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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes details for Benjamin McCloskey and Dorsey & Whitney, LLP.

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 14/523,104	<b>Applicant(s)</b> MCCLOSKEY ET AL.	
	<b>Examiner</b> PHILIP COTEY	<b>Art Unit</b> 2855	<b>AIA (First Inventor to File) Status</b> No

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

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)  Responsive to communication(s) filed on 03/10/2015.  
 A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on \_\_\_\_\_.

2a)  This action is **FINAL**.                      2b)  This action is non-final.

3)  An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.

4)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims\***

5)  Claim(s) 1-20 is/are pending in the application.  
5a) Of the above claim(s) 8-20 is/are withdrawn from consideration.

6)  Claim(s) \_\_\_\_\_ is/are allowed.

7)  Claim(s) 1-7 is/are rejected.

8)  Claim(s) \_\_\_\_\_ is/are objected to.

9)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

\* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see [http://www.uspto.gov/patents/init\\_events/pph/index.jsp](http://www.uspto.gov/patents/init_events/pph/index.jsp) or send an inquiry to [PPHfeedback@uspto.gov](mailto:PPHfeedback@uspto.gov).

**Application Papers**

10)  The specification is objected to by the Examiner.

11)  The drawing(s) filed on 10/24/2014 is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

**Certified copies:**

a)  All    b)  Some\*\*    c)  None of the:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)

2)  Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)  
Paper No(s)/Mail Date 10/27/2014; 01/22/2015

3)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

4)  Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1 – 20 are pending in the present application.

Claims 8 – 20 are withdrawn (see election/restriction section below).

Claims 1 – 7 will be examined on the merits.

The present application is being examined under the pre-AIA first to invent provisions.

### ***Oath/Declaration***

Oaths/Declarations as filed 10/24/2014 are noted by the Examiner.

### ***Election/Restrictions***

Applicant's election without traverse of Invention I (claims 1-7) in the reply filed on 03/10/2015 is acknowledged.

Examiner notes applicant's desire for possible rejoinder upon a finding of allowable subject matter.

**Claims 8-20** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention II, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 03/10/2015.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of pre-AIA 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-3 and 6-7** are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by **Pickard** (US 4,682,491).

**Regarding claim 1, Pickard** teaches a method for operating an accelerated cyclic test system for evaluating a valved prosthetic device (**abstract**) comprising storing a volume of test system fluid in an excess volume area (**col. 15, lines 23-52; at least elements 136 and 142; see fig. 2; see also col. 5, lines 58-62**) during a system driving stroke that opens the valved prosthetic device (**col. 3, lines 9-57; see fig. 2 and associated text**); and releasing the stored volume of test system fluid during a return stroke that closes the valved prosthetic device (**col. 14 lines 4-10**).

**Regarding claim 2, Pickard** teaches that the excess volume area enlarges in response to a pressure on the test system fluid during the driving stroke and decreases during the return stroke (**col. 3, lines 46-57 teaching that the fluid pressure compensation chamber acts by means of air pressure through a diaphragm like “veins and arteries of the human body.” i.e. enlarges due to greater pressure and vice versa; see also fig. 2**).

**Regarding claim 3, Pickard** teaches that the excess volume area provides a spring force counter to and in response to the pressure on the test system fluid (**col. 3, lines 46-57 teaching**

**that the fluid pressure compensation chamber acts by means of air pressure through a diaphragm like “veins and arteries of the human body.” i.e. provides spring like pressure to the contained fluid; see also fig. 2)**

**Regarding claim 6, Pickard** teaches compressing a volume of a compressible gas with the volume of test system fluid to provide a spring force counter to and in response to a pressure on the test system fluid when the volume of test system fluid is stored in the excess volume area (col. 3, lines 46-57 **teaching that the fluid pressure compensation chamber acts by means of air pressure through a diaphragm like “veins and arteries of the human body.” i.e. provides spring like pressure to the contained fluid; see also fig. 2, specifically element 60 and associated text).**

**Regarding claim 7, Pickard** teaches altering a spring factor of the spring force provided by the excess volume area by adjusting the volume of the compressible gas (see col. 4, lines 25-45).

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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