent claims similarly require a viscosity of 500 to 16,000 mPas, and further require that the slurry have a water content of 20-50 wt%. Although the '776 patent claims do not specifically recite a viscosity of 500 to 16,000 mPas and a water content of 20-50 wt% for the slurry, the '776 claims must be construed to include those limitations in order to be valid.

FONA does not use, or have any plans to use a low heat spray drying process to spray dry non-conventional slurries having a viscosity in the range of 500 to 16,000 mPas and/or an amount of water between 20-50 weight percent, as disclosed and claimed in the ZoomEssence patents. FONA's slurries are conventional slurries having viscosities in the range of 150-250 mPas, and an amount of water well above 50%. As the ZoomEssence patents clearly distinguish such conventional slurries from those used in the claimed ZoomEssence process and products, FONA's current and prospective activities do not conflict with the ZoomEssence patents.

To the extent that ZoomEssence considers the '776 patent to cover any spray dried powder containing an active ingredient encapsulated within a carrier, regardless of the viscosity or water content of the slurry used, or the spray drying temperature employed, then the '776 patent claims would read on the prior art. A number of literature references published prior to the '776 patent disclose spray dried powders having the encapsulation efficiency or shelf stability properties claimed in the '776 patent claims. As one example, we bring to your attention the article entitled "Flavor Retention of Peppermint (*Mentha piperita* L.) Essential Oil Spray-Dried in Modified Starches During Encapsulation and Storage," published in 2007. The article discloses emulsifying peppermint oil with different starch carriers, and spray drying the emulsions to form encapsulated products. Table 2 compares the amounts of the different peppermint oil constituent components in the starting emulsion with the amounts in the resulting spray dried powders. As shown in Table 2, for many of the constituent compounds in peppermint oil, there was no significant difference between the amounts in the spray dried encapsulated product and the amounts in the starting emulsion. For example, emulsions prepared with HI-CAP 100 starch and CAPSUL starch showed no change in the amount of limonene, and either no change or a 1% change in the amount of menthol, which clearly satisfies the "about 5%" limitation recited in claim 1.



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A further reference enclosed for your consideration is Watanabe, US2009/0048206, published February 19, 2009, and entitled "Edible Powder Material Having Excellent Shelf Stability". Example 5 discloses emulsifying paprika oil (a pigment) with a carrier comprising hemicellulose and trehalose, and spray drying the emulsion. Reference Example 3 discloses that after storage at 50 degrees C for 4 weeks, the Example 5 spray dried powder retained 97.5% of the paprika pigment that was present in the powder immediately after spray drying. From this Example, it is evident that the amount of paprika pigment did not vary by more than 5% during aging of the powder at elevated temperature, as required by claim 10.

We trust that the information provided is sufficient to address ZoomEssence's concerns. Please contact us should you have questions or concerns.

Very truly yours,

Priscilla F. Gallagher

PFG:cla

Enclosures