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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/486,070	06/07/1995	JANNIS G. STAVRIANOPOULOS	ENZ-7(P)(C3)	6279
28171	7590	11/26/2004	EXAMINER	
ENZO BIOCHEM, INC. 527 MADISON AVENUE (9TH FLOOR) NEW YORK, NY 10022			MARSCHEL, ARDIN H	
			ART UNIT	PAPER NUMBER

1631

DATE MAILED: 11/26/2004

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



### **DETAILED ACTION**

Due to the below set forth new grounds of rejection the finality of the office action, mailed 4/7/04, is hereby withdrawn. Also, due to said withdrawal of finality the Notice of Appeal, filed 6/30/04, is deemed moot. The amendment, filed 6/30/04, has been entered.

Applicants' arguments, filed 6/30/04, have been fully considered but they are not deemed to be persuasive. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

### **NEW MATTER**

Claims 3147-3150, 3164-3166, 3170, 3171, 3175-3178, 3192-3194, 3198-3245, 3248-3251, 3265, 3266, 3269, 3270, and 3278 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

NEW MATTER has been amended into the claims via claim 3147 which cites the following solid supports which have not been found as filed: "a plate", "depressions", "beads", "a set of plates", "a set of...depressions", or "a set of...beads". The closest citation to these is set forth in the bridging paragraph between pages 13 and 14 as filed which cites plastic or glass wells which are not the generic wells as in instant claim

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3147. This citation also cites "arrangements of wells, tubes or cuvettes" which includes an arrangement limitation which is more limited than the above cited sets because the sets of claim 3147 lack any arrangement limitation(s) and thus contain NEW MATTER due to broadening to sets vs. arrangements. On page 16, lines 9-14, cites a glass plate with an array of depressions or wells but not the generic plate or plates as now set forth in claim 3147 nor depressions or wells without their presence in a glass plate as now set forth in claim 3147. On page 23, line 17, conventional microtiter well plates are set forth but not the generic plate or set of plates as now set forth in instant claim 3147. Open plate(s) incubation is cited on page 23, lines 25-27, but are reasonably interpreted as describing said conventional microtiter plates and not generic plate(s) as now claimed in claim 3147. This NEW MATTER is also present in claims 3175, 3201, and 3248.

Although applicants point to a previous claim regarding the "more than one surface" type of solid support in claim 3148, a review of the instant disclosure as filed has failed to reveal any such "more than one surface" limitation. This phrase thus adds NEW MATTER compared to the instant disclosure as filed. This NEW MATTER is also present in claims 3176, 3202, 3249, 3150, and 3278.

Although applicants point to previous claims regarding the "to one of said reactive sites or binding sites" as now set forth in claim 3149, a review of the instant disclosure as filed has failed to reveal any citation regarding the particular "to one of" limitation within said phrase. This "to one of" phrase thus adds NEW MATTER compared to the instant disclosure as filed. It is acknowledged that several chemical

surface treatments have been disclosed as filed, such as providing alkylamine (page 16, line 1) and epoxy glue (page 23, line 3). Such surface treatment(s), however, lack any localization of nucleic acid attachment "to one of" any sites on the various surfaces or solid supports as now set forth in claim 3149 which therefore contains NEW MATTER due to said "to one of" limitation. This NEW MATTER is also present in claims 3177, 3178, 3250, and 3251.

Although applicants point to previous claims regarding claims 3164 and 3165, a review of the instant disclosure as filed has failed to reveal any written support as filed for the quantitation limitation directed to "proportional to". The specification at page 13, lines 11-28, cite quantitation of signal but not that such quantitation is via a signal which is "proportional to" an amount of label etc. This phrase thus adds NEW MATTER compared to the instant disclosure as filed. This NEW MATTER is also present in claims 3192, 3193, 3218, 3219, 3242, 3243, 3265, and 3266.

Although applicants point to a previous claim regarding claim 3165, a review of the instant disclosure as filed has failed to reveal any written support as filed for quantifiability of a label "in or from a fluid or solution" either "in" or "through" a "non-porous solid support" as now set forth in claim 3165. It is acknowledged that a fluid or solution is cited as filed as well as non-porous solid supports of various types, but not that quantifiability is practiced either "in" or "through" a non-porous support as now set forth in claim 3165. This phrase thus adds NEW MATTER compared to the instant disclosure as filed.

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