IX. Claims Appendix (Corrected)

Claims 1-32 **(Cancelled)**

33. (Previously presented) A device for receiving and preserving nucleic acid in biological samples, said device comprising:

a. one or more walls defining a containment vessel having a top having an opening, and a closed bottom having a sample receiving area for holding said samples, said opening for receiving liquid samples and for sealably receiving a closing means,

b. a reagent compartment having a barrier, said barrier sealing and containing reagents in said reagent compartment and capable of permanent disestablishment upon disruption to release said reagents into the sample receiving;

c. reagents in the reagent compartment for preserving nucleic acids potentially present in the sample; and,

d. closing means and disruption means, said disruption means for engaging said barrier whereby when sealably closing said opening with said closing means, said disrupting means permanently and mechanically disestablishes said barrier to release said reagents to preserve nucleic acids potentially present in the sample.

34. (Previously presented) The device of claim 33 wherein said closing means is a cap and said disruption means is a plunger.

35. (Previously presented) The device of claim 34 wherein said cap and containment vessel have cooperating threads.

36. (Previously presented) The device of claim 33 wherein said reagents comprise a denaturing agent, a chelator and means for creating a pH of greater than 5.0.

37. (Previously presented) The device of claim 36 wherein said reagents comprise a protease.

38. (Previously presented) The device of claim 37 wherein said protease is proteinase K.

39. (Previously presented) A method of preserving nucleic acid in biological samples, comprising the steps of:

a. providing a device for receiving biological sample, said device having:

i. one or more walls defining a containment vessel having a top having an opening, and a closed bottom having a sample receiving area for holding said samples, said opening for receiving liquid samples and sealably receiving a closing means,

ii. a reagent compartment having a barrier, said barrier sealing and containing reagents in said reagent compartment and capable of permanent disestablishment upon disruption to release said reagents into the sample receiving;

iii. reagents in the reagent compartment for preserving nucleic acids potentially present in the sample; and,

iv. closing means and disruption means, said disruption means for engaging said barrier whereby when sealably closing said opening with said closing means, said disrupting means permanently and mechanically disestablishes said barrier to release said reagents to preserve nucleic acids potentially present in the sample.;

b. receiving a sample in said top having an opening, and

c. affixing closing means to seal the sample in said containment vessel and simultaneously permanently and mechanically disestablishing said barrier to release said reagents to preserve nucleic acids in said sample.

40. (Previously presented) The method of claim 39 wherein said closing means is a cap and said disruption means is a plunger.

41. (Previously presented) The method of claim 40 wherein said cap and containment vessel have cooperating threads.

42. (Previously presented) The method of claim 39 wherein said reagents comprise a denaturing agent, a chelator and means for creating a pH of greater than 5.0.

43. (Previously presented) The method of claim 39 wherein said reagents comprise a protease.

44. (Previously presented) The method of claim 43 wherein said protease is proteinase K.

45. (Previously presented) The method of claim 39 further comprising the step, following said affixing step, of storing said sample at room temperature for a period of at least one day.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: October 24, 2014
Electronic Signature for Anthony J. Janiuk, Esq.: /Anthony J. Janiuk/

Docket No.
513665: DNA5-001CON2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
H. Chaim Birnboim

Examiner: Young J. Kim

Application No.: 12/338,873

Art Unit: 1637

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For: COMPOSITIONS AND METHODS FOR OBTAINING NUCLEIC ACIDS FROM SPUTUM

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

RESPONSE TO THE NOTICE OF NON-COMPLIANT APPEAL BRIEF

Dear Sir:

In response to the Notice of Non-Compliant Appeal Brief mailed October 21, 2014, Applicant files the present response and two pages comprising the Claims Appendix. Applicant respectfully submits the present response is timely filed within the two month period set for Notice and no other fees are due. However, in event Applicant is mistaken, Applicant requests an extension of time such that the present Response is timely and authorizes the Commissioner to charge any fees associated with this Response to Deposit Account 12-0600 (513665: DNA5-001CON2).

Please substitute the Claims Appendix, pages 12 and 13 of the Appeal Brief with attached Claim Appendix (Corrected) substitute pages 12, 13 and 13a.