UNIT	red States Paten	TT AND TRADEMARK OFFICE	UNITED STATES DEPARTMENT United States Patent and Trade Address: COMMISSIONER FOR P P.O. Box 1450 Alexandria, Virginia 22313-145 www.uspto.gov	emark Office ATENTS
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/724,019	04/19/2022	Katie F. WLASCHIN	80025US010	1017
	7590 05/10/202 TVE PROPERTIES CO	EXAMINER		
PO BOX 33427	7	MAEWALL, SNIGDHA		
ST. PAUL, MN 55133-3427			ART UNIT	PAPER NUMBER
			1612	
			NOTIFICATION DATE	DELIVERY MODE
			05/10/2023	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):

LegalUSDocketing@mmm.com

	Application No. 17/724,019	Applicant(s) WLASCHIN et al.				
Office Action Summary	Examiner	Art Unit	AIA (FITF) Status			
	SNIGDHA MAEWALL	1612	Yes			
The MAILING DATE of this communication ap	pears on the cover sheet with the c	orrespondenc	ce address			
A SHORTENED STATUTORY PERIOD FOR REPL DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1. date of this communication. - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statut		nely filed after SIX ( the mailing date of D (35 U.S.C. § 133	6) MONTHS from the mailing f this communication. 3).			
Any reply received by the Office later than three months after the mailir adjustment. See 37 CFR 1.704(b).	ig date of this communication, even if timely filed	d, may reduce any o	earned patent term			
Status						
1) ■ Responsive to communication(s) filed on 04						
A declaration(s)/affidavit(s) under <b>37 CFR</b>						
2a)    This action is <b>FINAL</b> .    2b)      3)    An election was made by the applicant in re	This action is non-final.	ont oot forth (	during the interview			
on ; the restriction requirement and ele						
4) Since this application is in condition for allow closed in accordance with the practice under	vance except for formal matters,	, prosecution	as to the merits is			
Disposition of Claims*						
5) 🗹 Claim(s) <u>1 and 20-23</u> is/are pending in the application.						
5a) Of the above claim(s) is/are withdrawn from consideration.						
6) 🔲 Claim(s) is/are allowed.						
7) ☑ Claim(s) <u>1 and 20-23</u> is/are rejected.						
8) 🔲 Claim(s) is/are objected to.						
9)  Claim(s) are subject to restriction a	•					
* If any claims have been determined <u>allowable</u> , you may be e	-	-	way program at a			
participating intellectual property office for the corresponding a <a href="http://www.uspto.gov/patents/init_events/pph/index.jsp">http://www.uspto.gov/patents/init_events/pph/index.jsp</a> or send						
		<u>.9011</u>				
Application Papers 10) The specification is objected to by the Exam	iner					
11) The drawing(s) filed on is/are: a)		the Examine	er.			
Applicant may not request that any objection to the	• • • •					
Replacement drawing sheet(s) including the correction						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for fore Certified copies:		9(a)-(d) or (f	).			
a)□ All b)□ Some** c)□ None of	the:					
1. Certified copies of the priority docu	ments have been received.					
<ol><li>Certified copies of the priority docu</li></ol>	ments have been received in Ap	plication No.	··			
3. Copies of the certified copies of the application from the International B	ureau (PCT Rule 17.2(a)).	received in th	nis National Stage			
** See the attached detailed Office action for a list of the certif	fied copies not received.					
Attachment(s)						
1) 🔽 Notice of References Cited (PTO-892) 3) 🗌 Interview Summary (PTO-413)						
2) Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/ Paper No(s)/Mail Date	Paper No(s)/Mail D           SB/08b)         4)           Other:	)ate				
OCKET						
A R M Find authenticated court do	cuments without watermarks at g	docketalarm.o	<u>com</u> .			

### 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.

### **Detailed Action**

### 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.

## Claims 1 and 20-23 are rejected under 35 U.S.C. 103 as being unpatentable over Wlaschin et al (USP 8,460,689).

Wlaschin discloses an oral moisturizing composition that also decolonized mammalian oral tissue (e.g., composition that contacted oral tissue), see title and [abstract]. Wlaschin, teaches that a significant segment of the population suffers from xerostomia (dry mouth) and as such, it is extremely important that oral treatment regiments address both the reduction of microorganisms (plaque removal and reduction of opportunistic organisms in the oral cavity), and xerostomia, see [col 1, lines 22-23] and [col 1, lines 60-63]. Wlaschin discloses that the composition comprises edible vegetable oils in an amount of at least 30 %, see [col 12, lines 14-15] and [col 33, lines 9-13]; significant amounts of water (e.g., at least 20 wt. %; e.g., 87.8 % water disclosed in the example formulations of Table 3), [col 32, lines 1-2]; nonionic surfactants, generally, [col 29, line 63] (0.1 to 10 wt. % disclosed at [col 28, lines 30-38]); 1.6 % xanthan gum (e.g.,

polymeric viscosity modifier) as disclosed in Table 3, Example Formulation # 1]. The composition was formulated as an oil-in-water emulsion with a pH of 3-8 see [col 8, lines 5-7], and [col 11, lines 16-26]. Additionally, Wlaschin generally discloses use of excipients [col 33, line 48]. Wlaschin teaches use of thickeners, humectants and excipients in column 19, lines 52-59. Claim 1 recites 5-70 % plant based oil; 35-95 % aqueous phase; 0.1-7.5 % surfactant; 0.05-3 % viscosity modifier; pH of 4.5-9.5. Wlaschin disclosed edible vegetable oils in an amount of at least 30 %; significant amounts of water (e.g., at least 20 wt. %; e.g., 87.8 % water disclosed in the example formulations of Table 3); nonionic surfactants, generally, (0.1 to 10 wt. % disclosed at [col 28, lines 30-38]); 1.6 % xanthan gum (e.g., polymeric viscosity modifier) [Table 3, Example Formulation # 1]; pH of 3-8. In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art", a prima facie case of obviousness exists. MPEP 2144.05 A. Wlaschin discloses use of fumed silica, see [col 31, line 56]. Wlaschin discloses use of oils, including olive, cottonseed, peanut, corn, sesame, safflower, soybean oils, and the like, see [col 32, lines 54-57] natural. Further, at Table 2, Wlaschin discloses coconut oil as a comparative example of an ingredient found in commercially available oral moisturizers. Wlaschin discloses sweeteners, see [col 17, line 3]. Wlaschin discloses use of aloe vera, see [Table 1]. Wlaschin disclosed enhancer components, including sugar, at not greater than 20 % [col 25, line 38 to col 26, line, 3]. Wlaschin does not disclose a quaternary antimicrobial compound as a required ingredient. Wlaschin discloses a viscosity of at least 10,000 or in excess of 50,000 cps, see [col 11, lines 41-49]. Wlaschin discloses a physically stable compositions at 25 ° C, see [col 17, lines 23-27]. Wlaschin taught excipients at increasing amounts (e.g., Wlaschin disclosed excipients at 0.5-2 % at Tables 12-16). Since the art

### Application/Control Number: 17/724,019 Art Unit: 1612

DOCKET

teaches treating xerostomia, it would implicitly increase lubriciousness in an oral tissue. Since the art teaches pH of 3-8. In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art", a prima facie case of obviousness exists. MPEP 2144.05 A. Thus, it would have been obvious to one of ordinary skill to have formulated an oral composition for treating xerostomia comprising plant based oils, aqueous phase, surfactant and viscosity modifier with a pH of 3-8 which overlaps with the claimed range of 4.5 to 9.5 and thus creates case of obviousness and combining prior art elements according to their known function would have provided predictable results of oral composition for treating xerostomia, see MPEP 2143 part (I)(A).

## Claim 22 is rejected under 35 U.S.C. 103 as being unpatentable over Wlaschin et al (USP 8,460,689), in view of Hunter et al (USP 6,159,459).

Wlaschin generally discloses [col 33, line 49] lubricants.

Wlaschin does not specifically disclose that the composition increased lubricity or lubriciousness, as recited in claim 22.

Hunter discloses [abstract] an oral lubricant (beta-glucan polymer) having particular usefulness for alleviating the symptoms of xerostomia. As per Hunter [col 1, lines 16-22], xerostomia, in which the salivary glands do not produce sufficient quantities of saliva, causes discomfort which can in some cases be quite severe. Without saliva, the mouth burns and the throat and tongue can undergo radical changes. Teeth can decay rapidly and the tongue can become smooth, cracked and vulnerable to infection. As such, [col 2, lines 13-23], it is most desirable to have an oral lubricating composition for human use, to relieve the discomforts and inconveniences incurred by xerostomia and dryness of the mouth. Hunter's composition [col 2, lines 13-23 and at lines 31-37] had

### DOCKET A L A R M



# 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.