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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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11/774,698

07/09/2007

Jack R. Auld

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02/25/2008

ALCON

IP LEGAL, TB4-8

6201 SOUTH FREEWAY

FORT WORTH, TX 76134

EXAMINER

RADKOWSKI, PETER

ART UNIT

PAPER NUMBER

2883

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PAPER

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.

Office Action Summary	Application No. 11/774,698	Applicant(s) AULD ET AL.	
	Examiner PETER RADKOWSKI	Art Unit 2883	

-- 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 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 09 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ 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

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/9/2007 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).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

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).
- a) ☐ All b) ☐ Some * c) ☐ None of:
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) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) ☒ Information Disclosure Statement(s) (PTO/SB/08) | 5) ☐ Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

Detailed Office Action

Claim Rejections - 35 USC § 103

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

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 9-11, 14, 18-19 and 25-26

2. **Claims 1, 4, 9-11, 14, 18-19 and 25-26 are rejected** under 35 U.S.C. 103(a) as being obvious over Bahmanyar et al. (6,096,028) in view of Andersen et al. (2007/0121069)

From hereinafter, Bahmanyar will stand-in for Bahmanyar et al., and Andersen will stand-in for Andersen et al.

Regarding Claims 1, 4, 9-11, 14, 18-19 and 25-26, Bahmanyar teaches an ophthalmic laser probe device [53b], and method for using an ophthalmic laser probe device, the device comprising: a housing [39] containing an emitting optical fiber for emitting a beam of light [33]; two or more receiving optical fibers [23], each of the two or more receiving optical fibers located opposite the emitting optical fiber, each of the two or more receiving optical fibers for receiving a beam of light diffracted by the optics [57] and [37], the optics being located between distal end [51] and proximal end [25] . (See fig. 8, and col. 6, ll. 16-27)

Further regarding Claims 1, 4, 9-11, 14, 18-19 and 25-26, Bahmanyar does not explicitly teach optics for diffracting a beam of incident light into two or more diffracted beams of light to generate a two dimensional array of beam spots. However, Andersen teaches a beam diffraction element [76], and a method of using a beam diffraction element, which directs light from beam [11] into subbeams [11a] and [11b]. (See Andersen, fig. 9, and par. [0045], ll. 1-5). Since Bahmanyar and Andersen both teach optical probe treatment devices and methods, it

would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bahmanyar to have the optics taught by Andersen because the resultant configuration and method of using would have allowed for simultaneous and/or sequential beam multiplication, including the focusing of multiple beams to generate an array of simultaneous spots. (See Andersen, par. [0046], ll. 1-15) One would have been motivated to make this modification because generating an array of light spots would increase the versatility of a laser probe.

Claims 1-3, 5-7, 11-13, 15-17, and 20-24

3. **Claims 1-3, 5-7, 11-13, 15-17, and 20-24 are rejected** under 35 U.S.C. 103(a) as being obvious over Bahmanyar et al. (6,096,028) further in view of Andersen et al. (2007/0121069), and further in view of Blumenkranz et al. (2006/0195076).

From hereinafter, Blumenkranz will stand-in for Blumenkranz et al.

Regarding Claims 1, 11, and 20, Bahmanyar in view of Andersen, teaches a laser probe device with diffractive optics and multiple fibers for generating an array of beam spots. (See above.)

Regarding Claims 2-3, 5-7, 12-13, 15-17, and 21-24, Bahmanyar in view of Andersen, does not explicitly teach aspherical, collimating, or hologram-like optics. However, Blumenkranz teaches an elongated focusing column using: non-spherical (aspherical) optics, utilizing spherical aberrations, Hologram elements. (See Blumenkranz, par. [0066], ll. 1-5). Since Bahmanyar, Andersen, and Blumenkranz all teach laser probe devices, and methods of using laser probe devices, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bahmanyar, in view of Andersen, to have the optical device and methods taught by Blumenkranz because the resultant configuration would have been capable of imaging multiple focal points at different depths inside tissue. (See Blumenkranz, fig. 8, and par. [0067], ll. 4-5) One would have been motivated to make this modification because the ability to apply optical energies as an array of beam spots focusing at different depths would increase the efficiency of the probe device.

Claims 1, and 6-8

4. **Claims 1 and 6-8 are rejected** under 35 U.S.C. 103(a) as being obvious over Bahmanyar et al. (6,096,028) further in view of Andersen et al. (2007/0121069), further in view of Blumenkranz et al. (2006/0195076) and further in view of McGowan, Sr. et al. (2005/0154379).

From hereinafter, McGowan will stand-in for McGowan, Sr. et al.

Regarding Claims 1 and 6-7, Bahmanyar in view of Andersen, and further in view of Blumenkranz teaches a laser probe device with diffractive optics and multiple fibers for generating an array of beam spots focused at different depths. (See above.)

Regarding Claim 8, Bahmanyar in view of Andersen, and further in view of Blumenkranz does not explicitly teach that one of the receiving optical fibers has a bent distal end. However, McGowan teaches an optical fiber [20] with a bent distal end [25]. (See McGowan, fig. 2a) Since Bahmanyar, Andersen, Blumenkranz and McGowan all each optical probe devices, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bahmanyar in view of Andersen, and further in view of Blumenkranz, to have the bent distal configuration taught by McGowan because the resultant configuration would be able to apply laser energy to the peripheral area of the retina. (See McGowan, par. [0006], ll. 7-9) One would have been motivated to make this modification because the ability to apply energies away from the center, posterior area of the retina enhances the applicability of the probe to a wider variety of surgical needs.

Claims 1, and 6-8, 20 and 27

5. **Claims 20 and 27 are rejected** under 35 U.S.C. 103(a) as being obvious over Bahmanyar et al. (6,096,028) further in view of Andersen et al. (2007/0121069), and further in view of Connor (5,630,809).

Regarding Claim 20, Bahmanyar in view of Andersen, teaches a laser probe device with diffractive optics and multiple fibers for generating an array of beam spots. (See above.)

Regarding Claim 27, Bahmanyar in view of Andersen, does not explicitly teach a centering cannula. However, Connor teaches a cannula [33] which shapes the light beam [31]. (See Connor, fig. 1) Since Bahmanyar, Andersen, and Connor teach optical probes, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bahmanyar in view of Andersen to have the cannula taught by Connor because the resultant configuration would allow for different shapes and sizes of light beam arrays. (See Connor, col. 2, ll. 64-67) One would have been motivated to make this modification because the ability to modify the shape of the beam array would improve the versatility by which the laser probe can apply light energies.

Conclusion

6. The prior art made of record in Form 892 and not relied upon is considered pertinent to applicant's disclosure.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Radkowski whose telephone number is (571) 270-1613. The examiner can normally be reached on Monday - Thursday, 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font, can be reached on (517) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, See <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call (800) 786-9199 (IN USA OR CANADA) or (571) 272-1000.

/Peter P. Radkowski/

2/9/2008

/James P. Hughes/

Examiner, Art

Unit 2883

Notice of References Cited	Application/Control No. 11/774,698		Applicant(s)/Patent Under Reexamination AULD ET AL.	
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U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-4,865,029 A	09-1989	Pankratov et al.	606/4
*	B	US-5,275,593 A	01-1994	Easley et al.	606/4
*	C	US-5,356,407 A	10-1994	Easley et al.	606/4
*	D	US-5,630,809 A	05-1997	Connor, Christopher S.	606/4
*	E	US-5,973,779 A	10-1999	Ansari et al.	356/301
*	F	US-6,066,128 A	05-2000	Bahmanyar et al.	606/4
*	G	US-6,080,143 A	06-2000	Connor, Christopher Sheldon	606/4
*	H	US-6,096,028 A	08-2000	Bahmanyar et al.	606/4
*	I	US-6,241,721 B1	06-2001	Cozean et al.	606/6
*	J	US-2002/0013572 A1	01-2002	Berlin, Michael S.	606/4
*	K	US-2002/0111608 A1	08-2002	Baerveldt et al.	606/6
*	L	US-6,520,956 B1	02-2003	Huang, David	606/5
*	M	US-2004/0116909 A1	06-2004	Neuberger et al.	606/004

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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
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*	A	US-2005/0154379 A1	07-2005	McGowan et al.	606/004
*	B	US-2005/0240168 A1	10-2005	Neuberger et al.	606/004
*	C	US-2005/0245916 A1	11-2005	Connor, Christopher S.	606/004
*	D	US-2006/0106370 A1	05-2006	Baerveldt et al.	606/004
*	E	US-2006/0195076 A1	08-2006	Blumenkranz et al.	606/004
*	F	US-2007/0121069 A1	05-2007	Andersen et al.	351/221
*	G	US-2007/0265602 A1	11-2007	Mordaunt et al.	606/004
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*	C	US-2005/0245916 A1	11-2005	Connor, Christopher S.	606/004
*	D	US-2006/0106370 A1	05-2006	Baerveldt et al.	606/004
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