The examination is being carried out on the **following application documents**

**Description, Pages**

1-13 as published

**Claims, Numbers**

1-9 received on 18-11-2010 with letter of 12-11-2010

1).
The objections raised in the communication of 06.05.2010 under Article 84 and 54 EPC are maintained.

2).
The Examining division respect the right of many followers of many religions to emphatically disagree with them.

The Examining division are however charged by Article 84 and Rule 43 EPC to examine the **technical** merits of each application. The Applicant has not shown that there are any technical differences between "holy" and "non-holy" water. The believe that there is one, or the act of writing "holy and non-holy water" is not a technical difference. Furthermore the Examining division believe that they are acting on behalf of many religious believers in not allowing patent restrictions on compositions regarded as holy.

3).
Furthermore, in as far as they can be understood, the claims do not meet the requirements of Article 83 EPC. The Applicant states in his letter of 12.11.10 that there "may be many different forms of holy water". The claims do not specify any particular form. The skilled man, who for example believes in the spirituality of water from Lourdes, may not believe in that of water from the Ganges, and vice versa.

The application contains no technical information as to how these two compositions could both fall within the scope of the claims for this skilled man.
4).

The Applicant has argued that the claims are novel in as much as they contain a mixture of "holy" and "non-holy" water. The Applicant implies in his letter of 12.11.2010 that the river Ganges is made up of 100% "holy" water.

The river Ganges flows into the Indian Ocean.

This contains a great deal of "non-holy" water. Such a mixture would be "topical" (for swimmers) and would contain particles of sand. The novelty objection is therefore maintained.

5).

In as far as "generating spiritual well being" and the exemplified prophylactic sun cream use can be regarded as methods of treatment, claim 9 is unacceptable under Article 53(c) EPC.

6).

At least some of the objections raised above are such that there appears to be no possibility of overcoming them by amendment. Refusal of the application under Article 97(2) EPC is therefore to be expected.
Dear Sirs

European Patent Application No. 08743130.0
In the name of Katianna Nightingale Hashrouck


I hereby confirm the above application should proceed to substantive examination.

Please find enclosed an amended set of claims to replace those currently on file.

The features of previous claim 7 have been introduced into claim 1. Thus previous claim 7 has been deleted and the remaining claims renumbered accordingly.

Previous claim 9 (now claim 8) has been amended so it now refers to a topical composition of any one of claims 1 to 7. Thus previous claims 10 to 16 have been deleted.

The Examiner considers there is no technical difference between holy water and non-holy water. The Guidelines (see part C. III 4.2) state that each claim should be read giving the words the meaning and scope which they normally have. The claim recites both holy water and non-holy water. Therefore it is clear that there is a distinction between the holy water and the non-holy water. The holy water cannot be interpreted as referring to merely water. If, as the Examiner considers, it was the case that holy water is identical to non-holy water then there would be no need to distinguish between them within the claim. Many followers of different religions would emphatically disagree with the Examiner. Holy water has special significance to these followers, which cannot be replaced by mere water. In many cases adherents of the different religions ascribe special powers such as healing, blessing and the like to holy water which cannot be
obtained by the use of non-holy water. There are many different forms of holy water, each of which is not replaceable by non-holy water.

The Examiner considers that the claims lack novelty under Article 54 EPC as the claims relate to water used as a topical composition for generating spiritual wellbeing. The Examiner considers that many springs and rivers have been used for such purposes for many years. I respectfully disagree with the Examiner. The claims currently on file relate to a composition comprising non-holy water and holy water and natural products. The Examiner has referred to springs and rivers such as the river Ganges which have been considered sacred. Thus, these springs and rivers contain sacred or holy water. They do not contain a mixture of holy water and non-holy water. There is no disclosure of a topical composition comprising holy water and non-holy water in the cited prior art. Therefore, I respectfully submit that the claims are novel.

The Examining Division also considers that the claims lack novelty in light of the cited prior art which discloses an aqueous topical composition using deionised water together with the ingredients of the claims. As the Examiner considers there is no difference between non-holy and holy water, the Examiner considers that the compositions of the prior art fall within the scope of the claims. For the reasons provided above, the applicant respectfully disagrees. The claims clearly require the presence of holy water in addition to non-holy water in the composition. As there is a clear difference between the two types of water, an aqueous topical composition comprising solely deionised water does not destroy the novelty of the claims. None of the cited prior art documents disclose a composition comprising both holy and non-holy water. Therefore, I respectfully submit that the claims are novel over the cited prior art.

I respectfully submit that the claims are now in order for grant. If the Examiner is minded to disagree with this statement, I suggest he contacts the undersigned, perhaps by telephone, to discuss any outstanding issues. If the Examining Division are minded to refuse the application I hereby request Oral Proceedings under Article 116 EPC.

Please note that the undersigned is now the Authorised Representative for this case. I hereby request that the Register is updated accordingly.

Please acknowledge safe receipt of this letter by returning the enclosed copy of EPO Form 1037 duly stamped.

Yours faithfully,

HART, Deborah Mary
Authorised Representative
For and on behalf of Kilburn & Strode LLP
Claims

1. A topical composition comprising an effective amount of sacred or holy water, non-holy water, and natural products.

2. The composition according to claim 1 wherein the non-holy water is deionized water.

3. The composition according to claim 1 wherein the composition further comprises Dihydroxyacetone.

4. The composition according to claim 1 wherein the composition further comprises an antioxidant.

5. The composition according to claim 1 wherein the composition further comprises an emollient.

6. The composition according to claim 1 wherein the composition further comprises a surfactant.

7. The composition according to claim 1 wherein the composition further comprises particulates.
8. A method for generating spiritual well being in an individual comprising the steps of applying a topical composition of any one of claims 1 to 7 to the skin of the individual.
The examination is being carried out on the following application documents

Description, Pages
1-13 as published

Claims, Numbers
1-16 as published

1.
The claims relate to holy water. In the view of the Examining division there is no technical difference between holy water and non holy water. The Application fails to show any such technical difference. As the claims must be drafted in terms of the "technical features", the absence of any such definition leads to an objection under Rule 43(1) and Article 84 EPC.

2.
As far as they can be technically understood claims 1 and 9 relate to water as a topical composition and for "generating spiritual well being". It is clear from the present description paragraphs 4 to 13 that many springs and rivers have been used for such proposes for thousands of years (the rivers Ganges and Jordan for example).

These claims therefore cannot be regarded as novel under Article 54 EPC.

3.
The cited prior art discloses aqueous topical composition using deionized water and together with the ingredients of the claims. In view of paragraph 1 above, these compositions also fall within the scope of the claims. Having an artificial suntan may, in some people, induce a sense of "spiritual well being" as exemplified by the present application. The claims therefore are not regarded as being novel under Article 54 EPC.
AMENDMENTS UPON ENTRY INTO REGIONAL PHASE

PCT/US2008/005107 in the name of Katianna Nightingale HASBROUCK

Note: The applicant(s) reserve all rights in any matter deleted or changed by the present amendment, including the right to file divisional applications directed to the deleted or changed matter, and to reintroduce the deleted or changed matter.

CLAIMS
Replace claim pages at present on file with new claim pages 14 to 15 filed herewith.

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19. 11. 2009

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CLAIMS

1. A topical composition comprising an effective amount of sacred or holy water and non-holy water.

2. The composition according to claim 1 wherein the non-holy water is deionized water.

3. The composition according to claim 1 wherein the composition further comprises Dihydroxyacetone.

4. The composition according to claim 1 wherein the composition further comprises an antioxidant.

5. The composition according to claim 1 wherein the composition further comprises an emollient.

6. The composition according to claim 1 wherein the composition further comprises a surfactant.

7. The composition according to claim 1 wherein the composition further comprises natural products.

8. The composition according to claim 1 wherein the composition further comprises particulates.

9. A method for generating spiritual well being in an individual comprising the steps of applying a topical composition to the skin of the individual, said topical composition comprising an effective amount of sacred or holy water and non-holy water.

10. The method according to claim 9 wherein the composition further comprises Dihydroxyacetone.

11. The method according to claim 9 wherein the composition further comprises an antioxidant.
12. The method according to claim 9 wherein the composition further comprises an emollient.

13. The method according to claim 9 wherein the composition further comprises a surfactant.

14. The method according to claim 9 wherein the composition further comprises natural products.

15. The method according to claim 9 wherein the composition further comprises particulates.