

REMARKS

Applicant respectfully requests reconsideration in light of the amendments and arguments presented herein.

Amendments to the Specification

The specification is currently amended to remove browser-executable code and make the title of the invention more descriptive.

Entry is respectfully requested.

Amendments to the Claims

Claim 1 is currently amended to recite *wherein the heterologous intron is heterologous to at least one of the nucleic acid molecule of interest, the promoter, and the terminator* with support being found within, inter alia, the definition of heterologous.

Claim 8 is currently amended to recite *wherein the seed comprises the expression cassette or is a part of the transgenic plant* with support being found, inter alia, on page 13 lines 18-22. Claim 12 is currently amended to add the recitation of *the method* for improved clarity. The instant amendments are made without disclaimer to expedite prosecution. Claim 13 is cancelled. Entry is respectfully requested.

Objections to the Specification

The specification was objected to for containing browser-executable code and for concerns about the descriptiveness of the title. Applicant thanks the Examiner for the suggested amendment to the title and has amended the title accordingly.

Reconsideration is respectfully requested based on the instant amendments to the specification.

Objections to the Claims

Examiner objects to claims 1-8, 12, and 13 for informalities. Claim 12 is currently amended to add the recitation of *the method* for improved clarity. Claim 13 is cancelled.

Rejections Under 35 U.S.C. § 101

Claims 1-3 and 8 are rejected under 35 U.S.C. § 101.

Regarding claims 1-3, claim 1 is currently amended to address the Office's concerns.

Regarding claim 8, it is currently amended to address the Office's concerns.

Reconsideration is respectfully requested.

Rejections Under 35 U.S.C. § 112

Claims 1-8 and 12 were rejected under 35 U.S.C. §112 based on definiteness concerns. Specifically, the office contends that the term *heterologous* in claim 1 renders the claims indefinite and that the meets and bounds are not clear because it is not clear which one of a promotor, a nucleic acid molecule of interest, a terminator, or a plant cell the intron is heterologous to.

Applicant respectfully disagrees because those skilled in the art do not need this information to determine whether an expression cassette or transgenic plant of interest falls within applicant's claims. *In re Mercier*, 185 U.S.P.Q. 774 (C.C.P.A. 1975)(claims sufficiently define an invention so long as one skilled in the art can determine what subject matter is or is not within the scope of the claims). When comparing the claimed invention to an expression cassette of interest, one of ordinary skill in the art would readily recognize whether that cassette contained a non-natural promotor or nucleic acid molecule of interest. Similarly, when comparing the claimed invention to a transgenic plant of interest, one of ordinary skill in the art would readily recognize whether that plant contained a non-natural promoter or nucleic acid molecule of interest. For at least this reason, applicant believes the recitation of *heterologous* is not indefinite and that the rejection of claims 1-8 and 12 under 35 U.S.C. §112 is improper.

Claim 1 is however currently amended in a manner believed to address the Office's concerns and reconsideration is respectfully requested. Claim 13 is cancelled.

Rejections Under 35 U.S.C. § 102

Claim 8 is rejected under 35 U.S.C. §102 as being anticipated by US Patent No. 5,304,712 (Harper). Applicant thanks the Office for the suggested claim amendment and has amended the claim to include the proposed limitation as well as an alternative limitation, either of which is believed sufficient to overcome Harper.

Reconsideration is respectfully requested.

Claim 1, 3-8, and 12 is/are rejected under 35 U.S.C. §102 as being anticipated by WO2014149826 (Nuccio). Applicant thanks the Office for the suggested claim amendment and has amended the claim to include the proposed limitation as well as an alternative limitation, either of which is believed sufficient to overcome Harper.

Reconsideration is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 1-8 and 12 are rejected under 35 U.S.C. §103 as being unpatentable over Genes and Development (1987) Vol. 1; pp. 1183-1200 (Callis) in view of WO2014149826 (Nuccio). Claims 1 and 12 have been amended. No prima facie case for obviousness can be made from the combination of Callis and Nuccio.

Conclusions:

Applicant believes the foregoing amendments and remarks have placed the instant claims in condition for allowance. A Notice of Allowance is respectfully requested. The Examiner is invited to call the undersigned if the instant paper does not place this application in condition for allowance. The Commissioner is hereby authorized to charge any fees deemed necessary, or credit any overpayment, to **Deposit Account No. 501744**. If an extension of time is required, but a request is otherwise absent, Applicant hereby requests an extension of time and authorizes the Commissioner to charge any related extension of time fees to **Deposit Account No. 501744**.

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Respectfully submitted by,

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