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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-------------------------|---------------------|------------------|
| 17/281,668   | 03/31/2021  | Christopher Brian LOCKE | P001658US02PCT      | 1000             |
| 60402  | 7590        | 07/03/2024              | EXAMINER            |                  |
| KINETIC CONCEPTS, INC.<br>c/o Harness Dickey & Pierce<br>5445 Corporate Drive<br>Suite 200<br>Troy, MI 48098 |             |                         | FLYNN, TIMOTHY LEE  |                  |
|  |             |                         | ART UNIT            | PAPER NUMBER     |
|  |             |                         | 3781                |                  |
|  |             |                         | NOTIFICATION DATE   | DELIVERY MODE    |
|  |             |                         | 07/03/2024          | 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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|                              |                                      |                                     |                                 |
|------------------------------|--------------------------------------|-------------------------------------|---------------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b><br>17/281,668 | <b>Applicant(s)</b><br>LOCKE et al. |                                 |
|                              | <b>Examiner</b><br>TIMOTHY L FLYNN   | <b>Art Unit</b><br>3781             | <b>AIA (FITF) Status</b><br>Yes |

-- 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 04 April 2024.  
☐ 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) 1-5,7-8,10-11,19-20 and 26 is/are pending in the application.  
5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-5,7-8,10-11,19-20 and 26 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 \_\_\_\_ 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 \_\_\_\_\_
- 3) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Notice of Pre-AIA or AIA Status*

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

### *Response to Arguments*

Applicant's amendments filed 04/04/2024 have been accepted. Claims 12, 14-18, 24, and 24 are canceled. Claims 1-5, 7-8, 10-11, 19-20, and 26 are pending.

Applicant's arguments filed 04/04/2024 have been fully considered but they are not persuasive.

Applicant argues that Wu/Robinson/Weston does not teach the amended limitations of claim 1 wherein the first barrier comprises, "a first layer formed from a film" and "a second layer sealed to the first layer to define a fluid path between the first layer and the second layer, the second layer formed from a film," stating that the upper cover 215 and lower base 210 of Wu, which read on the first and second layers of the first barrier are not formed from a film. However, Dictionary.com defines a film as "a thin sheet of any material." Thus, the upper cover 215 and lower base 210 of Wu meet the requirements of the claim as set forth below.

Applicant argues that Wu/Robinson/Weston does not teach the amended limitations of claim 1 wherein, "a plurality of standoffs formed by at least one of the first layer and the second layer," stating that the support structures 205 of Wu protrude from a middle layer 207 rather than the first layer or the second layer (215 and 210 of Wu, respectively). However, Wu ¶[0048] states that the support structures 205 may be integrated with or coupled to the inner walls of the conduit body 105, which includes layers 215 and 210. Thus, the support structures 205 being integrated or coupled to layer 215 or 210 of Wu meet the requirements of the claim as set forth below.

Applicant argues that one of ordinary skill would not combine the dressing valve 136 of Robinson with the pressure indicators of Wu because the connector body 123 of Robinson includes a

receptacle 134 that would prevent application of negative pressure, and that the size of connector body 123 would not motivate one to combine Robinson with Wu. However, the combination is drawn to the dressing valve 136 only, not the entire connector body 123, so the size of connector body 123 would not prevent the combination from being made. Additionally, the receptacle 134 is merely a connector to a reduced pressure delivery conduit, and thus would not prevent application of negative pressure when coupled to a negative pressure source as intended (Robinson ¶[0023]). Additionally, since only the dressing valve 136 of Robinson is combined with the first barrier of Wu, the receptacle 134 would not necessarily be included in the combination. Thus, the rejection is maintained as set forth below.

Applicant again argues that wound cover 40 of Weston cannot be interpreted as having a dual layer structure. However, the examiner maintains that Weston ¶[0055] states that the protrusions 60 may be constructed of a different material than cover 40, which clearly implies a dual layer structure, since the layer including the protrusions 60 may be constructed of a different material having its own thickness, pliability, or color that is different than the cover 40, (Weston ¶[0055-0058]).

Additionally, Applicant argues that cover 40 cannot be interpreted as having a dual layer structure because Weston states in ¶[0054] that the plurality of protrusions 60 are embedded in the cover 40. However, the examiner maintains that the claim is written broadly enough that the cover 40 and protrusions 60 of Weston are still capable of being interpreted as having a dual layer structure. Furthermore, Wu in view of Robinson is relied upon as teaching the dual layer structure, and Weston is merely relied upon to teach that the layers may have similar profiles and dimensions. In light of the combination of Wu/Robinson/Weston, it would be obvious to one of ordinary skill to have dual layers having similar profiles and dimension in order to simplify manufacturing.

Applicant did not specifically argue the dependent claims.

***Claim Rejections - 35 USC § 103***

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

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries for establishing a background for determining obviousness under 35 U.S.C. 103 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.

This application currently names joint inventors. In considering patentability of the claims the examiner presumes that the subject matter of the various claims was commonly owned as of the effective filing date of the claimed invention(s) absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and effective filing dates of each claim that was not commonly owned as of the effective filing date of the later invention in order for the examiner to consider the applicability of 35 U.S.C. 102(b)(2)(C) for any potential 35 U.S.C. 102(a)(2) prior art against the later invention.

**Claims 1-5, 8, 10-11, 19, and 26 are rejected under 35 U.S.C. 103 as being unpatentable over Wu (US 20130144230 A1) in view of Robinson (US 20110224633 A1), and further in view of Weston (US 20040073151 A1).**

Regarding **Claim 1**, Wu discloses a fluid conductor (conduit body 105, Fig 5), comprising:

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