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APPLICATION NUMBER: 15/353,899
FILING DATE: November 17, 2016



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| EXAMINER |
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BURKHART, MICHAEL D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1633 | |

| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|
| 05/11/2018 | 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):

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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, 365(c), or 386(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 No. 61/421,470, fails 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 '470 application does not disclose memory T cells comprising the instant CAR or a nucleic acid encoding such. Therefore, claims 1-14 are granted a priority date of 6/29/2011, the filing date of the 61/502,649 application which does disclose such memory cells.

Art Unit: 1633

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.

Claim(s) 15-28 is/are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Imai et al (2004, Leukemia, of record).

Imai et al teach T cells from patients with leukemia modified to express a CAR comprising a CD19-specific scFv, a CD8 transmembrane and hinge domain, a 41BB co-stimulatory region and a CD3zeta signaling domain. See Figure 1 and p. 677, first col., first ¶ and ¶ bridging first and second cols. The cells comprised a vector (nucleic acid) encoding the CAR (p. 677). The instant specification does not provide a limiting definition for the phrase “persisting population”. The T cells of Imai et al could persist and continue to expand for at least three weeks (p. 681, ¶ linking first and second cols.) and are thus considered a “persisting population.”

Claim Rejections - 35 USC § 103

In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

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