

TRADE MARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: SciMed Life Systems,  
Inc.

Trademark Attorney Law  
Office: 105

Serial No.: 76/165,858

TM Attorney: Kelley L. Wells

Filed: November 15, 2000

Docket No.: 55019/219/101

Mark: QUANTUM

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RESPONSE AND REQUEST FOR RECONSIDERATION

Assistant Commissioner  
for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING  
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1 DAY OF April, 2004  
W. G. B. K.

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Dear Sir:

REMARKS

Registration has been finally refused on the basis of Reg. No. 1,926,350 and the Examining Attorney's conclusion that the goods of the registration and the present application travel through the same trade channels.

The Examining Attorney's conclusions follow from three positions set out in enumerated paragraphs, the first being a statement that the fact that purchasers are sophisticated or knowledgeable in a particular field does not necessarily mean that



04-05-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #39

they are sophisticated or knowledgeable in the field of trademarks or immune from source confusion.

As noted by the Examining Attorney, cardiology and gastroenterology are differing specialities. Indeed, the individual cited in the third enumerated paragraph is certified in both fields with the specific training in each field being detailed in the brief biography set out in the record. Clearly, there is more than "sophistication" or "knowledge" at work in the present situation. Instead, there is specific training in two distinct specialties such that a person trained in either speciality would not confuse a device manufactured and constructed for one speciality as having any relation to the other. Indeed, these specific specialities are performed in different and specific locations.

Applicant's goods are specifically employed within a catheterization laboratory -- often referred to as a cath lab. Enclosed herewith is a five (5) page printout from [cathlabdigest.com](http://cathlabdigest.com). A cath lab is the place where cardiac catheterization takes place as noted in the subtitle on the first page of the printout. In the discussion of regional seminars, the degree of specialization is evident from the identification of the attendees for whom the seminars are intended. In the three (3) page printout of the current issue, in the second complete feature listed on page two (2), there is a discussion of management of inventory. From this, it is believed evident that not only are the

personal, including the cardiologists, involved in cardiac catheterization in a cath lab sophisticated and knowledgeable, they are highly trained and specialized to the point that they would not confuse the goods specified by Applicant with the goods specified in the cited registration. Further, the goods of the present application are employed by cardiologists, and supporting specialized personnel, in cardiac catheterization laboratories who select and manage their own inventory, including the goods of the present application. Endoscopy, employing the goods of the cited registration, is performed elsewhere in a hospital or other setting by distinct personnel with distinct inventory selection and management. Clearly, there is not an identity and trade channel between the goods of the present application and those of the cited registration. The fact that one, or a few, individuals have cross specialities such that they might employ the goods of the present application and those of the cited registration does not establish an identity of trade channel. Indeed, the rarity of this cross specialization supports the conclusion of different trade channels.

In the second enumerated paragraph, the Examining Attorney notes that Registrant and Applicant are part of organizations that each sell the others' goods. In the case of Applicant, the products for gastroenterology are designed, manufactured and sold through a division distinct from the division which performs those functions relative to cardiology. As evidenced by the website pages of Applicant, Registrant and others in the record, with the

exception of house marks (BOSTON SCIENTIFIC and COOK, for example), it is rare for products intended for use within one speciality to be marketed under the same trademark as a product intended for the other. There is no evidence in the record of any product trademark common to each speciality by the same company.

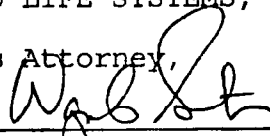
The logical extension of the Examining Attorney's position is that all medical devices travel in the same trade channel without regard to the end user/purchaser even when such users/purchasers are differently qualified and perform the respective procedures in distinct and separately managed facilities. This is completely contrary to the realities of the marketplace.

It is submitted that, in light of the above, there is no likelihood of confusion, mistake or deception as a result of the use of the mark of the present application for the recited goods in light of the cited registration. A reconsideration of the refusal is respectfully requested. To facilitate the Examining Attorney's consideration of this request, a Notice of Appeal and Request for Remand is being filed concurrently herewith.

Respectfully Submitted,

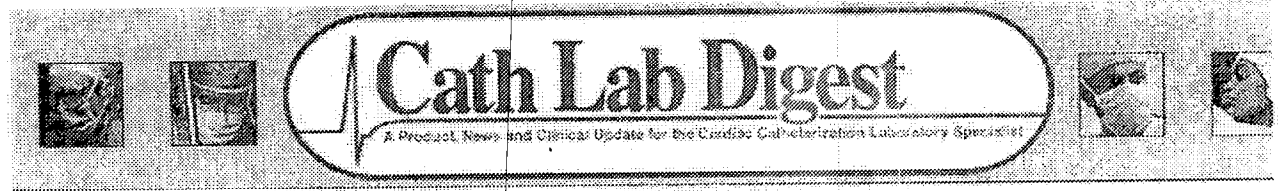
SCIMED LIFE SYSTEMS, INC.

By its Attorney,



Date: Apr. 11, 2004

Wayne A. Sivertson, Reg. No. 25,645  
NAWROCKI, ROONEY & SIVERTSON, P.A.  
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3433 Broadway Street Northeast  
Minneapolis, Minnesota 55413-3009  
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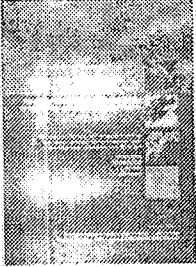
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CME/CEU Archived Educational Program Webcast>>

Understanding Homocysteine:  
**An Emerging Cardiovascular Risk Factor**



The Clinical Implications of Homocysteine and its Relationship with Conventional Risk Factors

**Commercial Supporter:**  
 This activity is supported by an educational grant from PamLab, LLC and Axis Shield

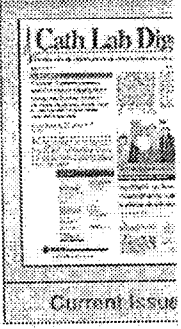
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**LATEST NEWS:**  
**FDA Approves Boston Scientific Corporation's TAXUS™ Express2™ paclitaxel-eluting coronary stent system**

Boston Scientific Corporation has received approval from the U.S. Food and Drug Administration (FDA) to market its TAXUS™ Express2™ paclitaxel-eluting coronary stent system. Boston plans to launch the product in the United States immediately, and it has ample inventory in all sizes.

[Read more...](#)

**ANNOUNCING!**  
**Cath Lab Digest Regional Seminars 2004**  
 This one day course is designed for Invasive Cardiovascular Technologists and Nurses, Cardiovascular



Clinical Nurse Specialists, Radiology Technologists and other allied health professionals working in diagnostic and interventional cardiology.

Attendees will also be able to interact with leading pharmaceutical, medical device, equipment and software companies who be exhibiting throughout the day.

For more information or a brochure please call 1-800-237-7285, ext.233 or email us at sdonato@hmpcommunications.com

The cost to attend is \$30.00. If you are a member of SICP it's \$25.00.

>>> Dates & Locations

>>> Registration

or if you prefer to register by phone please call: 800-766-6014

CME/CEU Archived Educational Program Webcast>>

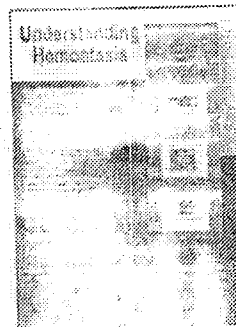
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Understanding Hemostasis

Accredited Educational Modules

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**Expiration Date:**

December 31, 2004

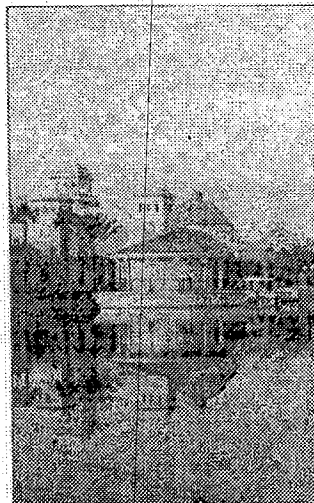
This activity is supported by an educational grant from Radi Medical Systems

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**200\***  
career  
and  
employment  
guide

Cath Lab Digest conducted its 10<sup>th</sup> annual salary survey in an attempt to assess the market value of cardiac catheterization laboratory professionals across the country.

Click here to download the 200 Salary Survey



ASOCC is in Orlando!

Join your fellow cardiac catheterization professionals at the educational event of the year!

HMP Communications and Cath Lab Digest are pleased to announce:

The 2004 Cath Lab Digest Third Annual Symposium on Cardiovascular Care will be held June 3-5 at Disney's

beautiful Coronado Springs resort in Orlando, Florida.

[Click here for more information](#)

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## clinical and industry news

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### **SYNERGY Study Confirms Benefits of Lovenox in Management of High-Risk Non-ST-Elevation ACS Patients**

The results of a landmark, 10,027-patient study show that Lovenox® (enoxaparin sodium) is as effective as unfractionated heparin (UFH) in the treatment of high-risk patients with non-ST-elevation acute coronary syndromes (ACS) undergoing an early invasive strategy. Findings of the SYNERGY trial were presented during a Late-Breaking Clinical Trials session at the American College of Cardiology's Annual Scientific Session 2004.

[Read more...](#)

### **FDA Clears Completely Automatic Pacemaker from Medtronic; Device Automatically Adjusts pacing Energy Levels without Physician Input**

Medtronic, Inc. announced U.S. Food and Drug Administration (FDA) clearance and U.S. commercial launch of a fully automatic pacemaker for bradycardia patients. The Medtronic EnPulse™ system is the first-ever medical device to regularly measure the minimum energy needed to stimulate the heart, allowing for lower

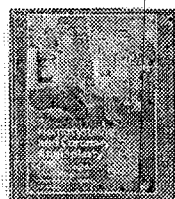
chambers and automatically adjust the intensity of electrical impulses delivered to both chambers without physician intervention.

[Read more...](#)

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## special feature

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Click here to order free copies of the educational newsletter for your patients, *"Homocysteine and Coronary Angioplasty: Understanding the Relationship and Preventing Adverse Events"*

"This newsletter provides a unique patient information booklet addressing the importance of homocysteine levels after coronary angioplasty (PCI). It offers the awareness of the effect of homocysteine on the therapy with folic acid, vitamin B12 and vitamin B6 on the development of restenosis after PCI."

**Guido Schnyder MD**

*Assistant Professor, University of California, San Diego, San Diego, California*

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## CME offering

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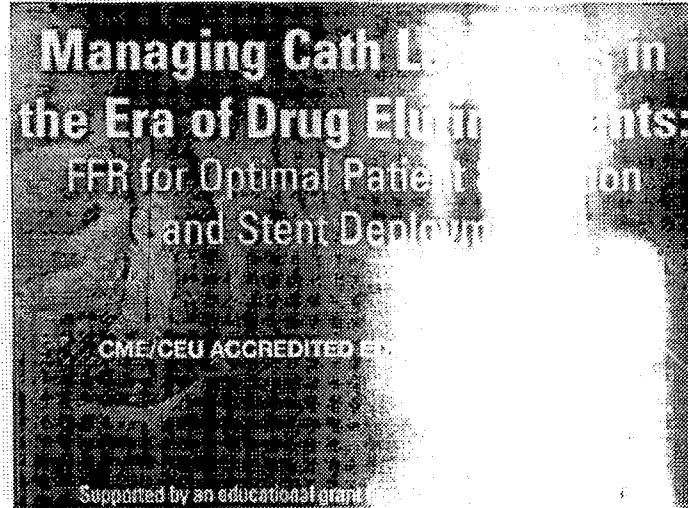
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You can also view the following CME articles online:





**A New Standard of Anticoagulation Therapy in PCI**

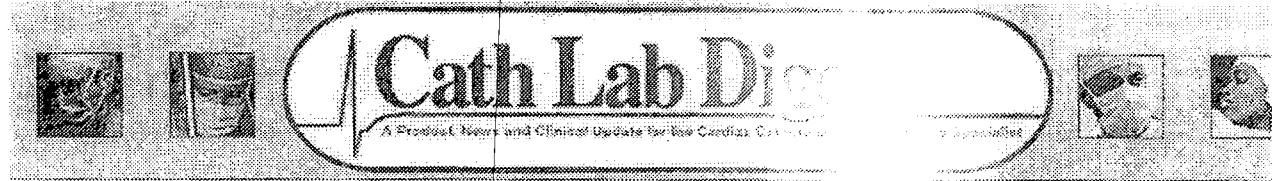
**An Archived Continuing Education Program**  
Original broadcast date: April 9, 2004

**Continuing Education Credits:**  
Physicians 1 CME Hour  
Pharmacists 1 Contact Hour (0.10 CEU)  
Nurses 1.2 Contact Hours

**Program Description**  
A New Standard of Anticoagulation Therapy in PCI features a panel of experts who will discuss the latest clinical trial results and will update the practitioner on the available options for anticoagulation inhibition following PCI.

[Click here to access archived program.](#)

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### Email Discussion

"There is some controversy over the availability of catheterization procedures available in the cath lab for different specialties — and just to what extent they can be cross-trained..."

[click here to participate in this discussion](#)

**Cath Lab Digest - ISSN: 1077-0709**  
**Volume 12 - Issue 3: March 2004**

#### Cath Lab Spotlight:

**Holmes Regional Medical Center**  
*Mathew Litz BS, RCIS, Dewey Parris RN, RCIS, BA, RCIS, BA, RCIS, Randy Kelly RCIS, Kim Warner BA, RCIS, RRT, Cardiac Catheterization Laboratory, Melbourne, Florida*

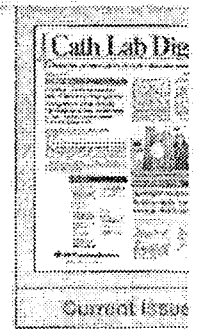
#### Feature:

**Successful Implementation of a Catheterization Interventional Program Without a Cath Lab Backup at Howard Regional Health Services**  
*Sheree Schroeder, RN, BSN, RDCS, FASE, Director of Cardiovascular Service Line; Michael E. Kasper, MD, Director of Cardiology Services, Howard Regional Health Services, Kokomo, Indiana*

**About Howard Regional Health Services Catheterization Laboratories**  
*Sheree Schroeder, RN, BSN, RDCS, FASE, Director of Cardiovascular Service Line; Michael E. Kasper, MD, Director of Cardiology Services, Howard Regional Health Services, Kokomo, Indiana*

**Device Update I: The Angio-Seal™ Catheterization Current State Assessment of Cholesterol Management Practice**  
*Carol Emmett, RN, BSN, Fred Kuelker, PA, Cholesterol Management, Minnetonka, Minnesota*

**Device Update II: The Path of Least Resistance: How Angio-Seal™ helped one lab achieve better economic performance**



*Dwayne Sumler, Heart Institute Invasive Director, St. Joseph's Hospital, St. Joseph, Mo.; Shradon, Charge Nurse, Cath Lab, Linda Lorenz, Charge Nurse, Cath Lab, Interventional Radiology, Recovery Area, St. John Medical Center, Tulsa, Okla.*

**CME/CEU Offering: Small Vessel Stenting**  
*Brian H. Galbut, MD, Gary L. Schaer, MD, FAHA, FACC, FRCPC, FRCR, FRCR (Cardiol), Catheterization Laboratories, Rush University Medical Center, Chicago, Illinois*

**Managing High-Volume Inventory: Improving Efficiency, Decreasing Costs at Penn State**  
*An interview with Sam Braga, Cardiology Manager, Penn State Milton S. Eisenhower Hospital, and Barry Egoif, RN, Database Administrator, Penn State Milton S. Eisenhower Hospital, Hershey, Pa.*

**Stroke: The Under-treated Cardiovascular Disease**  
*Sheree Schroeder, RN, BSN, RDCS, FASE, FAHA, FACC, FRCR, FRCR (Cardiol), Cardiovascular Service Line, Debbie Clason, RN, Community Relations for Howard Regional Hospital, Kokomo, Indiana*

**So You Want to be a Medical Manager**  
*Jason Money, RN, RCIS, Cath Lab Digest Editor, "Parts Unknown"*

**Streamlining Processes and Improving Patient Care Services in the Cardiology Section at Cleveland Medical Center with Medcon's TMS System**  
*Gisela Nehring, Project Leader, Information Systems, Cleveland Clinic Foundation, Cleveland, Ohio*

**Detecting Unstable Lesions in High-Risk Patients: The Single-use, IntraVascular Medical Catheter**  
*Cath Lab Digest talks to Eyal Kolka CEO of Business Development, TopSpin Medical, Inc., Los Angeles, Calif.*

**Quicker Results, Improved Communication, Better Care: The Impact of Cath Lab Data at the University of Washington Medical Center Heart Center**  
*Rene DeVine, Cath Lab Manager, UW Medical Center, Seattle, Washington*

**Improved Efficiency in Acute Myocardial Infarction Care Through Commitment to Interdisciplinary Department Initiated Primary PCI**  
*Jackson L. Thatcher, MD, Theresa A. Chittenden, RN, MSN, CCRN, CCNS*

**The Ten-Minute Interview with...**  
*[Name obscured], RN, MSN, CCRN, CCNS, Memorial Hospital West, Pembroke, Pineau, Florida*

**Industry News:**

March 2004

**Letter from the Editor:**

The small print: Sometimes taken for granted, but still important

*Rebecca Yospy, Managing Editor*

Correction

On-Line Reader Response Cards

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