

9/7/99

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To the Honorable Commission

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COVER SHEET

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

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J the attached original documents or copy thereof.

1. Name of conveying party(ies):

AKOS Biomedical, Inc.

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☐ Assignment☐ Merger☐ Security Agreement☒ Change of Name☐ Other _____

Execution Date: December 4, 1998

2. Name and address of receiving party(ies)

Name: Endonetics, Inc.

Internal Address: 5830 Oberlin Drive

Suite 102

San Diego, CA 92121

Street Address: 5830 Oberlin Drive

Suite 102

City: San Diego State: CA ZIP: 92121

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s)

B. Patent No.(s)

5,486,154 Granted January 23, 1996

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Howard J. Klein

Name: Klein & Szekeres, LLP

Internal Address: 4199 Campus Drive

Suite 700

Irvine, CA 92612

Street Address: 4199 Campus Drive

Suite 700

City: Irvine State: CA ZIP: 92612

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41).....\$40.00

☒ Enclosed☐ Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

09/09/1999 NTHA11 00000227 5486154

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Howard J. Klein, Reg.#: 28,727

Name of Person Signing

Signature

Date

Total number of pages including cover sheet, attachments, and document: 6

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents & Trademarks, Box Assignments
Washington, D.C. 20231PATENT
REEL: 010231 FRAME: 0232

**CERTIFICATE OF AMENDMENT TO THE
AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF AKOS BIOMEDICAL, INC.,
A CALIFORNIA CORPORATION**

DEC -7 1998

BILL JONES, SECRETARY OF STATE

John Kilcoyne hereby certifies that:

1. He is the duly elected and acting President and Secretary of AKOS Biomedical, Inc., a California corporation (the "Corporation").
2. Article I of the Amended and Restated Articles of Incorporation of the Corporation is hereby amended to read in its entirety as follows:

"The name of this corporation is Endonetics, Inc."

3. Article III, Section A of the Amended and Restated Articles of Incorporation of the Corporation is hereby amended to read in its entirety as follows:

"A. Classes of Stock. This corporation is authorized to issue two classes of stock to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the corporation is authorized to issue is Twenty-Two Million Five Hundred Twenty-Five Thousand (22,525,000) shares. Seven Million Eight Hundred Thousand (7,800,000) shares shall be Common Stock and Fourteen Million Seven Hundred Twenty-Five Thousand (14,725,000) shares shall be Preferred Stock. The Preferred Stock authorized by these Amended and Restated Articles of Incorporation shall be issued by series as set forth herein. The first series of Preferred Stock shall be designated "Series A Preferred Stock" and shall consist of One Million Two Hundred Thousand (1,200,000) shares. The second series of Preferred Stock shall be designated "Series B Preferred Stock" and shall consist of Nine Hundred Twenty-Five Thousand (925,000) shares. The third series of Preferred Stock shall be designated "Series C Preferred Stock" and shall consist of Two Million Six Hundred Thousand (2,600,000) shares. The fourth series of Preferred Stock shall be designated "Series D Preferred Stock" and shall consist of Ten Million (10,000,000) shares. Upon the filing of the amendment to this Article III, each outstanding share of Common Stock shall be converted into one-third (1/3) of one (1) share of Common Stock (the "New Shares"). No fractional share shall be issued upon such reverse stock split (the "Reverse Stock Split") of any share or shares of Common Stock. All shares of Common Stock (including fractions thereof) issuable upon the Reverse Stock Split of one (1) or more shares of Common Stock by a holder thereof (including, for this purpose, a holder of shares of Common Stock issuable upon conversion of Preferred Stock) shall be aggregated for purposes of determining whether the Reverse Stock Split would result in the issuance of any fractional share. If, after the aforementioned aggregation, the Reverse Stock Split would result in the issuance of a fraction of a share of Common Stock, the number of shares of Common Stock to be issued shall be rounded up to the nearest whole share. The share certificates representing

the shares outstanding prior to the filing of the amendment to the Amended and Restated Articles of Incorporation shall represent such number of New Shares following the filing of the amendment to the Amended and Restated Articles of Incorporation."

4. Article III, Section B(4)(b) of the Amended and Restated Articles of Incorporation of the Corporation is hereby amended to read in its entirety as follows:

"(b) Automatic Conversion. Each share of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock shall automatically be converted into shares of Common Stock at the Conversion Price at the time in effect for such Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock immediately upon the earlier of (i) except as provided below in subsection 4(c), the corporation's sale of its Common Stock in a firm commitment underwritten public offering pursuant to a registration statement under the Securities Act of 1933, as amended, the public offering price of which was not less than \$12.50 per share (adjusted to reflect subsequent stock dividends, stock splits, combinations or recapitalizations) and \$10,000,000 in the aggregate or (ii) the date specified by written consent or agreement of the holders of more than 50% of the then outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock voting together as a single class on an as-converted to Common Stock basis."

5. Article III, Section B(4)(d)(ii) of the Amended and Restated Articles of Incorporation of the Corporation is hereby amended to read in its entirety as follows:

"(ii) "Additional Stock" shall mean any shares of Common Stock issued (or deemed to have been issued pursuant to subsection 4(d)(i)(E)) or by this corporation after the Purchase Date other than

(A) Common Stock issued pursuant to a transaction described in subsection 4(d)(iii) hereof,

(B) shares of Common Stock issuable or issued to employees, consultants, directors or vendors (if in transactions with primarily non-financing purposes) of this corporation directly or pursuant to a stock option plan or restricted stock plan approved by the Board of Directors of this corporation at any time when the total number of shares of Common Stock so issuable or issued (and not repurchased at cost by the corporation in connection with the termination of employment or service) does not exceed 1,000,000 (subject to appropriate adjustment for stock splits, stock dividends, combinations or other recapitalizations, but taking into account the Reverse Stock Split),

(C) Common Stock issued or issuable upon conversion of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock or Series D Preferred Stock,

(D) shares of Common Stock issued upon exercise of warrants to purchase 33,000 shares (before the Reverse Stock Split) of Common Stock,

(E) 41,000 shares (before the Reverse Stock Split) of Common Stock issued in connection with the exercise of certain warrants to purchase 205,000 shares of Series B Preferred Stock,

(F) 50,000 shares of Series A Preferred Stock and 15,000 shares (before the Reverse Stock Split) of Common Stock issuable as payment for certain patent services rendered to the corporation,

(G) 35,600 shares of Series C Preferred Stock issuable upon exercise of a warrant held by Comdisco, Inc., or

(H) shares of Common Stock issued or issuable (I) in a public offering before or in connection with which all outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock will be converted pursuant to subsection 4(b) hereof to Common Stock or (II) upon exercise of warrants or rights granted to underwriters in connection with such a public offering.”

6. Article III, Section B(4)(j)(i) of the Amended and Restated Articles of Incorporation of the Corporation is hereby amended to read in its entirety as follows:

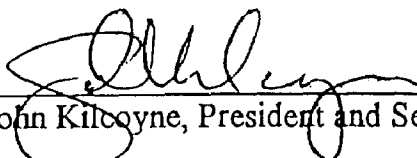
“(i) This corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, 1,000,000 shares of Common Stock (net of repurchases and cancellations and expirations of options) solely for the purpose of effecting the issuance of Common Stock to officers, directors, employees, consultants and advisors pursuant to stock option plans or restricted stock purchase agreements (the “Employee Reserve”).”

7. The foregoing amendment to the Amended and Restated Articles of Incorporation has been duly approved by the Board of Directors.

8. The foregoing amendment was approved by the holders of the requisite number of shares of said Corporation in accordance with Sections 902 and 903 of the California Corporations Code; the total number of outstanding shares of each class entitled to vote with respect to the foregoing amendment was 2,033,305 shares of Common Stock, 1,150,000 shares of Series A Preferred Stock, 925,000 shares of Series B Preferred Stock, 2,400,000 shares of Series C Preferred Stock and 9,125,001 shares of Series D Preferred Stock. The number of shares voting in favor of the foregoing amendment equaled or exceeded the vote required, such required vote being (i) a majority of the outstanding shares of Common Stock, and (ii) a majority of the outstanding shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock voting together as a single class on an as converted basis.

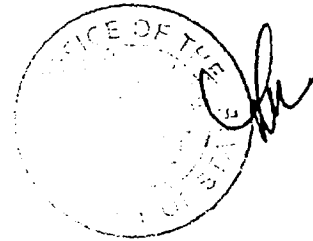
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IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment on December 4, 1998 and declares under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of his knowledge.



John Kilcoyne, President and Secretary





SECRETARY OF STATE

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 4 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

JULY 10 1999

Bill Jones

Secretary of State