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SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO



No. 05-074930-00005-0000

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Act. 593 IMPULSOPROCESAL Folios: 1

Señor

SUPERINTENDENTE DE INDUSTRIA Y COMERCIO

DIVISION DE NUEVAS CREACIONES

E. S. D.

Re: P1.-EPIEN MEDICAL, INC.- Solicitud de patente de Invención en
Fase Nacional PCT para "FORMULACIONES INODORAS PARA
TRATAR LAS DISCONTINUIDADES MUCOSALES".-Clase A61K.-
Expediente número 05-074.930.-

1. Me refiero a mi memorial de 04 de Agosto de 2006.
2. Por medio del presente atentamente ruego a usted, se sirva pronunciarse en relación con la solicitud arriba nombrada, ya que desde el **31 de Mayo de 2006**, esto hace ya hace dos **(2) años**, que fue publicado el extracto de la presente solicitud en la Gaceta de la Propiedad Industrial No. 564 y el examen de patentabilidad correspondiente fue solicitado en su debido momento mediante memorial de 04 de Agosto de 2006, sin que hasta el momento haya sido adelantado ningún otro trámite.
3. Cabe anotar que esta demora en el trámite acarrea grave perjuicio para mí representado.

Señor Superintendente,

ALICIA LLOREDA RICAURTE

T.P. 53.215



US005688995A

United States Patent [19]

Luther et al.

[11] Patent Number: 5,688,995

[45] Date of Patent: Nov. 18, 1997

[54] O-HYDROXYPHENYL-S-TRIAZINES

[75] Inventors: Helmut Luther, Grenzach-Wyhlen;
Dietmar Hüglin, Freiburg; Bernd
Herzog, Bad Säckingen, all of Germany

[73] Assignee: Ciba-Geigy Corporation, Tarrytown,
N.Y.

[21] Appl. No.: 649,940

[22] Filed: May 15, 1996

[30] Foreign Application Priority Data

May 18, 1995 [CH] Switzerland 1479/95

[51] Int. Cl.⁶ C07C 229/00

[52] U.S. Cl. 562/30; 544/180; 544/216

[58] Field of Search 544/180, 216;
562/30

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Primary Examiner—Terressa M. Mosley
Attorney, Agent, or Firm—Kevin T. Mansfield

[57] ABSTRACT

A description is given of o-hydroxyphenyl-s-triazines containing at least two alkoxyphenyl-substituents. They have the formula (1).

The compounds according to the invention are particularly suitable as sunscreen agents in cosmetic preparations.

8 Claims, No Drawings

- sponding lactones, such as polyethylene terephthalate, polybutylene terephthalate, poly-1,4-dimethylolcyclohexane terephthalate, polyhydroxybenzoates, as well as block polyether esters derived from hydroxyl-terminated polyethers; and also polyesters modified with polycarbonates or MBS.
19. Polycarbonates and polyester carbonates.
 20. Polysulfones, polyether sulfones and polyether ketones.
 21. Crosslinked polymers derived from aldehydes on the one hand and phenols, urea or melamine on the other hand, such as phenol/formaldehyde resins, urea/formaldehyde resins and melamine/formaldehyde resins.
 22. Drying and non-drying alkyd resins.
 23. Unsaturated polyester resins derived from copolyesters of saturated and unsaturated dicarboxylic acids with polyhydric alcohols and vinyl compounds as crosslinking agents, and also halogen-containing modifications thereof of low flammability.
 24. Crosslinkable acrylic resins derived from substituted acrylates, for example from epoxy acrylates, urethane acrylates or polyester acrylates.
 25. Alkyd resins, polyester resins and acrylate resins crosslinked with melamine resins, urea resins, polyisocyanates or epoxy resins.
 26. Crosslinked epoxy resins derived from polyepoxides, for example from bisglycidyl ethers, or cycloaliphatic diepoxides.
 27. Natural polymers such as cellulose, natural rubber, gelatin and derivatives thereof which have been chemically modified in a polymer-homologous manner, for example cellulose acetates, cellulose propionates and cellulose butyrates, or the cellulose ethers such as methyl cellulose; as well as rosins and derivatives.
 28. Blends (polyblends) of the aforementioned polymers, for example PP/EPDM, polyamide/EPDM or ABS, PVC/EVA, PVC/ABS, PVC/MBS, PC/ABS PBTP/ABS, PC/ASA, PC/PBT, PVC/CPE, PVC/acrylates, POM/thermoplastic PUR, PC/thermoplastic PUR, POM/acrylate, POM/MBS, PPO/HIPS, PPO/PA 6.6 and copolymers, PA/HDPE, PA/PP or PA/PPO.
- Particular preference is given to the use of compounds according to the invention as stabilizers in coating materials of any type. This also means a process in accordance with the above description, in which the organic polymer is a binder for a coating material. The coating materials may be pigmented or unpigmented coatings or metallic effect paints. They may contain an organic solvent or may be solvent-free, or may be aqueous coating materials.
- The coatings can contain as binder at least one of the polymers listed above. Examples of coatings containing specific binders are as follows:
1. coatings based on cold- or hot-crosslinkable alkyd, acrylate, polyester, epoxy or melamine resins or mixtures of such resins, where appropriate with the addition of an acidic curing catalyst;
 2. two-component polyurethane coatings based on hydroxyl-containing acrylate, polyester or polyether resins and aliphatic or aromatic polyisocyanates;
 3. one-component polyurethane coatings based on blocked polyisocyanates which are unblocked during stoving;
 4. two-component coatings based on (poly)ketimines and aliphatic or aromatic polyisocyanates;
 5. two-component coatings based on (poly)ketimines and an unsaturated acrylate resin or a polyacetoacetate resin or a methyl methacrylamidoglycolate;
 6. two-component coatings based on carboxyl- or amino-containing polyacrylates and polyepoxides;

7. two-component coatings based on acrylate resins containing anhydride groups and on a polyhydroxyl or polyamino component;
8. two-component coatings based on (poly)oxazolidines and on acrylate resins containing anhydride groups, or on unsaturated acrylate resins or aliphatic or aromatic polyisocyanates;
9. two-component coatings based on unsaturated polyacrylates and polymalonates;
10. thermoplastic polyacrylate coatings based on thermoplastic acrylate resins or externally crosslinking acrylate resins in combination with etherified melamine resins; and
11. coating systems based on siloxane-modified or fluorine-modified acrylate resins.

The coatings can also be radiation-curable materials. In this case, the binder comprises monomeric or oligomeric compounds which contain ethylenic double bonds and are converted into a crosslinked, high molecular weight form by irradiation with actinic light or with electron beams. In such cases the binder is usually a mixture of such compounds.

The coatings can be applied in a single coat or in two coats, the stabilizers according to the invention preferably being added to the unpigmented uppermost coat.

The coatings can be applied to the substrates (metal, plastic, wood, etc.) by the customary method, for example by brushing, spraying, flowcoating, dipping or electrophoresis.

The quantity of the stabilizer of the formula (1) added depends on the respective substrate and on its intended use. In general, quantities of from 0.01 to 5% by weight are sufficient, with preference being given to the use of from 0.05 to 3% by weight based on the polymer to be stabilized. According to the invention, polymers containing from 0.01 to 5% by weight, especially from 0.05 to 3% by weight, of at least one compound of the formula (1) are therefore particularly suitable.

In certain cases it may be advantageous to use two or more compounds of the formula (1). In addition, one or more other stabilizers and/or other additives may be included, for example the following types of compounds:

1. Antioxidants

1.1. Alkylated monophenols, for example 2,6-di-tert-butyl-4-methylphenol, 2-butyl-4,6-dimethylphenol, 2,6-di-tert-butyl-4-ethylphenol, 2,6-di-tert-butyl-4-n-butylphenol, 2,6-di-tert-butyl-4-isobutylphenol, 2,6-dicyclopentyl-4-methylphenol, 2-(α -methylcyclohexyl)-4,6-dimethylphenol, 2,6-dioctadecyl-4-methylphenol, 2,4,6-tricyclohexylphenol, 2,6-di-tert-butyl-4-methoxymethylphenol, 2,6-di-nonyl-4-methylphenol, 2,4-dimethyl-6-(1-methylundec-1'-yl)-phenol, 2,4-dimethyl-6-(1'-methylheptadec-1'-yl)-phenol, 2,4-dimethyl-6-(1'-methyltridec-1'-yl)phenol and mixtures thereof.

1.2. Alkylthiomethylphenols, for example 2,4-diethylthiomethyl-6-tert-butylphenol, 2,4-diethylthiomethyl-6-methylphenol, 2,4-diethylthiomethyl-6-ethylphenol, 2,6-didodecylthiomethyl-4-nonylphenol.

1.3. Hydroquinones and alkylated hydroquinones, for example 2,6-di-tert-butyl-4-methoxyphenol, 2,5-di-tert-butylhydroquinone, 2,5-di-tert-amylhydroquinone, 2,6-diphenyl-4-octadecyloxyphenol, 2,6-di-tert-butylhydroquinone, 2,5-di-tert-butyl-4-hydroxyanisole, 3,5-di-tert-butyl-4-hydroxyanisole, 3,5-di-tert-butyl-4-hydroxyphenyl stearate, bis(3,5-di-tert-butyl-4-hydroxyphenyl)adipate.

1.4. Hydroxylated thiodiphenyl ethers, for example 2,2'-thiobis(6-tert-butyl-4-methylphenol), 2,2'-thiobis(4-

United States Patent [19]

Voyt

[11]

4,144,325

[45]

Mar. 13, 1979

[54] **METHOD OF AND COMPOSITION FOR PREVENTING SUNBURN WHILE AFFORDING TANNING**

[76] **Inventor:** Walter F. Voyt, Rte. 1, Box 43, Elwood, Ill. 60421

[21] **Appl. No.:** 740,646

[22] **Filed:** Nov. 10, 1976

[51] **Int. Cl.²** A61K 7/42; A61K 7/44; A61K 31/355

[52] **U.S. Cl.** 424/59; 424/60; 424/284

[58] **Field of Search** 424/59, 284, 60

[56] **References Cited**

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Primary Examiner—Dale R. Ore

Attorney, Agent, or Firm—Neuman, Williams, Anderson & Olson

[57]

ABSTRACT

A method of and composition for preventing erythema of the skin caused by the absorption of burning ultraviolet radiation resulting from exposure to natural or artificial sources thereof while concomitantly allowing tanning of the skin is provided, consisting of the application of a sunscreen composition demonstrating selective ultraviolet radiation absorption in the 295–315 nanometer wavelength range prior to exposure of the skin to said radiation source, said composition comprising a sunscreen-effective amount of an ultraviolet-absorbing tocopherol compound selected from the group consisting of alpha tocopherol, beta tocopherol, gamma tocopherol, delta tocopherol, epsilon tocopherol, zeta tocopherol, eta tocopherol and mixtures thereof, and an inert carrier vehicle, said vehicle being non-toxic and non-irritating to the skin.

26 Claims, No Drawings

30 minutes. Ten hours later, severe erythema was visible in the control area. No erythema, or mild erythema, was visible in the areas protected with preparations E, G, H and I. Three days later, the control area blistered severely, and the skin peeled. There was no evidence of blistering or peeling in the protected areas.

Part 3

The face of the adult male was irradiated for 15-minute intervals utilizing the Westinghouse 250W sunlamp at a ten (10) inch distance on six occasions, each irradiation separated by a one-week period from the previous exposure. Each of preparations E, G, H and I was applied to the subject's face at least once during the 6-week test cycle.

No vivid erythema occurred to the subject's face during or after the tests; the subject's face developed an even tan which persisted for a two-week period after conclusion of the test cycle.

Part 4

A sunscreen formulation containing 11% by weight mixed tocopherols, the remaining 89% by weight being mineral and vegetable oils, was prepared. An adult male subject applied the formulation to the right leg, right half of his abdomen and chest, and his entire neck and face. The left leg and left half of the abdomen and chest were left unprotected to serve as a control.

The subject was exposed to bright, direct summer sunlight for 1 hour. Several hours later, the control and experimental parts of the body were compared: the control area was moderately red and tender, the experimental part faintly red and not tender.

This procedure was repeated the following day, save that the subject was exposed to bright, direct summer sunlight for 3 hours. Several hours later, comparison of the body areas showed the control to be intensely red and moderately tender; the experimental area was slightly red and much less tender than the control. Comparison of the exposed areas of the subject, both experimental and control, to non-exposed areas showed both the control and experimental parts to be decidedly more tan than the unexposed areas.

While particular embodiments of the invention have been shown, it will be understood, of course, that the invention is not limited thereto since modifications may be made by those skilled in the art, particularly in light of the foregoing teachings. It is, therefore, contemplated by the appended claims to cover any such modifications as incorporate those features which constitute the essential features of these improvements within the true spirit and the scope of the invention.

I claim:

1. A method of preventing erythema of the skin caused by the absorption of burning ultraviolet radiation resulting from exposure to natural or artificial sources thereof while concomitantly allowing tanning of the skin consisting of the application of a sunscreen composition demonstrating selective ultraviolet radiation absorption in the 295-315 nanometer wavelength range prior to exposure of the skin to said radiation source, said composition comprising a sunscreen-effective amount of an ultraviolet-absorbing tocopherol compound selected from the group consisting of alpha tocopherol, beta tocopherol, gamma tocopherol, delta tocopherol, epsilon tocopherol, zeta tocopherol, eta tocopherol and mixtures thereof, and an inert carrier

vehicle for said tocopherol compound, said vehicle being non-toxic and non-irritating to the skin.

2. The method according to claim 1 wherein said tocopherol compound is alpha tocopherol.

3. The method according to claim 1 wherein said tocopherol compound is a mixture consisting essentially of alpha, beta, gamma and delta tocopherol.

4. The method according to claim 1 wherein said carrier vehicle is selected from the group consisting of water, mineral oil, vegetable oil, petrolatum, silicone oil, alcohol and mixtures thereof.

5. The method according to claim 1 wherein said preparation additionally comprises a component selected from the group consisting of butylated hydroxytoluene, butylated hydroxyanisole, propyl gallate, a triethanolamine fatty acid salt, an isopropyl amine fatty acid salt, ethylenediaminetetraacetic acid, the disodium salt of ethylenediaminetetraacetic acid, a citric acid fatty acid ester, an ascorbic acid fatty acid ester, and mixtures thereof.

6. The method according to claim 2 wherein said composition contains at least about 10% by weight alpha tocopherol.

7. The method according to claim 3 wherein said composition contains at least about 4.5% by weight of a mixture consisting essentially of alpha, beta, delta and gamma tocopherol.

8. The method according to claim 5 wherein said tocopherol compound is alpha tocopherol, said composition containing at least about 10% by weight thereof.

9. The method according to claim 5 wherein said tocopherol compound is a mixture consisting essentially of alpha, beta, delta and gamma tocopherol, said composition containing at least about 4.5% by weight thereof.

10. The method according to claim 1 wherein said composition comprises a sunscreen effective amount of a sunscreen agent consisting of at least 50% by weight of an ultraviolet-absorbing tocopherol compound as a major component and a non-tocopherol ultraviolet-absorbing compound as a minor component thereof, said tocopherol compound being further selected from the group consisting of alpha tocopherol, beta tocopherol, gamma tocopherol, delta tocopherol, epsilon tocopherol, zeta tocopherol, eta tocopherol and mixtures thereof.

11. The method according to claim 10 wherein said non-tocopherol ultraviolet-absorbing compound is selected from the group consisting of a salicylates, a para-aminobenzoates, a benzophenone, a cinnamate, a naphthoate, a gallate and mixtures thereof.

12. The method according to claim 10 wherein said tocopherol compound is alpha tocopherol.

13. The method according to claim 10 wherein said tocopherol compound is a mixture consisting essentially of alpha, beta, gamma and delta tocopherol.

14. The method according to claim 10 wherein said carrier vehicle is selected from the group consisting of water, mineral oil, vegetable oil, petrolatum, silicone oil, alcohol, and mixtures thereof.

15. The method according to claim 10 wherein said composition additionally comprises a component selected from the group consisting of butylated hydroxytoluene, butylated hydroxyanisole, propyl gallate, a triethanolamine fatty acid salt, an isopropyl amine fatty acid salt, ethylenediaminetetraacetic acid, the disodium salt of ethylenediaminetetraacetic acid, a citric acid

142 3 147

**SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO
DIRECCIÓN DE NUEVAS CREACIONES**

2020
Bogotá, D.C.,

Abogado
ALICIA LLOREDA RICAURTE

ASUNTO	Radicación	05-74930
	Trámite	002
	Evento	001
	Actuación	430
	Oficio	60643
	Folios	8

Patente de Invención	☒	Patente de Modelo de Utilidad	☐
Vía Nacional	☐		
Vía PCT (fase nacional)	☒	Cap. I	☒
		Cap. II	☐

No. Sol. Internacional	PCT/US2004000133
Fecha de Presentación Internal.	05-01-2004

Como resultado del examen de fondo, realizado con fundamento en el artículo 45 de la Decisión 486 de la Comisión de la Comunidad Andina, se le comunica:

1. Documentos estudiados

<u>Descripción:</u>	Folios: 17 a 43	(como se radicó inicialmente)
<u>Reivindicaciones:</u>	Folios 44 a 47	(como se radicó inicialmente)
<u>Prioridad:</u>	Fecha: 03-01-2003; país y número: US 60/437,777. Fecha: 21-05-2003; país y número: US 10/443,446 Fecha: 03-01-2003; país y número: US 10/443,445.	

2. Objeto de la Invención

Título de la invención: "FORMULACIONES INODORAS PARA TRATAR LAS DISCONTINUIDADES MUCOSALES"

Problema Técnico Planteado: La necesidad de formulaciones para tratar discontinuidades mucosales.

Solución: un proceso mediante el cual se provee fenol, quavacol, ácido sulfúrico y

IPC: A61K31/185; A61K31/255; A61K45/06

3. De la solicitud de Patente

a. Reivindicaciones (artículo 30 D 486)

La reivindicación 1 utiliza como preámbulo la expresión "Un método para hacer una distribución de formulaciones para el tratamiento de discontinuidades mucosales", la Decisión 486 en su artículo 14 establece que solo se otorgarán patente a las invenciones de producto o de procedimiento, no estando por lo tanto las reivindicaciones 1 a 6 en forma clara dentro de ninguna de las dos categorías patentables. Adicionalmente la expresión de uso del producto para el tratamiento de discontinuidades mucosales no es aceptable en ninguna reivindicación, se aclara que el uso que se da a un producto no se considera una característica técnica del mismo.

La reivindicación 1 carece de claridad debido a que no es posible para el técnico medio identificar cual es el criterio para decidir si es necesaria o no la reacción de agua libre y el ácido libre o cuando es conveniente la adición de agua en la producción de la formulación.

Las expresiones "concentraciones preseleccionadas", "isómero preseleccionados" y "opcionalmente", no limitan el alcance de la reclamación. Se recomienda al solicitante utilizar expresiones concisas que permitan establecer sin ambigüedad la materia solicitada.

Las reivindicaciones 2 y 3 carecen de claridad ya que no se entiende cómo puede lograrse fenolsulfonato de amonio o guayacolsulfonato de potasio con hidróxidos diferentes al hidróxido de amonio o de potasio. Se recomienda al solicitante ser conciso y coherente en el alcance de la reclamación.

Las reivindicaciones 5, 6, 13, 15-18 caracterizan el método o sistema por su uso en el tratamiento de una patología. El uso no se considera una característica técnica puesto que no delimita el alcance de la reclamación ya que cualquier método o sistema actual o futuro que eventualmente pueda tener el mismo uso estaría dentro del alcance de la solicitud.

Las reivindicaciones 7 a 9 reclaman un producto producido mediante el método de las reivindicaciones anteriores. La materia del producto puede definirse por sus características estructurales, por lo cual se recomienda al solicitante que caracterice el producto mediante sus componentes y la proporción de los mismos en la composición y no por el método de obtención.

Las reivindicaciones 13 a 18 reclaman un "sistema", no es clara cuál es la diferencia entre las formulaciones de las reivindicaciones 10 a 12 y los sistemas ahora reclamados ya que ambos contienen esencialmente por los mismos componentes.

La expresión "mecanismo calibrado para mezclar" no es clara, no se delimita el alcance de la materia ya que dicha expresión es ambigua.

Las reivindicaciones mencionadas no cumplen con el requisito de claridad o concisión de acuerdo al art. 30 de la Decisión 486 y/o art.22 Tratado PCT.

4. Determinación del Estado de la Técnica

La fecha que se ha tenido en cuenta para determinar el Estado de la Técnica es:

Fecha de presentación de la solicitud prioritaria 03-01-2003

Teniendo en cuenta la fecha indicada se realizó la búsqueda en el estado de la técnica de documentos relacionados con la solicitud encontrándose los siguientes documentos más relevantes:

Nº	Documento	Título	Fecha de publicación*
D1	US5,688,995	O-HYDROXYPHENYL-S-TRIAZINES	18-11-1997
D2	US4,144,325	METHOD OF AND COMPOSITION FOR PREVENTING SUNBURN WHILE AFFORDING TANNING	13-03-1979

5. Análisis de Patentabilidad (Art 14 D486)

Nivel Inventivo (Art18 D486)

La reivindicación 1 reclama un método que comprende:

- Proveer fenol, guayacol, ácido sulfúrico
- Reaccionar el guayacol y el fenol con el ácido sulfúrico y agua para hacer ácido fenolsulfónico y ácido guayacolsulfónico.

La reivindicación 10 reclama una formulación para el tratamiento de discontinuidades mucosales que comprende:

- Ácido fenolsulfónico e isómeros del ácido fenolsulfónico;
- Ácido guayacolsulfónico e isómeros de ácido guayacolsulfónico y formas mono- y bis- de ácido guayacolsulfónico;
- Fenolsulfonato de amonio
- Guayacolsulfonato de potasio.

El estado de la Técnica más cercano es D1 que enseña una composición cosmética que comprende ácido fenolsulfónico junto con hidroxianisol (resumen, col 5, línea 65, col 6 líneas 1-5).

La solicitud se diferencia de D1 en que se reclaman composiciones que contienen adicionalmente fenolsulfonato de amonio y guayacolsulfonato de potasio.

El Efecto Técnico que logra la diferencia es el mismo que logra D1, ya que no se presenta en la solicitud ninguna información que evidencie un efecto sorprendente o novedoso. Adicionalmente, ninguna de las formulaciones ejemplificadas contiene simultáneamente los cuatro componentes descritos en la reivindicación 10. Con respecto a la composición exfoliante de la reivindicación 19, la descripción también carece de información que permita establecer que dicha composición posee algún efecto técnico sorprendente o ventajoso.

El Problema Técnico Objetivo de esta solicitud es La necesidad de formulaciones para tratar discontinuidades mucosales. Este problema ya se había resuelto con las composiciones descritas en D1. Igualmente, la reivindicación 19 reclama una

fenolsulfónico a partir de fenol (col. 5 lín. 65, col. 6 lín. 1-5)

D2 describe una composición que comprende hidroxianisol y antioxidantes (resumen; col 18 lín. 15-25). D2 igualmente el uso de dicha composición para ser aplicada en la piel con la finalidad de protegerla frente a posibles eritemas (col. 7, lín. 45-50)

En conclusión para el técnico medio en la materia sería evidente a partir de la información contenida en D1 y D2, preparar una composición que contenga tanto ácido fenolsulfónico como ácido guayacolsulfónico junto con otros ayudantes de formulación, con la finalidad de obtener una formulación que pueda ser útil para proteger la piel del daño solar y lograr un efecto exfoliante. En consecuencia las reivindicaciones 1 a 26 carecen de nivel inventivo.

6. Conclusión

Los requisitos de Patentabilidad de la presente Solicitud se encuentran afectados así:

N°	Documento	Reivindicaciones afectadas	Requisito que afecta
D1	US5,688,995	1 a 26	NIVEL INVENTIVO
D2	US4,144,325	1 a 26	NIVEL INVENTIVO

En cumplimiento del artículo 45 de la Decisión 486 de la Comisión de la Comunidad Andina, se le indica que debe dar respuesta dentro del término de sesenta días contados a partir de la fecha de notificación de la presente comunicación. En caso de no dar respuesta al presente requerimiento, o si a pesar de la respuesta subsistieran los impedimentos para la concesión, se denegará la patente.

Notifíquese el presente oficio conforme a lo dispuesto en el numeral 5.2, literal e), del capítulo quinto del título primero de la Circular Única N° 10 de 2001.

ALIX CARMENZA CÉSPEDES DE VERGEL
Directora de Nuevas Creaciones (C)

El anterior requerimiento fue notificado por fijación en lista, de fecha

4 MAYO 2010

CONCEPTO TÉCNICO No.1429	EXAMINADOR TÉCNICO Código No. 202073
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