



TRADEMARK2U
INTELLECTUAL PROPERTY

Our ref.: PTA8.72

Your ref: UMP.05/28.13/1/(NA)

**LIST OF INVENTORS AND APPLICANT
DRAFTED SPECIFICATION APPROVAL**

Applicant : UNIVERSITI MALAYSIA PAHANG

Current Title : AN ORAL CARE COMPOSITION AGAINST ORAL PATHOGENS

**Old Title : NOVEL EFFECTIVE TOOTHPASTE WITH PLANTS AGAINST
ORAL ISOLATES**

We refer to the matter above.

We need your confirmation on the list of inventors to be named on the utility innovation application papers before we can proceed to file the captioned application. Kindly review the attached drafted specification and let us know if you require any changes. Further details are provided in the attached Patent Factsheet. Kindly read through this Patent Factsheet together with the attached draft.

To proceed with the captioned application, please sign back on this instruction letter to confirm your approval of the drafted specification and details of the inventors as listed here.

Kindly inform us if there are any mistakes in the names of the inventors and their correspondence addresses, or if we have left out any inventors.

Please tick on the box if it is correct, sign on the corresponding column and send this letter back to us.

APPLICANT

UNIVERSITI MALAYSIA PAHANG

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certificate no : 19668



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INVENTOR(S)

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3. **MASHITAH M. YUSOFF**

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Nationality: MALAYSIA



NO OTHER INVENTORS AND APPLICANTS.

I/We have read and understood the attached patent factsheet and approved the drafted specification. I/We hereby instruct Trademark2u to proceed with utility innovation application.

Confirmed by,

DR. MAKKY

Name:

Official Stamp:

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PATENT FACTSHEET

Legal criteria for obtaining a patent

In order for an invention to be patentable in Malaysia under the Patents Act 1983 and the Patents Regulations 1986, the following requirements must be fulfilled.

Meaning of invention

According to Section 12 of the Patents Act 1983, an invention is “an idea of an inventor which permits in practice the solution to a specific problem in the field of technology”. Additionally, an invention may be or may relate to “a product or process”.

Non-patentable inventions

According to Section 13(1) of the Patents Act 1983, certain inventions are not patentable, namely:

- (a) discoveries, scientific theories and mathematical methods;
- (b) plant or animal varieties or essentially biological processes for the production of plants or animals, other than man-made living micro-organisms, micro-biological processes and the products of such micro-organism processes;
- (c) schemes, rules or methods for doing business, performing purely mental acts or playing games;
- (d) methods for the treatment of human or animal body by surgery or therapy, and diagnostic methods practised on the human or animal body.

However, products used in any such methods may be patentable.

Under Section 30A of the Act, if a patent application contains information the publication of which may be prejudicial to the interest or security of the nation, the Registrar may issue directions prohibiting or restricting the publication or communication of that information. Where any such direction is in force, no patent will be granted in pursuance of the application.

Patentability

According to Section 11 of the Patents Act 1983, “An invention is patentable if it is new, involves an inventive step and is industrially applicable”. Therefore, these three criteria must be met in order for an invention to be patentable. “New” means that the invention must never have been disclosed to the public anywhere in the world, in any way. “Involves an inventive step” means the invention must also be non-obvious to a person having ordinary skill in the art. “Industrially applicable” means that the invention can be made or used in any kind of industry.





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Utility Innovation

An invention that is lacking an inventive step may be protected by a Utility Innovation Certificate in Malaysia. According to Section 17A(2) of the Patents Act 1983, the requirement for an inventive step does not apply to Utility Innovations.

The term of protection granted by a Utility Innovation certificate is ten years, renewable for another five years and then a subsequent five years, subject to payment of the necessary fees. An affidavit showing that the Utility Innovation is in commercial or industrial use in Malaysia (or satisfactorily explaining its non-use) is also necessary to obtain the maximum term of protection. Please note that Utility Innovation protection or its equivalent is only available in certain countries. This fact should be taken into account if protection in jurisdictions other than Malaysia is desired. In some countries, it may not be possible to claim the priority of an earlier Utility Innovation application in Malaysia.

It is also possible to convert an application for a Utility Innovation into a patent application, and vice versa.

Unity of Invention

Section 26 of the Patents Act 1983 states that an application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept. If the patent application is found to claim more than one inventive concept, the Examiner may request amendments to be made to the application, or may suggest that the application be split to cover the different inventive concepts. Failure to comply with the requirement for unity of invention will lead to the patent not being granted.

Right to a patent

Applicants

According to Section 18 of the Patents Act 1983, where two or more persons have jointly made an invention, the rights to a patent belong to them jointly.

Where two or more persons have separately and independently made the same invention, and each of them has applied for a patent, the right to a patent belongs to the person whose application has the earliest priority date.

Inventions made by an employee or pursuant to a commission

Normally, the rights to a patent belong to the inventor (Section 18 of the Act).

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However, under Section 20 of the Act, the rights to a patent for an invention made in the performance of a contract of employment or in the execution of work shall be deemed to accrue to the employer, or the person who commissioned the work.

Where an employee whose contract of employment does not require him to engage in any inventive activity makes, in the field of activities of his employer, an invention using data or means placed at his disposal by his employer, the right to the patent accrues to the employer.

The above rules apply in the absence of any contrary provision in a contract of employment or for the execution of the work.

Invalidation of a patent

According to Section 56 of the Patents Act 1983, the following are grounds for invalidation of a patent:

- The invention does not comply with the legal criteria:-
 - the invention does not fulfill meaning of “invention”
 - the invention is a non-patentable invention
 - the performance of any act in respect of the claimed invention is contrary to public order or morality
 - the invention is lacking in novelty, inventive step or industrial application
- The description or the claim does not comply with the Patents Regulations 1986
- The **drawings** which are necessary for the understanding of the claimed invention have not been furnished
- The **right to the patent** does not belong to the person to whom the patent was granted
- **Incomplete or incorrect information** has been deliberately provided to the Registrar by the patentee or by his/her agent

In accordance with Regulation 12(1) of the Patents Regulations 1986, the following requirements of the patent specification must be met:

- Indicate **the background art which, as far as is known to the applicant**, can be regarded as useful for the understanding, searching and examination of the invention, and wherever possible, cite the documents reflecting such art
- Disclose the invention **in such terms that it can be understood and in a manner sufficiently clear and complete** for the invention **to be evaluated and to be carried out by a person having ordinary skill in the art**, and state **any advantageous effects** of the invention with reference to the background art
- Describe the **best mode contemplated by the applicant** for carrying out the invention, using examples where appropriate and referring to the drawings, if any



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- Indicate explicitly, when it is not obvious from the description or nature of the invention, **the way in which the invention is industrially applicable and the way in which it can be made and used.**

FAILURE TO COMPLY WITH THE ABOVE REQUIREMENTS COULD LEAD TO INVALIDATION OF THE PATENT.

Infringement and limitation of rights

The rights under the patent shall extend only to acts done for industrial or commercial purposes and in particular not to acts done only for scientific research. The exclusive rights of the patentee do not extend to acts reasonably related to development and submission of information to the relevant authority regulating manufacture, use or sale of drugs. The **owner of a granted patent** can institute Court proceedings against any person who has infringed or is infringing the patent, or against any person who has performed acts which make it likely that an infringement will occur. These Court proceedings may not be instituted after five years from the act of infringement.

Examination Reports

If the patent specification does not comply with the Patents Regulations 1986, the Examiner will issue an Adverse Preliminary Examination Report. The applicant has 3 months to submit a correction, otherwise the patent application is deemed refused.

After a Substantive Examination has been requested, the Examiner will examine the patent application. It is common for the Examiner to raise objections against the application in an Adverse Substantive Examination Report. Any amendments or arguments in response to the adverse report must be submitted within 2 months of the date of the report. Failure to file a satisfactory response that overcomes the objections of the Examiner will lead to refusal of the patent application.

Publication, duration and annual fees

After 18 months from the priority date or filing date of the patent application, the patent application is made available for public inspection. If withdrawal of the patent application is desired, it is advisable to withdraw the application before the 18 months deadline.

The patent has a duration of 20 years from the filing date of the application. An annual fee must be paid to keep the granted patent in force for the full term of protection.

International applications

Applications by Malaysian residents

According to Section 23A of the Act, any person resident in Malaysia must first file his patent application in Malaysia **not less than two months** before filing any patent application outside Malaysia. This rule applies unless a written authority has been granted by the Registrar. Where a direction has been issued by the Registrar prohibiting or restricting the





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publication or communication of any information in the patent application, the applicant may not be able to file his application outside Malaysia unless all such directions have been revoked.

Applications outside Malaysia

A patent granted in Malaysia is only enforceable in Malaysia. To obtain patent protection outside Malaysia, it is necessary to get a grant of patent in those jurisdictions where protection is desired. Patent applications in states outside Malaysia are governed by the laws of those states.

Under the Paris Convention, the applicant can file a patent application in a contracting state within **12 months** from the first filing in a contracting state.

Under the Patent Cooperation Treaty (PCT), the applicant can file an International Phase application within **12 months** from the first filing in a contracting state. National Phase applications in those states where patent protection is desired will need to be filed after the International Phase application. Please note that **at least 3 months** lead time is sometimes needed to prepare a patent application for filing overseas. Any instruction to proceed with a foreign patent application received less than 3 months before the final deadline may not be filed in time.

Due to differing requirements in different countries, please consider which, if any, foreign countries it is desired to file a patent application in **before** the first domestic patent application is made. It is usually not possible to cover all the possible patent requirements of different jurisdictions in a single patent specification and further amendments may be needed to comply with local laws.

