

TECHNO BYTES™

PATENTS ISSUED

BIOLASE Receives New U.S. Patent for Electromagnetic Cleaning and Whitening Toothbrush System

BIOLASE Technology, Inc. (Nasdaq: BLTI), the world's leading dental laser company, announced that it has been granted a new U.S. patent related to its oral care technologies for a teeth cleaning and whitening system using a toothbrush that emits electromagnetic energy combined with a dentifrice containing a photosensitive agent.

The patent, No. 7,261,558, granted by the U.S. Patent and Trademark Office, contains both device and method claims related to a cleaning and whitening system for teeth, comprised of a toothbrush having a cleaning surface that incorporates a source of electromagnetic radiation (energy) that focuses energy toward the cleaning surface during brushing to enhance cleaning of the teeth and a dentifrice that disperses a photosensitive agent including a whitening compound. The patent contains 147 claims, of which seven are independent.

RegeneRx Receives U.S. Patent for Wound Healing Technology

RegeneRx Biopharmaceuticals, Inc. (Amex:RGN) announced that a U.S. patent related to wound healing has been issued by the U.S. Patent and Trademark Office. The patent claims are based on a significant body of data developed by the National Institutes of Health and include numerous claims relating to Thymosin beta 4 (T β 4), its analogues, related compounds, fragments and other variants.

T β 4's wound healing properties are the subject of four RegeneRx-sponsored Phase 2 clinical trials in chronic pressure ulcers; venous stasis ulcers; epidermolysis bullosa, a difficult-to-heal skin blistering disease and orphan indication; and diabetic patients undergoing corneal surgery. The Company is also sponsoring a Phase 1 clinical trial in healthy volunteers to assess the safety of its injectable formulation for use in heart attack patients.

AntiCancer, Inc. Receives Patent for New Type of AIDS Drug

AntiCancer, Inc. announced that it has received patent 7,264,819 on September 4, 2007, entitled "Lyase treatment for *P. carinii*". AntiCancer is currently developing a recombinant bacterial protein drug called PEG-methioninase (methionine lyase) for cancer treatment. This drug is now in late preclinical trials for cancer. This drug is effective for cancer because cancer cells have defective methionine metabolism and cease growing when deprived of methionine. The most frequent opportunistic infection in AIDS is *Pneumocystis carinii* (*P. carinii*) which also has defective methionine metabolism and should lose its infectivity if the infected tissues are deprived of methionine by AntiCancer's drug, PEG-methioninase. AntiCancer is currently looking for a partner to develop PEG-methioninase for the AIDS indication for patients infected with *P. carinii*.

U.S. Patent and Trademark Office Issues Fundamental Patent for Carbon Nanotube-Based Transparent Electrodes

Unidym, Inc., a majority-owned subsidiary of **Arrowhead Research Corporation** (Nasdaq: ARWR), announced that U.S. Patent No. 7,265,174 has been issued by the U.S. Patent and Trademark Office. With respect to transparent conductive films, Clemson University has exclusively licensed this patent to Unidym. Unidym is a leader in the development and manufacture of carbon nanotubes for applications in the electronics industry. Unidym, which recently merged with Carbon Nanotechnologies, Inc. (CNI), possesses a foundational patent portfolio that covers nearly every aspect of carbon nanotube manufacturing and processing. U.S. Patent No. 7,265,174 includes composition of matter claims covering nanotube-based films that are electrically conductive and at least 80% optically transparent. It is the latest addition to Unidym's extensive patent portfolio on carbon nanotechnology, now numbering over 70 issued U.S. Patents.

Fractal Antenna Awarded Broad Patent for Fractal Electronics

Fractal Antenna Systems, Inc., the pioneering innovator of fractal antenna technology, announced the issuance of its 13th patent. The new patent (USP 7,256,751) extends the firm's base into the fast-growing field of fractal electronics and defines the IP foundation for the new field.

DECISIONS & SETTLEMENTS

McKool Smith Announces \$156 Million Verdict In Patent Infringement Lawsuit against AT&T

Attorneys from Dallas' **McKool Smith P.C.** won a federal court jury verdict of \$156 million for Dallas-based **TGIP Inc.** against **AT&T Corp.** in a patent infringement lawsuit over two patents covering point-of-sale activation of telephone calling cards.

The verdict was delivered late Friday (September 14th) in the United States District Court for the Eastern District of Texas, Beaumont Division. Jurors reached their decision following two weeks of testimony in a trial before the Honorable Ron Clark.

Co-defendant MCI/Verizon reached a confidential settlement with TGIP on the second day of trial. Other defendants reached similar confidential settlements prior to trial.

Mintz Levin Represents Renowned Physician, Dr. Peter Rentrop, in Major Patent Infringement Victory

In a significant patent infringement victory, **Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.** represented **Dr. Peter Rentrop**, a prominent cardiovascular interventionalist, in his patent litigation dispute with **Spectranetics Corporation**. Dr. Rentrop sued the medical device company for infringing his patent for a catheter used to deliver laser energy principally for use in cardiovascular intervention surgery. A jury found in favor of Dr. Rentrop and rejected all counter-claims by the defendant.

Judge P. Kevin Castel of U.S. District Court in the Southern District of New York upheld the 2006 jury verdict that found

that Dr. Rentrop's patent, U.S. Patent No. 6,673,064 (the "'064 Patent"), was valid and infringed and that Dr. Rentrop was the sole inventor of that patent and the parent patent, U.S. Patent No. 6,440,125 (the parent). Judge Castel also ruled that Spectranetics failed to meet its burden to show inequitable conduct or an implied-in-law license to use.

The '064 Patent is directed to a laser catheter employed to ablate hardened occlusions for use in endovascular surgery. The laser catheter has a tip diameter of less than one millimeter and a tip length of at least one centimeter to provide a catheter tip which is sufficiently flexible to permit it to negotiate narrow arterial bends in coronary vessels while the catheter shaft exhibits a stiffness profile allowing the catheter to be pushed through cardiac vessels to a desired site.

ImClone Settles Patent Lawsuit and Gains Rights to Additional Intellectual Property

ImClone Systems Incorporated (Nasdaq: IMCL) announced that it has signed settlement and sublicensing agreements with the **Massachusetts Institute of Technology (MIT)** and **Repligen Corporation** to end litigation related to U.S. Patent No. 4,663,281, which is owned by MIT and exclusively licensed to Repligen. All terms of the agreements have been finalized and the parties will submit a stipulation of dismissal to the court. This settlement eliminates the need for the trial proceedings previously scheduled to begin September 9th, as well as any further court proceedings or decisions relating to damages sought from ImClone by MIT and Repligen with respect to U.S. Patent No. 4,663,281.

Pursuant to the terms of the settlement, ImClone will pay a total of \$65.0 million in cash for full and final settlement of the claims against ImClone in the matter, as well as for a royalty-free, irrevocable worldwide sublicense to technology patented under U.S. Patent No. 4,663,281. The \$65.0 million lump-sum payment ImClone has made to Repligen represents the full amount ImClone will pay to settle its litigation with MIT and Repligen. Repligen is responsible for providing MIT with its portion of the settlement payment.

Importantly, pursuant to the terms of the settlement, Repligen also granted to ImClone a royalty-free, irrevocable worldwide sublicense for the future use of other patented technology, including U.S. Patent

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HARNESSING INNOVATION

No. 5,665,578, which is owned by Abbott Laboratories, but to which Repligen has the power to sublicense under an agreement between Abbott Laboratories and Repligen. U.S. Patent No. 5,665,578 is the patent upon which Abbott Laboratories sued ImClone for patent infringement earlier this year.

Angiotech Reaches Agreement With Johnson & Johnson to Settle Outstanding Patent Litigation

Angiotech Pharmaceuticals, Inc., announced that it reached a favourable

agreement with **Johnson & Johnson's** subsidiary, **Conor Medsystems** ("Conor") to settle all outstanding patent litigation with respect to Conor's CoStar® paclitaxel stent. At the time of the settlement, there was ongoing litigation in three jurisdictions: the UK, the Netherlands and Australia.

Belkin Wins Appeal Against ACCO

Federal Circuit overturns 2004 district court ruling stating ACCO Brands lacked substantial evidence to support their infringement claim against Belkin's Key Lock

Belkin International, Inc., the global leader in connectivity solutions, announces that the U.S. Court of Appeals for the Federal Circuit in Washington D.C. reversed a May 2004 finding of infringement by Belkin with respect to a laptop computer lock patent held by **Kensington**, a division of **ACCO Brands, Inc.**

Belkin appealed the 2004 decision by the United States District Court for the Eastern District of Texas to the Federal Circuit, arguing that the jury's findings of induced infringement and willful infringement are not supported by substantial evidence. Further, Belkin contended that the jury award of damages is unsupported by substantial evidence and that the district court abused its discretion by awarding Kensington enhanced damages and attorney fees.

In a unanimous decision made on September 12, 2007, the Federal Circuit agreed with Belkin on each of these points, stating "ACCO failed to prove the threshold requirement of direct infringement" and "failed to point to specific instances of direct infringement." Therefore, the Federal Circuit reversed the district court's judgment of induced infringement, and vacated the district court's judgment with respect to willfulness, enhanced damages, and attorney fees against Belkin.

Utah Law Firm Workman Nydegger Scores Trademark Judgment on Behalf of its Client, Sinclair Oil Corp.

Trademark Trial and Appeal Board Finds Fraud In Case Involving Logo Usage

Salt Lake City-based **Workman Nydegger**, one of the nation's top intellectual property law firms, was granted a summary judgment by the United States Patent and Trademark Trial and Appeal Board (TTAB) on behalf of **Sinclair Oil Corp.**

In a precedential opinion, the TTAB found in *Sinclair Oil Corp. v. Sumatra Kendrick*, Opposition No. 91152940, that an applicant cannot cure a fraudulent statement in its application by merely amending its filing basis.

The applicant attempted to register a proposed STAACHI'S Co. 1996 design featuring a cartoon sun with a face, very similar to the distinctive Sun Valley sun owned by Sinclair. WN attorneys argued that the two marks were so similar that they would likely cause confusion in the marketplace.

Sumatra Kendrick had originally filed a use-based application to profile the logo on "retail store services featuring bath products, gift products [and] candy products,"

according to court documents. But the TTAB held that Ms. Kendrick had actually never offered such services, constituting fraud. (The TTAB found the application *void ab initio*.)

LICENSING AGREEMENTS

Entrepreneur Licenses Role Automation Patent

Paul Morinville, an Austin area inventor and entrepreneur, and **Bridgestream, Inc.**, a leading provider of roles automation software, announced that on Aug. 9 they entered into a cross-license patent agreement. The agreement provides Bridgestream perpetual non-exclusive rights to fully utilize Mr. Morinville's U.S. Patent No. 7,185,010, entitled *Systems and Methods for Rule Inheritance*, and U.S. Patent No. 7,251,666 entitled *Signature Loop Authorizing Method and Apparatus* and certain related patents, and provides Mr. Morinville perpetual non-exclusive rights to fully utilize Bridgestream's pending patent entitled "Working with Temporal Data."

Ener1 Signs Exclusive License Agreement with ITOCHU

Ener1, Inc. announced that it has signed a technology license agreement with ITOCHU Corporation that will grant Ener1 an exclusive world-wide license to certain "know-how" developed by EnerStruct and a certain patent and patent applications of EnerStruct and ITOCHU regarding lithium ion battery technology. EnerStruct, a joint venture between Ener1 and ITOCHU, has successfully completed the development of lithium ion materials and manufacturing processes which are now in use in EnerDel's battery operations.

Under the terms of the transaction, Ener1 will pay 180 million yen (approximately U.S. \$1.5 million) to ITOCHU through the issuance of 3,333,333 shares of Ener1, Inc common stock priced at 30 cents per share and a payment obligation in the amount of \$519,885 payable in installments over ten months. In addition, ITOCHU has signed a lock-up agreement restricting the sale of Ener1 common stock held by ITOCHU until March 31, 2008. Ener1 is forming a new subsidiary, EnerDel (Japan), Inc., to continue its Japanese operations while retaining key employees of EnerStruct.

Cree Announces Expanded Patent Cross License With Nichia

Cree, Inc. (Nasdaq: CREE) announced that Cree and **Nichia Corporation** have

entered into an agreement that expands their cross license arrangements announced in 2002 and 2005 to include additional patents relating to white LED technology and certain Cree patents relating to nitride lasers. The agreement also resolves infringement claims Nichia had asserted against LED products sold by COTCO International Limited, a subsidiary of COTCO Luminant Device Limited, prior to Cree's acquisition of COTCO Luminant Device Limited and its subsidiaries in March 2007. Other terms of the expanded cross license arrangements were not disclosed but are not expected to have any material financial effect on either party.

NOTICES OF ALLOWANCE

Imaging3 Receives Notice of Allowance for Its Continuation Patent

Imaging3™, Inc. (OTCBB: IMGG), developer of a breakthrough medical imaging device that produces 3D medical diagnostic images of virtually any part of the human body in real-time, announces that the company has received Notice of Allowance of the Company's Continuation in Part patent application.

Oscient Pharmaceuticals Receives Notice of Allowance for Ramoplanin Patent Application

The United States Patent and Trademark Office (USPTO) has issued a Notice of Allowance to **Oscient Pharmaceuticals** (Nasdaq: OSCI) for a U.S. patent relating to methods of use of Ramoplanin for the treatment of Clostridium difficile-associated disease (CDAD), a serious form of colitis. Ramoplanin is a glycolipopeptide antibiotic positioned for Phase III development for the potential treatment of CDAD, pending the conclusion of ongoing partnership discussions. A Notice of Allowance is the official notification that the USPTO finds the claimed subject matter allowable and intends to issue the patent pending payment of the issue fee. Given this action, Oscient expects the patent to issue within the next several months.

Axial Vector Receives Notice of a U.S. Patent Allowance for New Internal Combustion Engine

Axial Vector Engine Corporation announced that the United States Patent Office has issued the company a notice of allowance for a patent titled "Internal Combustion Engine". The company is currently in talks with a number of interested parties to issue one or more licensees to

manufacturers. These negotiations with manufacturers, located in the Middle East and the Far East, are the final step towards allowing AVEC to move forward as a revenue producing technology developer.

NEW LAWSUITS

SmarTire Sues Siemens and Schrader-Bridgeport for Patent Infringement

SmarTire Systems Inc. announced that it has filed a complaint against **Siemens VDO Automotive Corp.** and **Schrader-Bridgeport International, Inc.** in the United States District Court for the Eastern District of Virginia alleging infringement of its United States Patent No. 5,231,872, entitled "Tire Monitoring Apparatus and Method." The case is *SmarTire Systems, Inc. v. Siemens VDO Automotive Corp. and Schrader-Bridgeport International, Inc.*, Civil Action No. 1:07cv932 (E.D. Virginia).

ArrayComm Suit Claims Patent Infringement by Atheros Communications Inc.

ArrayComm announced that it has filed a patent infringement lawsuit against **Atheros Communications, Inc.** in the Eastern District of Texas, Marshall Division. The patents involved in the suit include U.S. Patent Nos. 5,592,490, 5,642,353 and 5,828,658.

In its complaint, ArrayComm alleges that Atheros' XSPAN chips infringe a number of ArrayComm patents that cover many aspects of multi-antenna signal processing. Further, the complaint alleges that wireless routing products that comply with the IEEE 802.11n draft specification, and which incorporate Atheros XSPAN chips, also infringe the same ArrayComm patents. The Complaint seeks both money damages and injunctive relief.

PATENT ACQUISITION

Wi-LAN Acquires Essential Wireless Patent Portfolio

Wi-LAN Inc. (or "Wi-LAN") (TSX:WIN) announced that it has acquired a portfolio of 10 issued and pending U.S. patents which are essential to multi-mode and multi-standard communication devices.

Wi-LAN believes the inventions protected by these patents are used in U.S. products which combine multiple standards and modulation formats. This means that U.S. products which combine two or more wireless formats, including GSM, CDMA, WiFi, WiMAX or EDGE, will generally require a license.

The portfolio purchase was brokered through the law firm of Goldstein, Faucett & Prebeg, LLP for a purchase price of U.S. \$7,000,000 with the potential of additional consideration of up to U.S. \$4,000,000 based on meeting certain licensing milestones. The patents expire August 10, 2019. The portfolio is not heavily licensed. Current licensees include Nokia and Siemens.

LAWSUIT UPDATE

Star Scientific Files Opening Brief in Appeal of Ruling in Patent Infringement Lawsuit Against RJ Reynolds

Star Scientific, Inc. (Nasdaq: STSI) reported that the opening brief in its appeal to the US Court of Appeals for the Federal Circuit was filed on Monday, September 10. The company is appealing rulings issued by the US District Court for the District of Maryland in January and in June, 2007. The District Court entered final judgment on those rulings on June 26, and Star filed its notice of appeal on June 27.

Under the rules of procedure in the Federal Circuit, RJR's brief in opposition is due 40 days after September 10, and Star's reply brief to RJR's opposition brief then will be due within 14 days after RJR files its opposition. Star expects that all briefing on the appeal should be completed by early November, and that notice of a date for oral argument will be issued by the Federal Circuit shortly thereafter. An electronic version of the opening brief can be accessed by logging onto the company's corporate website, <http://www.starscientific.com>, and clicking on the "Selected Articles" section of the website's "Media" menu.

PATENT APPLICATIONS FILED

VIASPACE Patent Application Expands Claims to Humidity Sensing in Automobile Exhaust Systems and Factory Emissions

VIASPACE Inc., a company that transforms proven space and defense technologies from NASA and the Department of Defense into hardware and software solutions, announced that its VIASPACE Energy unit filed a patent application for expanded claims for use of its new humidity sensor in the external sensing of humidity in exhaust streams of combustion emission gases and for sensing of humidity within a fuel cell system or a combustion device exhaust system.



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BioExx Files for Fourth Patent

Bio-Extraction Inc. (TSX-V: BXI) ("BioExx") (<http://www.bioexx.com>) is pleased to announce that it has filed a patent application, and now has a patent pending, for its design of a Continuous Counter Flow ("CCF") bio-extraction facility and corresponding process. The technology represented by this innovation will play a key role in BioExx's pending commercial engagement of the massive global oilseeds (and bio-diesel) markets.

Traditionally, a methodology known as Continuous Counter Current ("CCC") has been used as the baseline design for very large scale extraction facilities that utilize conventional solvents, such as hexane. These legacy CCC facilities have therefore been designed for alignment with the properties of conventional higher-temperature operating solvents. Since the BioExx value proposition uniquely leverages the protein-retentive and compound-sensitive properties of its patented low-temperature extraction solvents, a novel process solution was required. This is the basis for the newly filed BioExx patent application, which BioExx calls Continuous Counter Flow ("CCF"). 