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17/083,668	10/29/2020	Matthew T. Scholz	59889US018	5906
32692	7590	11/02/2023	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY			PURDY, KYLE A	
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### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of t/e previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/25/2023 has been entered.

### ***Status of Application***

2. The Examiner acknowledges receipt of the arguments filed 8/25/2023.

3. Claims 102, 104-107, 109 and 111-124 are presented for examination on the merits. The following rejections are made.

### ***Response to Applicants' Arguments***

4. Applicants arguments filed 4/6/2023 regarding the rejection of claims 102, 104-107, 109 and 111-121 made by the Examiner under 35 USC 103(a) over Wei et al. (US 2002/0098159; of record) in view of Scholz (US 5908619) and Wilkins, Jr (US 2004/0131567; of record) have been fully considered but they are not found persuasive and is **MAINTAINED** for the reasons of record in the office action mailed on 12/6/2022.

5. Applicants arguments filed 4/6/2023 regarding the rejection of claim 122 made by the Examiner under 35 USC 103(a) over Wei et al. (US 2002/0098159; of record) in view of Scholz (US 5908619) and Wilkins, Jr (US 2004/0131567; of record), further in view of Watanabe et al. (1995) have been fully considered but they are not found persuasive and is **MAINTAINED** for the reasons of record in the office action mailed on 12/6/2022.

6. In regards to the 103(a) rejection, Applicant asserts the following:

A) the Office has not provided any reason why one would assume that antimicrobial activity intended for a skin surface would be effective when applied to a mucosal surface. Moreover, mucus and mucin biopolymers can bind and inhibit antimicrobials.

7. In response to A, as was noted in the previous Office Action regarding the issue of treating a skin surface and a mucosal surface, it is not seen why treatment of one surface would result in loss of antimicrobial activity. Wei teaches that their composition is useful for inhibiting bacterial infections of the skin. Thus, it would be reasonable to expect that when the antibacterial composition is applied on to other (biological) surfaces, such as a mucosal surface, an outcome of killing unwanted microbes would be achieved. It is noted that Applicant has provided evidence that mucus/mucin can reduce the efficacy of antibiotics. However, the current method is applying a fatty acid and an ester of a fatty alcohol which are not seen as structurally analogous to the antibiotics referenced in the response. It is observed however that the mucus/mucin does not stop antibiotic activity but rather reduces antibiotic activity meaning that the antibiotic is still capable of killing the target microbe and so even if mucus/mucin did interfere with the inhibition, it would not be sufficient to stop the method from inhibiting the unwanted target microbes.

**Maintained Rejections, of Record**  
***Claim Rejections - 35 USC § 103***

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

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) 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.

10. **Claims 102, 104-107, 109 and 111-123 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Wei et al. (US 2002/0098159; of record) in view of Scholz (US 5908619) and Wilkins, Jr (US 2004/0131567; of record), evidenced by PubChem: Docusate sodium.**

11. Wei provides antimicrobial compositions and methods of using such compositions.

12. Methods involve applying the antimicrobial composition to the skin to achieve a disinfecting benefit (see [0321]). The amount of the antimicrobial formulation, and the frequency applied, and the period applied vary depending on the disinfection and cleansing desired. Preferably the composition is applied at least once per day, and more preferably at least three time per day. Inhibition of *S. aureus* is contemplated (see [0008]) (see instant claim 102).

13. The composition used in the methods may comprise **lauric acid** (see [0313]) (see instant claim 102, 104, 105, 123 and 124) in an amount ranging from 0.1-10% (see [0302]) (see instant claim 111). It's noted that Wei uses lauric acid as a stabilizer. However, as Wei's lauric acid is chemically identical to the lauric acid of the claims, it would necessarily possess antimicrobial activity, despite being used for a different purpose (by Wei).

14. Wei teaches including an aqueous component that includes water, water soluble alcohols such as **ethanol**, propanol or isopropanol, and mixtures thereof (see [0091]) in amounts ranging

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