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D E C I S I O N
of 11 January 2006

Case Number: T 0076/04 - 3.2.02

Application Number: 95922099.7

Publication Number: 0762852

IPC: A61B 17/52

Language of the proceedings: EN

Title of invention:

Method and apparatus for ameliorating aging process

Applicant:

Jacobson, Jerry I.

Opponent:

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Headword:

-

Relevant legal provisions:

EPC Art. 84

Keyword:

"Clarity (no)"

Decisions cited:

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Catchword:

-



Case Number: T 0076/04 - 3.2.02

D E C I S I O N
of the Technical Board of Appeal 3.2.02
of 11 January 2006

Appellant: Jacobson, Henry I.
2006 Mainsail Circle
Jupiter, FL 33477 (US)

Representative: Horner, Martin Grenville
Marks & Clerk Scotland
19 Royal Exchange Square
Glasgow G1 3AE
Scotland (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 28 August 2003
refusing European application No. 95922099.7
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: T. Kriner
Members: S. Chowdhury
U. Tronser

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division dated 28 August 2003 to refuse European patent application No. 95 922 099.7.

The application was refused on the grounds that claim 1 defined a therapeutic method which fell under the exclusion criteria of Article 52(4) EPC.

II. On 28 October 2003 the appellant (applicant) lodged an appeal against the decision and paid the prescribed fee on the same date. On 29 December 2003 a statement of grounds of appeal was filed with new claims 1 to 11.

III. In a communication annexed to the summons to attend oral proceedings, dated 1 August 2005, the Board informed the appellant, *inter alia*, that the claims lacked clarity (Article 84 EPC).

IV. Oral proceedings were held on 11 January 2006 in the absence of the appellant's representative, in accordance with Rule 71(2) EPC. The appellant had written in to say that it would not be represented at, and withdrew its request for, the oral proceedings.

V. The appellant requested in its grounds of appeal, that the decision under appeal be set aside and that the application be allowed on the basis of claims 1 to 11 filed with the grounds of appeal.

VI. Claim 1 reads as follows:

"Apparatus for generating an electromagnetic field for subjecting a patient to ameliorate the aging process and the effects of aging comprising: means for generating both alternating and steady electromagnetic fields having flux densities ranging from 10^{-6} Gauss to 10^{-20} Gauss and frequencies from almost direct current to 100 Hertz with the flux densities determined as a function of the mass of multiple targets and associated structures, wherein each of said fields is calculated using a formula of $mc^2 = Bvlq$, wherein m equals a mass of one of a plurality of targets, c equals speed of light, v equals inertial velocity of said mass, l equals length of a conductive body, and q equals unity of charge, thereby deriving a magnetic flux density (B); and wherein said conductive body is one of said plurality of targets, a complex of said targets or a whole biological system; wherein a frequency for said electromagnetic field is calculated using a formula $f_c = qB / (2\pi m)$, wherein the values for B and m are equivalent to those calculated above and wherein the value for q is equivalent to unity, a charge of one of a plurality of ions, or a charge of one of a plurality of charged species; and means for subjecting said patient to each of said electromagnetic fields for a specified period of time wherein the apparatus is used for targeting larger targets first and then diminishing the field magnitude slowly and incrementally for targeting smaller targets during treatment of a patient".

Claims 2 to 11 are dependent claims.

VII. In the statement of grounds of appeal the appellant argued that there were a number of significant differences between the prior art, such as disclosed in D1, and the present invention. However, it did not address the Board's clarity objections.

Reasons for the Decision

1. The appeal is admissible.

2. *Clarity*

2.1 In claim 1, *inter alia*, the expressions "the mass of multiple targets and associated structures", "a mass of one of a plurality of targets", and "inertial velocity of said mass" are not understood.

2.2 The description provides little help in clarifying these expressions. For example, page 4, lines 8 and 9 of the application defines the mass referred to in claim 1 as "the mass of quantum genetic targets" which is also not understood. The same goes for the explanation of the calculation on page 4, lines 15 to 17, nor is the relevance of the cyclotron resonance mentioned later in the same passage, and used in claim 1, understood since the cyclotron frequency is of relevance only to charged particles and to such particles moving in a circular orbit such as in a cyclotron doughnut.

2.3 The majority of the description itself is also thoroughly obscure and throws little light on the

meaning of claim 1. It is not clear that the skilled person would understand expressions such as "mass of quantum genetic targets and associated structures thereof" (page 4, lines 8 and 9), "equate the intrinsic energy of a target mass with the electromagnetic interaction energy produced from the interaction of the biological system with the magnetic field (page 4, lines 15-17)", "reorientations of spin angular momenta of leptons and baryons which adjust the spatial orientations of molecules with respect to one another, the defining element of life (page 9, lines 3-5)", "Jacobson Resonance (page 9, line 22)", and numerous other phrases which, while sounding quite learned, are in fact meaningless.

- 2.4 The application is replete with statements which are manifestly incorrect, such as "When considering the aging process, aging may be thought of as a slow burn of body parts. A type of biological fusion occurs which is similar to thermonuclear fusion, whereby nuclei are fused forming heavier nuclei and releasing energy" (page 2, lines 1 to 3). The explanation of $E=Mc^2$ on page 17, lines 13 to 16 is wrong, and the statement "the Jacobson Resonance formula, $mc^2 = Bvlq$ is a general form of resonance, related to both cyclotron resonance and Zeeman resonance" (page 18, lines 3 and 4), etc. is also meaningless.

Similarly, other expressions such "Biological matter is in a state which may be designated a novel quantum liquid propitiatory of fractional solitons, fractions of the flux quantum e^2/h with respect to the fractional quantum Hall effect." (page 17, lines 8 and 9), "The casual nexus of natural phenomena involves the

communication of motion through tough. A series of particle interactions are envisioned which produce an elastic deformation of aether albeit not directly perceivable. The aether has a motion of its own and does not participate in the creation of elementary electric charges. Yet there is a mechanical electromagnetic photon/phonon transduction or conversion that links EM field and the aether. Dark solitons, solitary wave solutions to non-linear problems, are examples of this virtual photon flux." (page 18, lines 11 to 17), etc. give the impression that the application lacks a serious scientific basis.

2.5 In conclusion, claim 1 is unclear by itself and reference to the description does not help to understand the claim.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

V. Commare

T. K. H. Kriner