



8-13-07

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentees: Rabbani *et al.*)
 U.S. Patent No.: 7,064,197 B1)
 Issued: June 20, 2006)
 Serial No.: 08/486,070)
 Filed: June 7, 1995)
 For: SYSTEM, ARRAY AND NON-POROUS SOLID)
 SUPPORT COMPRISING FIXED OR)
 IMMOBILIZED NUCLEIC ACIDS)

Group Art Unit: 1631
 Primary Examiner: John S. Brusca

527 Madison Avenue, 9th Floor
 New York, NY 10022-4304
 August 10, 2007

FILED VIA EXPRESS MAIL
-- RETURN RECEIPT REQUESTED

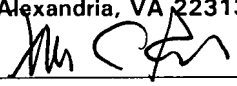
Mail Stop -- Box Reconstruction
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Attention: Deborah Dotson (Telephone 571-272-0520)
Technology Center 1600

COMMUNICATION ACCOMPANYING PATENTEES' SUBMISSION OF CERTAIN MISSING DOCUMENTS FROM U.S. PATENT APPLICATION SERIAL NO. 08/486,070, FILED JUNE 7, 1995

Dear Sirs:

This Communication accompanies Patentees' submission of certain missing documents from the file history of U.S. Patent Application Serial No. 08/486,070, filed on June 7, 1995. Patentees' undersigned attorney was informed by a third party that these documents were missing. No Notice Under 37 CFR 1.251 or other formal or informal inquiry is believed to have been issued or made with respect to these missing documents.

EXPRESS MAIL CERTIFICATE	
"Express Mail" Label No.	<u>EM008701605US</u>
Deposit Date	<u>AUGUST 10, 2007</u>
I hereby certify that this paper (Communication Accompanying Patentees' Submission Of Certain Missing Documents From U.S. Patent Application Serial No. 08/486, Filed June 7, 1995) and the attachments herein are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Box Reconstruction, P. O. Box 1450, Alexandria, VA 22313-1450.	
	<u>AUG 10 2007</u>
Ronald C. Fedus Reg. No. 32,567	Date

REMARKS

Earlier this year it came to the undersigned's attention from a third party that several documents appeared to be missing from the USPTO's file wrapper for U.S. Patent Application Serial No. 08/486,070 ("the '070 Application), filed on June 7, 1995, the immediate application from which U.S. Patent No. 7,064,197 B1 ("the '197 Patent) issued on June 20, 2006. In three instances, the exhibits to filed declarations or a communication appeared to be missing. In three other instances, the entire declaration or information disclosure statements appeared to be missing.

According to the third party, the following documents were missing from the USPTO's file wrapper for the '070 Application:

1. Exhibits 5-10 to May 8, 2001 Declaration Of Dr. Cheryl H. Agris, Attorney At Law (In Support Of The Written Description Of The Invention Claimed In U.S. Patent Application Serial No. 08/486,070);
2. Exhibits 1-4 to May 30, 2001 Communication For Transmitting Charts In Support Of Applicant's Invention Claimed In U.S. Patent Application Serial No. 08/486,070;
3. June 17, 2002 Declaration Of Dr. Jannis G. Stavrianopoulos with Exhibits 1-26;
4. June 28, 2002 Supplemental Information Disclosure Statement Under 37 C.F.R. §§1.56 & 1.97-1.98 with Exhibits 1-16;
5. July 30, 2002 Second Supplemental Information Disclosure Statement Under 37 C.F.R. §§1.56 & 1.97-1.98 with Exhibits 1-28; and
6. Eight (8) Charts attached to December 31, 2002 Communication For Submitting Eight Charts In Support Of Applicant's Invention Claimed In U.S. Patent Application Serial No. 08/486,070.

Upon receiving this information from the third party, the undersigned immediately reviewed the contents of the instant Assignee's (Enzo Life Sciences, Inc.) files to determine whether the above-listed documents were present. These documents were found to be present in the Assignee's '070 Application file.

Before preparing this Communication and submitting the above-listed documents, however, the undersigned contacted Landon-IP, Inc. of Alexandria, Virginia, to request that they undertake to examine the contents of the '070 Application file maintained by the USPTO. Landon-IP later informed the undersigned that an inspection of the publicly available papers for the file history revealed that the requested papers could not be located. Landon-IP suggested, however, that the next option would be to order an electronic copy of the entire file with cited references on CD-Rom, and to conduct a further examination. According

to Landon-IP, this option would cover the situation where the missing papers may have been incorrectly scanned in the non-patent literature. The undersigned proceeded to order the electronic copy of the entire file for the '070 Application with cited references on CD-Rom. A short time later, Landon-IP confirmed with the undersigned that the requested papers (above-listed documents) are missing from the official USPTO copy of the file history for the '197 Patent.

Having thus confirmed that the above-listed documents are missing from the '070 Application and '197 Patent file, the undersigned proceeded to check the Code of Federal Regulations (notably 37 CFR 1.251 Unlocatable File), the Manual of Patent Examining Procedure (MPEP) §508.04 (MPEP Pages 500-32 through 500-34), and the USPTO website for information on handling the matter of incomplete file wrapper papers, but not a complete file wrapper. In the MPEP (page 500-34, left column, last paragraph, through right column, first paragraph), it states:

37 CFR 1.251 generally applies only to situations in which the file of an application or patent (not just certain documents) is unlocatable. When a document is missing from an application, Office practice is to call the applicant's representative and request submission (generally by facsimile) of a copy of the missing document. While the Office will generally treat missing documents in this relatively informal manner (rather than issuing a notice under 37 CFR 1.251), the Office may issue a notice under 37 CFR 1.251 to obtain a copy of a missing document if the Office's informal attempts to obtain a copy of the document are unsuccessful. The notice under 37 CFR 1.251 will include a printout of the contents entries from the Office's PALM system.

The undersigned also checked the Public PAIR for the '070 Application and the '197 Patent to determine whether a Notice Under 37 CFR 1.251 had been recently issued. No such notice was listed.

Lastly, before filing this Communication and submitting the above-listed documents, the undersigned also attempted to obtain information by contacting the USPTO at various numbers, including the Reconstruction Section (Tel. Nos. 571-

272-3150 and 571-272-1000) and Document Services (an option from the menu for Tel. No. 571-272-3150). A call was made on August 9, 2007 to Deborah Dotson, Technology Center 1600 (Telephone 571-272-0520) who suggested that the missing documents could be sent to her attention for proper scanning into the USPTO's system.¹ The undersigned acknowledges with appreciation the time and courtesy extended by Ms. Dotson in handling his inquiry about these missing documents.

Accordingly, the above-listed documents are attached as exhibits to this Communication as follows:

1. Exhibits 5-10 to May 8, 2001 Declaration Of Dr. Cheryl H. Agris, Attorney At Law (In Support Of The Written Description Of The Invention Claimed In U.S. Patent Application Serial No. 08/486,070) [Exhibit 1];
2. Exhibits 1-4 to May 30, 2001 Communication For Transmitting Charts In Support Of Applicant's Invention Claimed In U.S. Patent Application Serial No. 08/486,070 [Exhibit 2];
3. June 17, 2002 Declaration Of Dr. Jannis G. Stavrianopoulos with Exhibits 1-26 [Exhibit 3];
4. June 28, 2002 Supplemental Information Disclosure Statement Under 37 C.F.R. §§1.56 & 1.97-1.98 with Exhibits 1-16 [Exhibit 4];
5. July 30, 2002 Second Supplemental Information Disclosure Statement Under 37 C.F.R. §§1.56 & 1.97-1.98 with Exhibits 1-28 [Exhibit 5]; and
6. Eight (8) Charts attached to December 31, 2002 Communication For Submitting Eight Charts In Support Of Applicant's Invention Claimed In U.S. Patent Application Serial No. 08/486,070 [Exhibit 6].

¹ In responding to a November 18, 2005 Office Communication initiating reconstruction pursuant to 37 C.F.R. §1.251 of U.S. Patent Application Serial No. 06/461,469, filed on January 27, 1983 (the first-filed application in the family leading to the '070 Application), the undersigned filed a Communication on December 8, 2005 directed to the attention of Deborah Dotson, Technology Center 1600.

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