## United States Patent and Trademark Office



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS

P.O. Box 1450 Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 17/052,990 11/04/2020 P00497US.family 1047 Emre Ozer **EXAMINER** Leveque Intellectual Property Law, P.C. BOYER, RANDY 241 E. 4th Street, #102 Frederick, MD 21701 ART UNIT PAPER NUMBER 1771 NOTIFICATION DATE DELIVERY MODE 11/09/2023 **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):

eofficeaction@appcoll.com michelle@levequeip.com uspto@levequeip.com



	Application No.	Applicant(s)	
Office Action Summary	17/052,990	Ozer et al.	
	Examiner	Art Unit	AIA (FITF) Status
	Randy Boyer	1771	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 27 October 2023.			
A declaration(s)/affidavit(s) under <b>37 CFR 1.130(b)</b> was/were filed on			
2a) ☐ This action is <b>FINAL</b> . 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 <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims*			
5) Claim(s) 1-11 and 13-24 is/are pending in the application.			
5a) Of the above claim(s) 13-23 is/are withdrawn from consideration.			
6) Claim(s) is/are allowed.			
7) ✓ Claim(s) 1-11 and 24 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 <u>allowable</u> , you may be eligible to benefit from the <b>Patent Prosecution Highway</b> 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 or send an inquiry to 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 t	he:		
1. Certified copies of the priority docum			
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 Application 10.			
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) V Notice of References Cited (PTO-892)	3) Interview Summary	(PTO-413)	
2) Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/Sl	B/08b) Paper No(s)/Mail D 4) Other:	ate	



Application/Control Number: 17/052,990

Page 2

Art Unit: 1771

## **DETAILED ACTION**

## Notice of Pre-AIA or AIA Status

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

## Election/Restrictions

2. Applicant's election without traverse of claims 1-11 and 24 in the reply filed on 27 October 2023 is acknowledged.



Application/Control Number: 17/052,990 Page 3

Art Unit: 1771

3. Claims 13-23 are withdrawn from further consideration as being drawn to a non-

elected invention.

Claim Objections

4. Claim 10 is objected to for improper English grammar.

5. With respect to claim 10, the language "wherein in the inlet and outlet ports

include a seal" is improper English grammar. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. 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 -

(a)(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed

invention.

7. Claims 1-11 and 24 are rejected under 35 U.S.C. 102(a)(1) as being anticipated

by Wikswo (US 2014/0356849).

8. With respect to claims 1-11 and 24, Wikswo discloses a fluid delivery device (see

Wikswo, paragraph [0220]) comprising an inlet portal (851, 852, 853) to allow fluid

passage into a chamber ("organ N"); an outlet portal to allow fluid passage from the

chamber (see Wikswo, paragraph [0221]); a biosensor (870); an actuator, wherein the

actuator unambiguously derivable from the disclosure of "selectively operable valves"

(see Wikswo, paragraphs [0223] and [0227]); wherein the biosensor (870) is in fluid

communication with the fluid (see Wikswo, paragraph [0224]) and is associated with a

valve having actuator capability, the valve being in communication with the sensor



Application/Control Number: 17/052,990 Page 4

Art Unit: 1771

measured conditions upon which the valve permits or inhibits delivery of fluid from the chamber (see Wikswo, paragraphs [0234]-[0236] and [0285]). The valve having actuator capability may be a single unit which responds to a selected fluid parameter (see Wikswo, paragraphs [0223] and [0227]). The device may comprise a plurality of fluidic switches (i.e. valves) (see Wikswo, paragraphs [0223] and [0227]). The device may be integral to a microfluidic chip (see Wikswo, Abstract), the chip being associated with a pump for assisting fluid flow (see Wikswo, Abstract). The biosensor may detect changes in electrochemical or fluorescent signals (see Wikswo, paragraph [0103]). The biosensor may be linked to molecules detectable by light sensors (see Wikswo, paragraph [0311]). The inlet and outlet ports may include a seal (see Wikswo, paragraph [0347]). The valve may be linked to a control system capable of processing data which permits or inhibits delivery of fluid (see Wikswo, paragraph [0296]). Examiner notes that the specific limitations of claims 9 and 24 do not structurally limit the claimed device over that disclosed by Wikswo. Claims directed to an apparatus must be distinguished from the prior art on the basis of structural differences. Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469 (Fed. Cir. 1990) ("[A]pparatus claims cover what a device is, not what a device *does*.") (emphasis in original).

### Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy Boyer whose telephone number is (571) 272-7113. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 7:00 P.M. (EST).



# DOCKET

# Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

# **Real-Time Litigation Alerts**



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## **Advanced Docket Research**



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## **Analytics At Your Fingertips**



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

### **LAW FIRMS**

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

### **FINANCIAL INSTITUTIONS**

Litigation and bankruptcy checks for companies and debtors.

## **E-DISCOVERY AND LEGAL VENDORS**

Sync your system to PACER to automate legal marketing.

