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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,870	01/10/2012	8017376	2888.075REX2	2288
58249	7590	03/23/2012	EXAMINER	
COOLEY LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001			RAILEY, JOHNNY F	
			ART UNIT	PAPER NUMBER
			3991	
			MAIL DATE	DELIVERY MODE
			03/23/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

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**Transmittal of Communication to Third Party Requester
Inter Partes Reexamination**

REEXAMINATION CONTROL NUMBER 95/001,870.

PATENT NUMBER 8,017,376.

TECHNOLOGY CENTER 3999.

ART UNIT 3991.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

**ORDER GRANTING/DENYING
REQUEST FOR INTER PARTES
REEXAMINATION**

Control No.	Patent Under Reexamination
95/001,870	8017376
Examiner,	Art Unit
JOHNNY F. RAILEY II	3991

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --

The request for *inter partes* reexamination has been considered. Identification of the claims, the references relied on, and the rationale supporting the determination are attached.

Attachment(s): PTO-892 PTO/SB/08 Other: _____

1. The request for *inter partes* reexamination is GRANTED.

An Office action is attached with this order.

An Office action will follow in due course.

2. The request for *inter partes* reexamination is DENIED.

This decision is not appealable. 35 U.S.C. 312(c). Requester may seek review of a denial by petition to the Director of the USPTO within ONE MONTH from the mailing date hereof. 37 CFR 1.927. EXTENSIONS OF TIME ONLY UNDER 37 CFR 1.183. In due course, a refund under 37 CFR 1.26(c) will be made to requester.

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Order.

Art Unit: 3991

Decision Granting *Inter Partes* Reexamination

The Third Party Request filed on 10 January 2012 for *inter partes* reexamination asserts that there is a reasonable likelihood that the requester will prevail with respect to claims 1-20 of United States Patent Number 8,017,376 B2 to Dundon *et al.*

Procedural Posture

The current Request has been assigned Control Number 95/001,870.

Patented claims - U.S. Patent 7,851,188 B2

The patent consists of claims 1-20, all of which are under reexamination.

Documents Cited in the *Inter Partes* Reexamination Request

1. WO 2011/103300 A2. Flint *et al.*, inventors. Published 25 August 2011. International Filing Date 17 February 2011, claims benefit of provisional U.S. application Serial No. 61/305,333 [filed 17 February 2010]. [**the '300 publication'**]
2. US 2011/0076733 A1. Urano *et al.*, inventors. Published 31 March 2011. Filed 12 August 2010, claims benefit of provisional U.S. application Serial No. 61/272,058 [filed 12 August 2009] and benefit of provisional U.S. application Serial No. 61/272,059 [filed 12 August 2009]. [**the '733 publication'**]
3. US 2010/0081179 A1. Anthony *et al.*, inventors. Published 1 April 2010. Filed 29 September 2009, claims benefit of provisional U.S. application Serial No. 61/100,801 [filed 29 September 2008] and benefit of provisional U.S. application Serial No. 61/100,806 [filed 29 September 2008]. [**the '179 publication'**]
4. Puig *et al.*, (2005). *Cell* 120:99-110. [**Puig'**]
5. Rutherford *et al.*, (2003). *The Journal of Biological Chemistry* 278(30):27636-27643. [**Rutherford 2003'**]
6. US 2009/0163376 A1. Li *et al.*, inventors. Published 25 June 2009. Filed 18 December 2008, claims benefit of provisional U.S. application Serial No. 61/015,346 [filed 20 December 2007] and benefit of provisional U.S. application Serial No. 61/109,297 [filed 29 October 2008]. [**the '376 publication'**]
7. Conde e Silva *et al.*, (September 2009). *Genetics* 183(1):93-106. [**Conde e Silva'**]

Art Unit: 3991

Reasonable Likelihood to Prevail (RLP) on the Issue of Patentability

The claims for which reexamination is requested will be utilized to show whether the above-cited references, taken together with the explanation provided by the requester are found to establish, or not to establish, that there is a reasonable likelihood that the requester will prevail with respect to at least one of the patent claims.

Identification of Every Claim for Which Reexamination is Requested

References 1-7 cited above are discussed in the Request and asserted to render unpatentable claims 1-20 of United States Patent Number 8,017,376 B2. Pages 66-138 of the Request include explanations that seek to establish a reasonable likelihood that the requestor will prevail with respect to at least one of the patent claims in light of references 1-7 cited above, in the proposed combinations. The explanations in the Request are addressed below under subheadings designating each numbered Issue:

Issue #1 – the '300 publication

Whether it has been shown that there is a reasonable likelihood that the requester would prevail with respect to claims 1-15 and 17-20 as set forth at pages 66-90 of the Request, these claims challenged as being anticipated by the '300 publication.

Issue #2 – the '733 publication

Whether it has been shown that there is a reasonable likelihood that the requester would prevail with respect to claims 1-9, 11, 13 and 18-20 as set forth at pages 91-105 of the Request, these claims challenged as being anticipated by the '733 publication.

Issue #3 – the '179 publication taken in view of Puig

Whether it has been shown that there is a reasonable likelihood that the requester would prevail with respect to claims 1-4, 6-11 and 17-20 as set forth at pages 105-128 of the Request, these claims challenged as being obvious over the '179 publication taken in view of Puig.

Issue #4 – the '179 publication taken in view of Puig and further in view of the '376 publication

Whether it has been shown that there is a reasonable likelihood that the requester would prevail with respect to claim 5 as set forth at pages 128-130 of the Request, this claim challenged as being obvious over the '179 publication taken in view of Puig and further in view of the '376 publication.

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