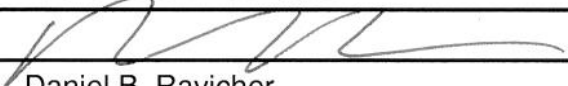


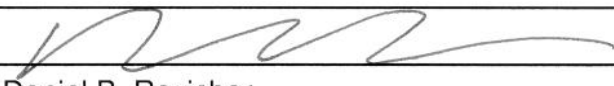
TRANSMITTAL FORM	Application Number	95/000,154
	Filing Date	
	First Named Inventor	Thomson, J.
	Art Unit	3991
	Examiner Name	Gary L. Kunz
(to be used for all correspondence after initial filing)		
Total Number of Pages in This Submission	8	Attorney Docket Number

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input checked="" type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	- Credit Card Payment Form PTO-2038
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<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Public Patent Foundation		
Signature			
Printed name	Daniel B. Ravicher		
Date	July 18, 2008	Reg. No.	47,015

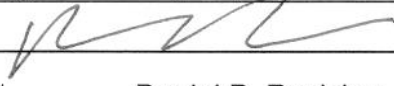

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
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Typed or printed name	Daniel B. Ravicher	Date	July 18, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES		Docket Number (Optional)	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as ^{first class} express mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>July 18, 2008</u>		In re Application of Thomson, J.	
Signature  Typed or printed name Daniel B. Ravicher		Application Number 95/000,154	Filed
		For Primate Embryonic Stem Cells	
		Art Unit 3991	Examiner Gary L. Kunz
Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.			
The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))		\$ <u>510.00</u>	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:		\$ <u>255.00</u>	
<input type="checkbox"/> A check in the amount of the fee is enclosed.			
<input checked="" type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.			
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.			
<input type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. _____ . I have enclosed a duplicate copy of this sheet.			
<input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.			
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.			
I am the			
<input checked="" type="checkbox"/> applicant/inventor: Counsel for Third Party Requester Registration No. 47,015		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Daniel B. Ravicher, Esq.	
<input type="checkbox"/> attorney or agent of record. Registration number _____		Typed or printed name	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____		(212) 545-5337	
		Telephone number	
		July 18, 2008	
		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the matter of:

Reexamination Control. No.: 95/000,154

U.S. Patent No.: 7,029,913

Issued: April 18, 2006

Inventor: Thomson

For: PRIMATE EMBRYONIC STEM CELLS

Art Unit: 3991

Examiner: Gary L. Kunz

NOTICE OF APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
BY THIRD PARTY REQUESTER IN *INTER PARTES* REEXAMINATION

Attn: Mail Stop "*Inter Partes* Reexam"
Central Reexamination Unit
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

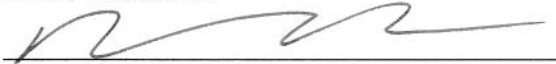
SIR:

Pursuant to the Right of Appeal Notice mailed June 20, 2008, in the above entitled *Inter*

Certificate of Express Mailing

"Express Mail" Mailing Number EB 412258022 US Date of Deposit July 18, 2008

I hereby certify that this paper and/or fee is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 CFR 1.10 on the date indicated above, and addressed to: Attn: Mail Stop "*Inter Partes* Reexam", Central Reexamination Unit, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Daniel B. Ravicher, Esq., USPTO Reg. 47.015

Partes Reexamination (“RAN”), the Third Party Requester, Consumer Watchdog, through its assigned counsel, the Public Patent Foundation (“PUBPAT”), respectfully submits this Notice of Appeal, which is being timely filed within thirty days or one month, whichever is longer, from the mailing date of the RAN.

Consumer Watchdog appeals from the findings of patentability of claims 1 – 3 made by the Examiner in the RAN. Specifically, Consumer Watchdog proposes to contest the following rejections that were either (i) proposed by Consumer Watchdog and not adopted by the Examiner or (ii) applied by the Examiner in the Non-Final Office Action mailed March 30, 2007, (“NFOA”) but then withdrawn by the Examiner in the RAN:

1. Claims 1 – 3 are unpatentable under 35 U.S.C. §103(a) as being obvious over Robertson, et al., “Isolation, Properties and Karyotype Analysis of Pluripotential (EK) Cell Lines From Normal and Parthenogenetic Embryos,” *Teratocarcinoma Stem Cells*, Cold Spring Harbor Laboratory, Cold Spring Harbor, 10:647-663 (1983) (“Robertson 83”), Robertson, Elizabeth J., “Embryo-Derived Stem Cell Lines,” *Teratocarcinomas and Embryonic Stem Cells; A Practical Approach*, Oxford: IRL Press, Ch. 4:71-112 (1987) (“Robertson '87”) and Piedrahita, et al., “On The Isolation Embryonic Stem Cells: Comparative Behavior Of Murine, Porcine And Ovine Embryos,” *Theriogenology*, 34(5):879-901 (1990) (“Piedrahita

'90"), either separately or when viewed together. This rejection proposed by Consumer Watchdog was not adopted by the Examiner.

2. Claims 1 – 3 are unpatentable under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Williams et al. (U.S. Patent No. 5,166,065) (“Williams '065”). This rejection was applied by the Examiner in the NFOA but then withdrawn in the RAN.
3. Claims 1 – 3 are unpatentable under 35 U.S.C. §102(e) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Hogan (U.S. Patent No. 5,690,926) (“Hogan '926”). This rejection was applied by the Examiner in the NFOA but then withdrawn in the RAN.
4. Claims 1 – 3 are unpatentable under 35 U.S.C. §103(a) as being obvious over Robertson '83 and Robertson '87 in view of Williams '065 and Hogan '926. This rejection was applied by the Examiner in the NFOA but then withdrawn in the RAN.
5. Claims 1 – 3 are unpatentable under 35 U.S.C. §103(a) as being obvious over Piedrahita '90 in view of Williams '065 and Hogan '926. This rejection was applied by the Examiner in the NFOA but then withdrawn in the RAN.
6. Claims 1 – 3 are unpatentable under 35 U.S.C. §103(a) as being obvious over Robertson

'83, Robertson '87 and Piedrahita '90 in view of Williams '065 and Hogan '926. This rejection was applied by the Examiner in the NFOA but then withdrawn in the RAN.

In accordance with 37 C.F.R. §41.20(b)(1), the fee for a Notice of Appeal is \$510. Pursuant to 37 C.F.R. §1.27, Consumer Watchdog claims small entity status as a 501(c)(3) nonprofit organization. Therefore, the fee for this Notice of Appeal filed by Consumer Watchdog is reduced by half. The resulting fee of \$255 is submitted herewith via credit card payment form PTO-2038.

Respectfully Submitted,

Date: July 18, 2008



Daniel B. Ravicher, Esq.
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1375 Broadway, Suite 600
New York, NY 10018
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Fax: (212) 591-6038
www.pubpat.org

Attorneys for Third Party Requester Consumer
Watchdog

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached NOTICE OF APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES BY THIRD PARTY REQUESTER IN INTER PARTES REEXAMINATION in its entirety, including all accompanying documents, is being deposited with the U.S. Postal Service as First Class Mail on the date of the signature below in an envelope addressed to:

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

Date: July 18, 2008



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Watchdog