

12-28-1999



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FORM 1595

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark OfficeRECORDATION FORM COVER SHEET
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NOV 12-16-99

To the Honorable Commissioner of Patents and Trademarks. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

DEMETER BIOTECHNOLOGIES, LTD.

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

3. Name of Conveyance:

☐ Assignment ☐ Merger
☐ Security Agreement ☒ Change of Name☐ Other
Effective Date: Sept. 18, 1998
Execution Date: 12/16/99

2. Name and address of receiving party(ies):

Name DEMETER, INC.

Internal Address: _____

Street Address: 1051 BRINTON ROADCity PITTSBURGHState PAZIP 15221Additional name(s) & addresses(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)

09/340,154

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No5. Name and address of party to whom correspondence
concerning document should be mailed:Name: ROTHWELL, FIGG, ERNST & KURZ

Internal Address: _____

Street Address: SUITE 701-E, 555 THIRTEENTH ST., N.W.City: WASHINGTONState: D.C.Zip 200046. Total number of applications
and patents involved: 17. Total fee (37 CFR 3.41): \$ 40.00☒ Enclosed☐ Authorized to be charged to deposit account

8. Deposit account number: _____

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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.Mark I. Bowditch
Name of Person SigningMark I. Bowditch 12/16/99
Signature DateTotal number of pages including cover sheet, attachments and documents: 6PATENT
REEL: 010454 FRAME: 0798

CHANGE OF NAME

STOCK CHANGE

FILED: CUSTOMER COPY
VICTORIA IN FILE 11
COLORADO NOTED BY 11:14 AMARTICLES OF AMENDMENT
OF
ARTICLES OF INCORPORATION
OF
DEMETER BIOTECHNOLOGIES, LTD.19981171601 C
\$ 25.00
SECRETARY OF STATE
09-23-1998 11:45:53

Pursuant to the provisions of the Colorado Business Corporation Act (the "Act"), the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

FIRST: The name of the corporation is Demeter BioTechnologies, Ltd.

SECOND: The following amendments to the Articles of Incorporation were approved by the Board of Directors and adopted by a vote of the shareholders as prescribed by the Act, on September 18, 1998. The number of votes cast for the amendments by each voting group entitled to vote separately on the amendments was sufficient for approval by that voting group.

THIRD: The amendments to the Articles of Incorporation are as follows:

Article I of the Articles of Incorporation is amended and restated in its entirety to read as follows:

The name of the corporation shall be Demagen, Inc.

Article IV of the Articles of Incorporation is amended and restated in its entirety to read as follows:

ARTICLE IV

CAPITAL

The aggregate number of shares which this corporation shall have the authority to issue is one hundred million (100,000,000) shares, with a par value of \$0.001 per share, which shares shall be designated common stock. No share shall be issued until it has been paid for, and it shall thereafter be nonassessable. The corporation may also issue up to 40,000,000 shares of preferred stock at a par value of \$0.001 per share. The preferred stock of the corporation shall be issued in one or more classes or series as may be determined from time to time by the Board of Directors. In establishing a class or series, the Board of Directors shall give to it a distinctive designation so as to distinguish it from the shares of all other series and

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classes, shall fix its number of shares in such series or class, and the preferences, rights and restrictions thereof. All shares of any one series shall be alike in every particular. The Board of Directors shall have the authority to establish all of the relative rights, preferences and limitations for each class or series, which authority shall include, but not be limited to, the establishment of whether each particular class or series shall have voting rights, in addition to the voting rights provided by law, and, if so, the terms of such voting rights.

The terms of the designations, preferences, limitations and relative rights of the Corporation's class of shares known as Convertible Preferred Stock as filed on June 16, 1998 are amended as follows:

a. Paragraph 7 thereof entitled "Exchange" is deleted in its entirety and new Paragraphs 7 and 8 are added which read in their entirety as follows:

7. Voting.

7A. General. Except as may be otherwise provided in these terms of the Convertible Preferred Stock or by law, the Convertible Preferred Stock shall vote together with all other classes and series of stock of the Company as a single class on all actions to be taken by the stockholders of the Company. Each share of Convertible Preferred Stock shall entitle the holder thereof to such number of votes per share on each such action as shall equal the number of shares of Common Stock (including fractions of a share) into which each share of Convertible Preferred Stock is then convertible.

7B. Board Size. The Company shall not, without the written consent or affirmative vote of the holders of at least two-thirds of the then outstanding shares of Convertible Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, increase the maximum number of directors constituting the Board of Directors to a number in excess of six (6), except as provided in paragraph 7C below.

7C. Board Seats. The holders of the Convertible Preferred Stock, voting as a separate class, shall be entitled to elect two (2) directors of the Company. The holders of the Common Stock, voting as a separate class, shall be entitled to elect three (3) directors of the Company. The holders of the Common Stock and the Convertible Preferred Stock voting together as a single class shall elect one (1) director of the Company who shall be an independent individual with experience in the Company's industry and otherwise acceptable to the holders of Convertible Preferred Stock. At any meeting (or in a written consent in lieu thereof) held for the purpose of electing directors, the presence in person or by proxy (or the written consent) of (i) the holders of a majority of the shares of Convertible Preferred Stock then outstanding shall constitute a quorum of the Convertible Preferred Stock for the election of directors to be elected solely by the

holders of the Convertible Preferred Stock, and (ii) the holders of a majority of the shares of Common Stock then outstanding shall constitute a quorum of the Common Stock for the election of directors to be elected solely by the holders of Common Stock. A vacancy in the directorships elected by holders of Convertible Preferred Stock shall be filled only by vote or written consent of the holders of the Convertible Preferred Stock and a vacancy in the directorships elected by holders of Common Stock shall be filled only by vote or written consent of the holders of Common Stock.

If an Event of Noncompliance (as herein defined) has occurred, the number of directors constituting the Company's board of directors will, at the request of the holders of a majority of the shares of Convertible Preferred Stock then outstanding, be increased to nine (9) and the holders of Convertible Preferred Stock will have the special right, voting separately as a single class (with each share of Convertible Preferred Stock being entitled to one vote) and to the exclusion of all other classes of the Company's stock, to elect individuals to fill such newly created directorships, to remove any individuals elected to such directorships and to fill any vacancies in such directorships. The special right of the holders of Convertible Preferred Stock to elect or remove members of the board of directors may be exercised at a special meeting called as provided below, at any annual or special meeting of stockholders or by written consent in lieu of a stockholders meeting.

At any time when such special right has vested in the holders of Convertible Preferred Stock, a proper officer of the Company will, upon the written request of the holders of at least 10% of the shares of Convertible Preferred Stock then outstanding, addressed to the secretary of the Company, call a special meeting of the holders of Convertible Preferred Stock for the purpose of electing directors pursuant to this Subparagraph. Such meeting will be held at the earliest legally permissible date at the principal office of the Company or at such other place designated by the holders of at least 10% of the shares of Convertible Preferred Stock then outstanding. If such meeting has not been called by a proper officer of the Company within 10 days after personal service of such written request upon the secretary of the Company or within 20 days after mailing the same to the secretary of the Company at the Company's principal office, then the holders of at least 10% of the shares of Convertible Preferred Stock then outstanding may designate in writing one of their number to call such meeting at the expense of the Company, and such meeting may be called by such person so designated upon the shortest legally permissible notice and will be held at the Company's principal office, or at such other place designated by the holders of at least 10% of the shares of Convertible Preferred Stock then outstanding. Any holder of Convertible Preferred Stock so designated will be given access to the stock record books of the Company for the purpose of causing a meeting of stockholders to be called pursuant to this Subparagraph.

At any meeting or at any adjournment thereof at which the holders of Convertible Preferred Stock have the special right to elect directors, the presence, in person or by proxy, of the holders of a majority of the shares of Convertible Preferred Stock then outstanding will be required to constitute a quorum for the election or removal of any director by the holders of the Convertible Preferred Stock exercising such special right. The vote of a majority of such quorum will be required to elect or remove any such director.

An Event of Noncompliance for the purposes of this paragraph 2C will be deemed to have occurred if the revenues of the Company are more than forty percent (40%) below the revenues projected in the Company's business plan, for the period through the year ending December 31, 2000, and thereafter as set forth in the business plan as adopted from time to time by the Board of Directors as measured by net revenues for any six month period starting January 1, 1999. For purposes of this paragraph, revenues will include income from sales, nonrecoverable grants, licenses, options, royalties, research fees or technology support fees. Revenues will also include (i) grants which support research on the Company's technology paid directly to other organizations, such as a Cap CURE grant to a university, and (ii) research done by a third party funded by licensees, joint venture partners, or other alliances which otherwise would be paid by the Company.

B. **Restrictions.** Except where the vote or written consent of the holders of a greater number of shares of the Company is required by law or by the Articles of Incorporation, and in addition to any other vote required by law or the Articles of Incorporation, without the approval of the holders of at least sixty-six and two thirds percent (66 2/3%) of the then outstanding shares of Convertible Preferred Stock, given in writing or by vote at a meeting, consenting or voting (as the case may be) separately as a class, the Company will not:

B.A. Create or authorize the creation of, or establish the preferences, rights and/or restrictions of, any additional class or series of shares of stock unless the same ranks junior to the Convertible Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Company, or increase the authorized amount of the Convertible Preferred Stock or increase the authorized amount of any additional class or series of shares of stock unless the same ranks junior to the Convertible Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Company, or create or authorize any obligation or security convertible into shares of Convertible Preferred Stock or into shares of any other class or series of stock unless the same ranks junior to the Convertible Preferred Stock as to the distribution of assets on the liquidation, dissolution or winding up of the Company, whether any such creation, authorization or increase shall be by means of amendment to the Articles of Incorporation or by merger, consolidation or otherwise;

8B. Consent to any liquidation, dissolution or winding up of the Company or consolidate or merge into or with any other entity or entities or sell or transfer all or substantially all its assets;

8C. Amend, alter or repeal its Articles of Incorporation or By-laws;

8D. Purchase or set aside any sums for the purchase of, or pay any dividend or make any distribution on, any shares of stock other than the Convertible Preferred Stock, except for dividends or other distributions payable on the Common Stock solely in the form of additional shares of Common Stock and except for the purchase of up to an aggregate of 3.5% of the outstanding stock of the Company from former employees of the Company who acquired such shares directly from the Company, if each such purchase is made pursuant to contractual rights held by the Company relating to the termination of employment of such former employees; or

8E. Redeem or otherwise acquire any shares of Convertible Preferred Stock except as expressly authorized in paragraph 5 hereof or pursuant to a purchase offer made pro rata to all holders of the shares of Convertible Preferred Stock on the basis of the aggregate number of outstanding shares of Convertible Preferred Stock then held by each such holder.

8F. Change the scope of business activity of the Company other than in the ordinary course of business.

8G. Change the size of the Board of Directors.

8H. Authorize a transfer of intellectual property rights necessary to the operation of the business of the Company other than any license or sublicense in furtherance of the Company's business plan.

DEMETER BIOTECHNOLOGIES, LTD.

By: 

Name: Richard Ekstrom
Title: President