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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 11/232,876 | 09/23/2005 | Takenari Itou | 027550-162 | 9508 |

21839 7590 06/02/2009
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| EXAMINER |
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KOHARSKI, CHRISTOPHER

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| ART UNIT | PAPER NUMBER |
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3763

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| NOTIFICATION DATE | DELIVERY MODE |
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06/02/2009

ELECTRONIC

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):

ADIPFDD@bipc.com

| | | | |
|------------------------------|--|------------------------------------|--|
| Office Action Summary | Application No. 11/232,876 | Applicant(s) ITOU ET AL. | |
| | Examiner CHRISTOPHER D. KOHARSKI | Art Unit 3763 | |

-- 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 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 08 April 2009.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) 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

- 4) Claim(s) 1-15 is/are pending in the application.
 - 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 September 2005 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).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

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).
 - a) All b) Some * c) None of:
 - 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) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/23/05, 3/14/06, 10/11/07.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Election/Restrictions

Claim 15 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group (group I selected), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/08/2009.

Applicant's election with traverse of the election in the reply filed on 4/08/2009 is acknowledged. The traversal is on the ground(s) that the additional group is not search burden. This is not found persuasive because the additional search scope of group II encompasses several addition classes specific to blood vessel insertion with a catheter which encompasses thousands of addition patents.

The requirement is still deemed proper and is therefore made FINAL.

Acknowledgements

The Examiner acknowledges the reply filed 4/08/2009 in which claims 1-15 are pending for examination in this application with claim 15 withdrawn from a previous election restriction.

Information Disclosure Statement

The information disclosure statements (IDS) that were submitted on 9/23/2005, 3/14/2006, and 10/11/2007 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statements.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 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 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams et al. (USPN5,385,562). Adams et al. discloses a guide catheter system for an angioplasty balloon catheter.

Regarding claims 1 and 7-12, Adams et al. discloses an catheter capable of being an intravascular foreign matter suction assembly (Figure 2, 14) for sucking foreign matter existing in a blood vessel, comprising: a guiding catheter (12) including a distal end and a proximal end and forming a lumen (27) extending from the distal end to the proximal end, the guiding catheter (12) configured to be inserted into a blood vessel until a position on proximal side of a target location in the blood vessel is reached; and a suction catheter (32) comprising a tubular portion provided on a distal side of the suction catheter with an obliquely cut shape (distal tip near 36), the tubular portion including a distal tube end and a proximal tube end, and a solid wire portion (34) provided at the proximal tube end of said tubular portion and having a distal end embedded in a wall (portion of 32) which forms said tubular portion, and wherein said suction catheter (32) is configured to be inserted in said lumen of said guiding catheter (12) and said tubular portion is configured to project outwardly beyond the distal end of said guiding catheter (section near 33) for removing foreign matter existing at the target

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location in the blood vessel. Adams et al. further discloses a distal end protective catheter (18), wherein the suction catheter (32) having a radiopaque marker (41, 42, 43) in a vicinity of the proximal tube end of said tubular portion, wherein said guiding catheter has a radiopaque (41) marker in a vicinity of the distal tube end of said tubular portion, wherein an outer surface of said tubular portion of said suction catheter has a lubricative coating (col 4, ln 55-67), and wherein said tubular portion of said suction catheter is more flexible than the distal end of said guiding catheter (cols 4-5, Figure 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 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.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3-5 are rejected under 35 U.S.C 103(a) as being unpatentable over Adams et al. (USPN5,385,562) in view of Bagoisan et al. (USPN6,849,068). Adams et al. meets the claim limitations as described above except for the source of negative pressure.

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