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APPLICATION NUMBER: 14/996,953 FILING DATE: January 15, 2016 PATENT NUMBER: 9464140

PATENT NUMBER: 9464140 ISSUE DATE: October 11, 2016



Certified by

Andrew lance

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
14/996,953	01/15/2016	Carl H. June	046483-6001US11(00853)	3710	
78905 7590 02/22/2016 Saul Ewing LLP (Philadelphia) Attn: Patent Docket Clerk Centre Square West 1500 Market Street, 38th Floor Philadelphia, PA 19102-2186			EXAMINER		
			BURKHART, MICHAEL, D		
			(0.000000000000000000000000000000000000		
			ART UNIT	PAPER NUMBER	
			1633		
			NOTIFICATION DATE	DELIVERY MODE	
			02/22/2016	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.

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	Exception Control		Application No. 14/996,953		Applicant(s) JUNE ET AL.	
Office Action Summary		<i>'</i>	Examiner Michael Burkhart	Art Unit 1633	AIA (First Inventor to File) Status No	
Period f	- The MAILING DATE of this comi or Reply	nunication appe	ears on the cover sheet w	ith the corresponde	nce address	
A SH THIS CC - Exte after - If No - Faili Any	HORTENED STATUTORY PERION OMMUNICATION. Pensions of time may be available under the proving SIX (6) MONTHS from the mailing date of this concept of the period for reply is specified above, the maximulare to reply within the set or extended period for reply received by the Office later than three monthed patent term adjustment. See 37 CFR 1.704(sions of 37 CFR 1,136 communication. Im statutory period wi reply will, by statute, on this after the mailing of	6(a). In no event, however, may a r Il apply and will expire SIX (6) MON bause the application to become Al	reply be timely filed ITHS from the mailing date BANDONED (35 U.S.C. § 1	of this communication: 33).	
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	This action is FINAL .		action is non-final.	Landa Arelea Company	and and the property of the control of the	
3) □ 4)□	; the restriction requirement	nt and election tion for allowan	have been incorporated ce except for formal matt	into this action. ers, prosecution as	to the merits is	
Disposit	tion of Claims*					
6) ☐ 7) ☒ 8) ☐ 9) ☐ * If any cla participati http://www Applicat 10) ☐	Claim(s) 90-119 is/are pending in 5a) Of the above claim(s) is/are allowed. Claim(s) is/are rejected. Claim(s) 90-119 is/are rejected. Claim(s) is/are objected to Claim(s) are subject to reaims have been determined allowable and intellectual property office for the covuspto.gov/patents/init_events/pph/intended to be the specification is objected to be the drawing(s) filed on is/Applicant may not request that any of Replacement drawing sheet(s) includes	is/are withdraw o. striction and/or you may be elige corresponding aportex.isp or send a y the Examiner are: a) \(\square{1}\) acce objection to the d	election requirement. gible to benefit from the Pat plication. For more informat an inquiry to PPHfeedback@	ion, please see Duspto.gov. by the Examiner. nce. See 37 CFR 1.8	5(a).	
12) Certi	under 35 U.S.C. § 119 Acknowledgment is made of a classified copies: All b Some** c None 1. Certified copies of the price 2. Certified copies of the price 3. Copies of the certified copies of the application from the Internal attached detailed Office action for a	e of the: ority documents ority documents pies of the prior ational Bureau	s have been received. s have been received in A rity documents have been (PCT Rule 17.2(a)).	Application No	The state of the s	
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	ce of References Cited (PTO-892)	1082 and/or PTO/SI	Paper No.	Summary (PTO-413) s)/Mail Date,,		



DETAILED ACTION

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

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of 35 U.S.C. 112(a) or the first paragraph of pre-AIA 35 U.S.C. 112, except for the best mode requirement. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994)

The disclosure of the prior-filed application, Application Nos. 61/502,649 and 61/421,470, fail to provide adequate support or enablement in the manner provided by 35 U.S.C. 112(a) or pre-AIA 35 U.S.C. 112, first paragraph for one or more claims of this application. The '649 and '470 applications do not disclose any of the SEQ ID NOs recited in the claims. The first disclosure of such SEQ ID NOs was in PCT/US11/64191, thus, the benefit of priority for the claims is given to the filing date of the application, 12/9/2011.



Double Patenting

Applicant is advised that should claim 90 be found allowable, claims 95 and 96 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). The dependent claims merely recite a limitation (scFv, SEQ ID NO: 20) already found in claim 90.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory double patenting rejection is appropriate where the claims at issue are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the reference application or patent either is shown to be commonly owned with



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