

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79147448
LAW OFFICE ASSIGNED	LAW OFFICE 115
MARK SECTION	
MARK FILE NAME	http://tmng-al.uspto.gov/resting2/api/img/79147448/large
LITERAL ELEMENT	TRANSSET
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
ARGUMENT(S)	
<p>The Examining Attorney has once again refused registration of the applied-for mark (for certain of the identified goods) under Section 2(d) of the Trademark Act because of alleged confusion with the mark shown in U.S. Reg. No. 1902160. As mentioned previously, this refusal does not apply to the following goods: “artificial limbs, eyes and teeth,” “suture materials,” “dropper bottles for dispensing medicine, sold empty” and “droppers for use with bottles for dispensing medicine, sold empty.” Applicant respectfully requests that this partial refusal of registration be reconsidered and withdrawn.</p> <p>As stated in the response to the first Office Action, applicant repeats its contention that the marks at issue differ in sound, appearance, connotation and overall commercial impression to the extent that there is no likelihood that potential purchasers of the goods of applicant or the prior registrant would be confused as to the source or sponsorship of the goods sold by each party under its respective mark.</p> <p>In the present case, the marks differ in sound (they are pronounced differently), appearance (they differ in spelling and in the amount of letters) and, most importantly, they differ in connotation and overall commercial impression.</p> <p>The word “Transit” has a generally accepted dictionary meaning and the general understanding relates to the context of commuting, i.e., getting from one place to the next (usually by car or by train). Attached as Exhibit 1 is a copy of the specimen of use submitted with renewal application filed in the USPTO with respect to the cited registration on June 10, 2015 which details not only the registrant’s use of the mark TRANSIT, but also its use of the marks MASSTRANSIT and RAPID TRANSIT. Attached as Exhibit 2 is a copy of the RAPIDTRANSIT registration and as Exhibit 3 is a copy of the cited registrant’s now-expired registration for the mark MASS TRANSIT. As demonstrated by this, the</p>	

cited registrant is making a play on the use of these terms for how quickly and/or efficiently its catheters transfer medication, etc., thus creating a particular commercial impression.

Applicant’s mark is comprised of a coined word, “Transset” which has no specific meaning except to suggest a set of components that can be used to provide a transfer function. Accordingly, it is believed that each of the marks at issue has provides a much different commercial impression.

Conclusion

In light of the differences between applicant’s mark and the cited mark in sound, sight and meaning, it is submitted that the refusal of registration under Section 2(d) should be withdrawn and the application accepted for publication.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_20948847-20150810131237639084 . TRANSSET Exhibits 20150810130444.pdf
CONVERTED PDF FILE(S) (12 pages)	\\TICRS\EXPORT16\IMAGEOUT16\791\474\79147448\xml11\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\474\79147448\xml11\RFR0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\474\79147448\xml11\RFR0004.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\474\79147448\xml11\RFR0005.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\791\474\79147448\xml11\RFR0007.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\791\474\79147448\xml11\RFR0013.JPG
DESCRIPTION OF EVIDENCE FILE	Exhibits 1, 2 and 3 referred to in applicant's argument
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Martin W. Schiffmiller/
SIGNATORY'S NAME	Martin W. Schiffmiller
SIGNATORY'S POSITION	Attorney

SIGNATORY'S PHONE NUMBER	2126973750
DATE SIGNED	08/10/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Aug 10 13:14:49 EDT 2015
TEAS STAMP	USPTO/RFR-209.48.84.7-201 50810131449815532-7914744 8-54080be6cab6ad1e0c4d37e 4c656bfc41713737bd09e8ebd 58f83c4eb357ebbe1e-N/A-N/ A-20150810131237639084

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **79147448** TRANSSET (Stylized and/or with Design, see <http://tmng-al.uspto.gov/resting2/api/img/79147448/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The Examining Attorney has once again refused registration of the applied-for mark (for certain of the identified goods) under Section 2(d) of the Trademark Act because of alleged confusion with the mark shown in U.S. Reg. No. 1902160. As mentioned previously, this refusal does not apply to the following goods: “artificial limbs, eyes and teeth,” “suture materials,” “dropper bottles for dispensing medicine, sold empty” and “droppers for use with bottles for dispensing medicine, sold empty.” Applicant respectfully requests that this partial refusal of registration be reconsidered and withdrawn.

As stated in the response to the first Office Action, applicant repeats its contention that the marks at issue differ in sound, appearance, connotation and overall commercial impression to the extent that there is no likelihood that potential purchasers of the goods of applicant or the prior registrant would be confused as to the source or sponsorship of the goods sold by each party under its respective mark.

In the present case, the marks differ in sound (they are pronounced differently), appearance (they differ in

spelling and in the amount of letters) and, most importantly, they differ in connotation and overall commercial impression.

The word “Transit” has a generally accepted dictionary meaning and the general understanding relates to the context of commuting, i.e., getting from one place to the next (usually by car or by train). Attached as Exhibit 1 is a copy of the specimen of use submitted with renewal application filed in the USPTO with respect to the cited registration on June 10, 2015 which details not only the registrant’s use of the mark TRANSIT, but also its use of the marks MASSTRANSIT and RAPID TRANSIT. Attached as Exhibit 2 is a copy of the RAPIDTRANSIT registration and as Exhibit 3 is a copy of the cited registrant’s now-expired registration for the mark MASS TRANSIT. As demonstrated by this, the cited registrant is making a play on the use of these terms for how quickly and/or efficiently its catheters transfer medication, etc., thus creating a particular commercial impression.

Applicant’s mark is comprised of a coined word, “Transset” which has no specific meaning except to suggest a set of components that can be used to provide a transfer function. Accordingly, it is believed that each of the marks at issue has provides a much different commercial impression.

Conclusion

In light of the differences between applicant’s mark and the cited mark in sound, sight and meaning, it is submitted that the refusal of registration under Section 2(d) should be withdrawn and the application accepted for publication.

EVIDENCE

Evidence in the nature of Exhibits 1, 2 and 3 referred to in applicant's argument has been attached.

Original PDF file:

[evi_20948847-20150810131237639084_._TRANSSET_Exhibits_20150810130444.pdf](#)

Converted PDF file(s) (12 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

[Evidence-10](#)

[Evidence-11](#)

[Evidence-12](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Martin W. Schiffmiller/ Date: 08/10/2015

Signatory's Name: Martin W. Schiffmiller

Signatory's Position: Attorney

Signatory's Phone Number: 2126973750

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 79147448

Internet Transmission Date: Mon Aug 10 13:14:49 EDT 2015

TEAS Stamp: USPTO/RFR-209.48.84.7-201508101314498155

32-79147448-54080be6cab6ad1e0c4d37e4c656

bfc41713737bd09e8ebd58f83c4eb357ebbe1e-N

/A-N/A-20150810131237639084

EXHIBIT 1



11778943.3

Instructions for Use
Infusion Catheter Product Line

Mode d'emploi
Gamme de cathéters d'infusion

Gebrauchsanleitung
Infusionskatheter-Produktlinie

Istruzioni per l'uso
Cateteri per infusione

Instrucciones de uso
Catéteres de infusión

Gebruiksaanwijzing
Infusiekatheters

Brugsvejledning
Infusionskateter Produktlinie

Käyttöohjeet
Infuusiokatetrituotesarja

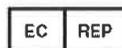
Instruções de Utilização
Linha de Produtos para Cateteres de Infusão

Bruksanvisning
Infusionskatetersortiment

Οδηγίες Χρήσης
Σειρά Προϊόντων Καθετήρων Έγχυσης



Codman & Shurtleff, Inc.
325 Paramount Drive
Raynham, MA 02767-0350, USA
☎ 800 225 0460
☎ + 1 508 828 3000



Codman

A division of Johnson & Johnson Medical Ltd.
Pinewood Campus, Nine Mile Ride
Wokingham, RG40 3EW
United Kingdom

English	Page.....	05
français	page.....	08
deutsch	Seite.....	11
italiano.....	pagina	14
español.....	página	17
Nederlands	pagina	20
dansk.....	side.....	23
suomi	sivu.....	26
português.....	página	29
svenska.....	sid	32
Ελληνικά	Σελίδα.....	35

STERILE. Sterilized with ethylene oxide gas. Nonpyrogenic. Radiopaque. For one use only. Do not resterilize.
Caution: Federal (USA) law restricts this device to sale by or on the order of a physician.

Description

The Codman & Shurtleff, Inc. Infusion Catheters are variable stiffness, single lumen catheters designed to access small, tortuous vasculature. They are available in a variety of outer and inner diameters. Each configuration has a hydrophilic coating to provide lubricity for navigation of vessels. The inner lumen is lined with lubricious PTFE to facilitate movement of guidewires and other devices. The distal sections of the catheter bodies are radiopaque to aid visualization under fluoroscopy, and the distal tips are clearly distinguished by a radiopaque marker.

Product Features

MASSTRANSIT[®] Infusion Catheter			
	French	Inch	mm
Proximal O.D.	2.8	--	.95
Distal O.D.	2.7	--	.90
Proximal I.D.		.027	.7
Distal I.D.		.027	.7
Min. I.D. Guiding Catheter		.042	1.1
Max. O.D. Guidewire		.018	.46
Max. PVA Compatibility			2000 µm

TRANSIT[®] Infusion Catheter			
	French	Inch	mm
Proximal O.D.	2.8	--	.95
Distal O.D.	2.5	--	.85
Proximal I.D.		.021	.5
Distal I.D.		.021	.5
Min. I.D. Guiding Catheter		.042	1.1
Max. O.D. Guidewire		.018	.46
Max. PVA Compatibility			1000 µm

RAPIDTRANSIT[®] Infusion Catheter			
PROWLER[®] PLUS Infusion Catheter			
PROWLER[®] SELECT[™] PLUS Infusion Catheter			
	French	Inch	mm
Proximal O.D.	2.8	--	.95
Distal O.D.	2.3	--	.75
Proximal I.D.		.021	.5
Distal I.D.		.021	.5
Min. I.D. Guiding Catheter		.042	1.1
Max. O.D. Guidewire		.018	.46
Max. PVA Compatibility			1000 µm

PROWLER[®] 14 Infusion Catheter			
PROWLER[®] SELECT[™] LP Infusion Catheter			
PROWLER[®] SELECT[™] LP-ES Infusion Catheter			
	French	Inch	mm
Proximal O.D.	2.3	--	.75
Distal O.D.	1.9	--	.65
Proximal I.D.		.0165	.4
Distal I.D.		.0165	.4
Min. I.D. Guiding Catheter		.035	.9
Max. O.D. Guidewire		.014	.36
Max. PVA Compatibility			500 µm

PROWLER[®] 10 Infusion Catheter			
	French	Inch	mm
Proximal O.D.	2.3	--	.75
Distal O.D.	1.7	--	.55
Proximal I.D.		.015	.4
Distal I.D.		.015	.4
Min. I.D. Guiding Catheter		.035	.9
Max. O.D. Guidewire		.012	.30
Max. PVA Compatibility			500 µm

Indications

The Codman Neurovascular Infusion Catheters are intended to be used as a mechanism for the infusion of various diagnostic, embolic, and therapeutic agents into the vascular systems outlined in Table 1 and for superselective angiography of the peripheral and coronary vasculatures. All agents must be used in accordance with manufacturer's instructions for use.

TABLE 1: Vasculature Indications

Infusion Catheter	Neuro	Peripheral	Coronary	Guidewire Exchange/Support
MASSTRANSIT	✓	✓	✓	
RAPIDTRANSIT	✓	✓	✓	✓
TRANSIT	✓	✓	✓	✓
PROWLER PLUS	✓	✓	✓	✓
PROWLER SELECT PLUS	✓	✓	✓	✓
PROWLER 14	✓	✓	✓	✓
PROWLER SELECT LP	✓	✓	✓	✓
PROWLER SELECT LP-ES	✓	✓	✓	✓
PROWLER 10	✓	✓	✓	✓

It is recommended that the Codman Neurovascular Infusion Catheters be used with a guiding catheter, a compatible catheter sheath introducer, and a steerable guidewire.

Contraindications

None known.

Warnings

THIS DEVICE IS INTENDED FOR ONE USE ONLY. Discard the infusion catheter after one procedure. Structural integrity and/or function may be impaired through reuse or cleaning. Catheters are extremely difficult to clean after exposure to biological materials and may cause adverse patient reactions if reused.

Never advance or withdraw an intraluminal device against resistance until the cause of resistance is determined by fluoroscopy. If the cause cannot be determined, withdraw the catheter. Movement against resistance may result in damage to the vessel.

The infusion pressure should not exceed the maximum listed pressure for each catheter, as indicated in the flowrate charts. Pressure in excess of the recommended range may result in catheter rupture or tip severance.

Precautions

- Store in a cool, dark, dry place.
- Do not use if package is open or damaged.
- Use prior to the "Use By" date.
- Read and follow the Instructions for Use of all agents or contrast media used with the infusion catheters.

Complications

Procedures requiring percutaneous catheter introduction should not be attempted by physicians unfamiliar with the possible complications, which may occur during or after the procedure.

Possible complications include, but are not limited to the following:

- embolism
- hematoma at the punctured site
- infection
- dissection
- perforation of vessel wall
- distal embolization

MASSTRANSIT [®] Infusion Catheter							
FLOWRATE CHART .027" I.D.	100% Contrast-76% (cc/sec)	50/50 Contrast-76%/ 100% Saline Saline (cc/sec) (cc/sec)					
		Approximate Values					
Total Catheter Length (cm)	Dead Space (cc)	@ 100 psi (689 kPa)	@ 300 psi (2068 kPa)	@ 100 psi	@ 300 psi	@ 100 psi	@ 300 psi
140	0.66	0.4	1.0	1.5	2.5	1.9	3.1
110	0.55	0.6	1.2	1.8	2.9	2.2	3.5

RAPIDTRANSIT [®] Infusion Catheter TRANSIT [®] Infusion Catheter							
FLOWRATE CHART .021" I.D.	100% Contrast-76% (cc/sec)	50/50 Contrast-76%/ 100% Saline Saline (cc/sec) (cc/sec)					
		Approximate Values					
Total Catheter Length (cm)	Dead Space (cc)	@ 100 psi (689 kPa)	@ 200 psi (1379 kPa)	@ 100 psi	@ 200 psi	@ 100 psi	@ 200 psi
175	0.55	0.1	0.1	0.3	0.5	0.7	1.1
155	0.50	0.1	0.2	0.4	0.8	0.8	1.3
140	0.46	0.1	0.2	0.5	0.8	0.9	1.4
105	0.39	0.1	0.2	0.6	1.1	1.1	1.5
90	0.34	0.1	0.3	0.7	1.2	1.2	1.7
75	0.30	0.2	0.3	0.8	1.3	1.3	1.8

PROWLER [®] PLUS Infusion Catheter PROWLER [®] SELECT [™] PLUS Infusion Catheter							
FLOWRATE CHART .021" I.D.	100% Contrast-76% (cc/sec)	50/50 Contrast-76%/ 100% Saline Saline (cc/sec) (cc/sec)					
		Approximate Values					
Total Catheter Length (cm)	Dead Space (cc)	@ 100 psi (689 kPa)	@ 300 psi (2068 kPa)	@ 100 psi	@ 300 psi	@ 100 psi	@ 300 psi
175	0.55	0.1	0.1	0.3	0.8	0.7	1.5
155	0.50	0.1	0.2	0.4	1.1	0.8	1.7
140	0.46	0.1	0.2	0.5	1.2	0.9	1.9
115	0.40	0.1	0.2	0.6	1.5	0.9	1.9
105	0.39	0.1	0.3	0.6	1.5	1.1	1.9
90	0.34	0.1	0.4	0.7	1.7	1.2	2.2
75	0.30	0.2	0.5	0.8	1.8	1.3	2.4

PROWLER [®] 14 Infusion Catheter PROWLER [®] SELECT [™] LP Infusion Catheter PROWLER [®] SELECT [™] LP-ES Infusion Catheter							
FLOWRATE CHART .0165" I.D.	100% Contrast-76% (cc/sec)	50/50 Contrast-76%/ 100% Saline Saline (cc/sec) (cc/sec)					
		Approximate Values					
Total Catheter Length (cm)	Dead Space (cc)	@ 100 psi (689 kPa)	@ 300 psi (2068 kPa)	@ 100 psi	@ 300 psi	@ 100 psi	@ 300 psi
175	0.38	0.02	0.1	0.2	0.4	0.3	0.7
155	0.35	0.04	0.1	0.2	0.5	0.4	0.7
140	0.35	0.05	0.2	0.2	0.6	0.4	0.9
75	0.25	0.1	0.2	0.3	0.7	0.5	1.0

PROWLER [®] 10 Infusion Catheter							
FLOWRATE CHART .015" I.D.	100% Contrast-76% (cc/sec)	50/50 Contrast-76%/ 100% Saline Saline (cc/sec) (cc/sec)					
		Approximate Values					
Total Catheter Length (cm)	Dead Space (cc)	@ 100 psi (689 kPa)	@ 300 psi (2068 kPa)	@ 100 psi	@ 300 psi	@ 100 psi	@ 300 psi
175	0.34	0.03	0.1	0.1	0.3	0.2	0.6
155	0.32	0.04	0.1	0.1	0.3	0.2	0.6
75	0.23	0.1	0.1	0.2	0.6	0.4	0.9

Recommended Procedure

1. The Codman Neurovascular Infusion Catheters may be packaged in a protective coil dispenser fitted with a flushing Luer connector or in a tray. The catheters have a hydrophilic coating and require hydration prior to removal from the coil dispenser and prior to use.

- Before removing the catheter from the coil dispenser, flush the dispenser with heparinized saline through the Luer connector fitting on the end of the coil dispenser.

Note: The catheter may be hydrated in the tray prior to use.

- Remove catheter and inspect to verify that it is undamaged.

Note: Do not attempt to use infusion catheters without flushing first to hydrate the coating. Failure to do so may compromise the coating and lubricity of the catheter.

Warning: Do not use a catheter that has been damaged in any way. Damaged catheters may rupture causing vessel damage or tip detachment during the procedure.

2. Infusion catheters may be packaged with a shaping mandrel. In order to maintain catheter burst integrity and dimensional stability, it is strongly recommended that the user follow these instructions when shaping a catheter.

- Remove shaping mandrel from mounting card and insert into distal tip of catheter.
- Bend catheter tip and shaping mandrel into desired shape. Over exaggeration of the desired shape is recommended to accommodate for slight catheter relaxation.
- Hold shaping mandrel/catheter assembly directly over the steam source for approximately 30 seconds to set shape.
- Remove shaped catheter assembly from heat source and allow to cool in either air or liquid prior to removing the mandrel.
- Remove shaping mandrel from catheter and discard.

Warning: Do not use shaping mandrel *in-vivo*.

3. Prior to use, flush the catheter lumen with heparinized saline solution by attaching a saline filled syringe to the catheter hub.

4. Remove the appropriate steerable guidewire from its package and inspect for damage.

5. Carefully insert guidewire into the funneled hub of the catheter and advance into the catheter lumen.

6. Place the appropriate guiding catheter using a percutaneous entry technique of choice. Connect a hemostatic sidearm adapter to the guiding catheter hub and maintain a continuous heparinized saline flush.

Note: Infusion catheters require a continuous flush during the procedure in order to maintain the lubricity of the coating.

7. Introduce the guidewire and infusion catheter as a unit through the hemostatic sidearm adapter into the lumen of the guiding catheter. Advance guidewire/catheter assembly to the distal tip of the guiding catheter.
8. The infusion catheter may be supplied with a pre-loaded, peel away introducer located near the hub. Use the introducer to aid in the insertion of the infusion catheter through the hemostatic sidearm adapter.
9. Alternatively advance the guidewire and infusion catheter until the desired site has been accessed.

Note: To facilitate catheter handling, the proximal portion of the infusion catheters are uncoated to ensure a non-slip grip.

Caution: If strong resistance is met during manipulation, discontinue the procedure and determine the cause of resistance before proceeding. If the cause of resistance cannot be determined, withdraw the catheter and guidewire as a system.

10. When ready to infuse, withdraw the guidewire completely from the catheter. Connect a syringe containing infusate to the infusion catheter hub and infuse according to the manufacturer's instructions and precautions.

Warning: If flow through the catheter becomes restricted, do not attempt to clear the catheter lumen by infusion. Determine and remedy the cause of blockage or replace the blocked catheter with a new catheter before resuming infusion.

Note: Infusion pressure should not exceed the maximum pressure rating.

11. After completing the procedure, withdraw the catheter and discard.

WARRANTY

Codman & Shurtleff, Inc., warrants that this medical device is free from defects in both materials and workmanship.

Any other express or implied warranties, including warranties of merchantability or fitness, are hereby disclaimed. Suitability for use of this medical device for any particular surgical procedure should be determined by the user in conformance with the manufacturer's instructions for use. There are no warranties that extend beyond the description on the face hereof.

Protected under one or more of the following U.S. patents: 5,662,622; 5,711,909, and other U.S. and foreign patents pending.

EXHIBIT 2

United States of America

United States Patent and Trademark Office

RAPIDTRANSIT

Reg. No. 3,839,785

CORDIS CORPORATION (FLORIDA CORPORATION)
14201 N.W. 60TH AVENUE
MIAMI LAKES, FL 33014

Registered Aug. 31, 2010

Int. Cl.: 10

FOR: MEDICAL MICROCATETERS FOR USE IN NEURO, PERIPHERAL AND CORONARY VASCULATURE SURGERY, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

TRADEMARK

FIRST USE 6-23-1995; IN COMMERCE 6-23-1995.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-651,251, FILED 1-16-2009.

FLORENTINA BLANDU, EXAMINING ATTORNEY



David J. Kyjars

Director of the United States Patent and Trademark Office

EXHIBIT 3

Int. Cl.: 10

Prior U.S. Cls.: 26, 39, and 44

Reg. No. 2,244,973

United States Patent and Trademark Office

Registered May 11, 1999

**TRADEMARK
PRINCIPAL REGISTER**

MASS TRANSIT

**CORDIS CORPORATION (FLORIDA CORPORATION)
14201 N.W. 60TH AVENUE
MIAMI LAKES, FL 33014**

**FIRST USE 6-11-1998; IN COMMERCE
6-11-1998.
OWNER OF U.S. REG. NO. 1,902,160.**

**FOR: MEDICAL CATHETERS, IN CLASS 10
(U.S. CLS. 26, 39 AND 44).**

SN 75-252,488, FILED 3-5-1997.

JOYCE A. WARD, EXAMINING ATTORNEY