

The opinion in support of the decision being entered
today is *not* binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SABINSA CORPORATION and SAMI LABS LIMITED

Appeal 2006-1082
Reexamination 90/006249

Before: McKELVEY, *Senior Administrative Patent Judge*, and GARDNER
LANE and SCHEINER, *Administrative Patent Judges*.

McKELVEY, *Senior Administrative Patent Judge*.

MEMORANDUM OPINION and ORDER

I.

The examiner maintains that the addition of the limitation “said composition suitable for administration in a unit dose form of 0.04-0.25 mg of piperine per kg body weight” in claim 48 broadens the scope of original patent claim 1—which does not have the limitation. 35 U.S.C. § 305. We do not agree. Original patent claim 1 covers compositions that are suitable for administration in any unit dose, including unit doses below 0.04 mg/kg

of body weight and unit doses above 0.25 mg/kg of body weight. Claim 48 is not broader than original patent claim 1.

II.

The examiner also maintains that a “unit dose form of 0.04-0.25 mg of piperine per kg body weight” in newly added reexamination claim 48 is not described in the specification of the application which matured into the patent being reexamined. 35 U.S.C. § 112, first paragraph (written description requirement). Table 8 of the specification, however, describes a daily dose of 0.04-0.25 mg/kg body weight which can be used as a bioenhancing supplement 1-3 times daily (col. 15, lines 45-58). A dose of 0.04-0.25 mg/kg body weight used once a day is a unit dose of 0.04-0.25 mg/kg of body weight.

Order

The decision of the examiner rejecting claims 48-59 under 35 U.S.C. § 305 is *reversed*.

The decision of the examiner rejecting claims 48-59 as failing to comply with the written description requirement of 35 U.S.C. § 112 is *reversed*.

REVERSED

_____)
FRED E. McKELVEY, Senior)
Administrative Patent Judge)
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)
_____)
SALLY GARDNER LANE)
Administrative Patent Judge)
)
)
_____)
TONI R. SCHEINER)
Administrative Patent Judge)

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