

09-15-2000

U.S. Department of Commerce
Patent and Trademark Office
PATENT



101457253

**RECORDATION FORM COVER SHEET
PATENTS ONLY**

BSTZ Docket No. 3764.P159X

MRD
8/23

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

☒ **New**

☐ **Resubmission (Non-Recordation)**
Document ID#

☐ **Correction of PTO Error**
Reel # Frame #

☐ **Corrective Document**
Reel # Frame #

Conveyance Type

☐ Assignment ☐ Security Agreement

☐ License ☐ Change of Name

☒ **Merger** ☐ Other

U.S. Government
(For Use ONLY by U.S. Government Agencies)

☐ Departmental File ☐ Secret File

Conveying Party(ies)

☐ Mark if additional names of conveying parties attached

Execution Date
Month Day Year
 11-24-97

Name (line 1) Devices for Vascular Intervention, Inc.

Name (line 2)

Second Party

Name (line 1)

Name (line 2)

Execution Date
Month Day Year

Receiving Party

☐ Mark if additional names of receiving parties attached

Name (line 1) Advanced Cardiovascular Systems, Inc.

Name (line 2)

Address (line 1) 3200 Lakeside Drive

Address (line 2)

Address (line 3) Santa Clara California 95054
City State/Country Zip Code

☐ If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

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09/15/2000 JJALLAH2 00000055 5047040

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40.00 OP

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Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231
PATENT

REEL: 011052 FRAME: 0936

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

Application Number(s) or Patent Number(s)

☐ Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)

Patent Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5,047,040"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

If this document is being filed together with a new Patent Application, enter the date the patent application was signed by the first named executing inventor.

Month Day Year

Patent Cooperation Treaty (PCT)

Enter PCT application number only if a U.S. Application Number has not been assigned.

PCT PCT PCT
PCT PCT PCT

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment:

Enclosed ☒ Deposit Account ☐

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes



No



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. Charges to deposit account are authorized, as indicated herein.

William W. Kidd, Reg. No. 31,772

Name of Person Signing

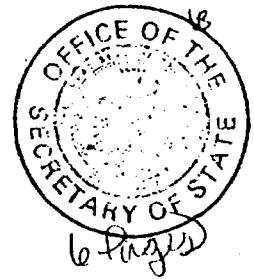
William W. Kidd

Signature

8-21-2000

Date

State of California

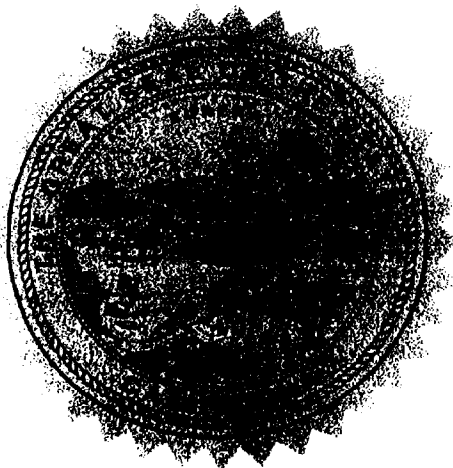


I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript 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

JAN - 5 1998



Bill Jones

Secretary of State

DEC 31 1997

AGREEMENT AND PLAN OF MERGER

BILL JONES, Secretary of State

THIS AGREEMENT AND PLAN OF MERGER (the "Merger Agreement"), is made and entered into as of December 31, 1997, by and between ADVANCED CARDIOVASCULAR SYSTEMS, INC., a California corporation ("ACS"), and DEVICES FOR VASCULAR INTERVENTION, INC., a California corporation ("DVI"). ACS and DVI are sometimes referred to in this Merger Agreement as the "Constituent Corporations".

W I T N E S S E T H:

WHEREAS, the Boards of Directors of the Constituent Corporations have each determined that it is in the best interests of their respective shareholders for DVI to merge with and into ACS (the "Merger"), with ACS to be the surviving corporation of the Merger, pursuant to the terms and conditions as set forth in this Merger Agreement and the applicable provisions of the laws of the State of California; and

WHEREAS, the authorized capital stock of ACS consists of 100 (One Hundred) shares of no par value Common Stock, of which, 100 (One Hundred) shares are issued and outstanding. The authorized capital stock of DVI consists of Thirty Million (30,000,000) shares of no par value Common stock, of which, 100 (One Hundred) shares are issued and outstanding;

WHEREAS, the Merger is intended to be treated as a reorganization pursuant to the provisions of Section 368(a)(1)(A) of the Internal Revenue Code of 1986, as amended (the "Code"), by virtue of the provisions of Section 368(a)(2)(D) of the Code:

NOW, THEREFORE, the parties do hereby adopt this Merger Agreement and do hereby promise and agree that DVI shall merge with and into ACS on the following terms, conditions and other provisions:

1. Terms and Conditions.

1.1 The Merger. DVI shall be merged with and into ACS, and ACS shall be the surviving corporation (the "Surviving Corporation"), effective December 31, 1997 (the "Effective Date").

1.2 Succession. On the Effective Date, ACS shall succeed to all of the rights, privileges, powers and property, including without limitation all rights, privileges, franchises, patents, trademarks, licenses, registrations and other assets of every kind and description and all of the debts, liabilities and duties of DVI in the manner as provided in the applicable provisions of the California Corporations Code.

1.3 Common Stock of DVI. Upon the Effective Date, the outstanding shares of DVI shall be canceled and no shares of ACS or other securities or consideration shall be issued in exchange therefor.

1.4 Common Stock of ACS. Upon the Effective Date, the outstanding shares of ACS shall remain outstanding and are not affected by the merger. Each stock certificate evidencing ownership of any such shares shall continue to evidence ownership of such shares of capital stock of ACS.

2. Charter Documents, Directors and Officers.

2.1 Articles of Incorporation and Bylaws.

(a) The Articles of Incorporation of ACS, in effect immediately prior to the Effective Date, shall be and may be certified as the Articles of Incorporation of the Surviving Corporation.

(b) The Bylaws of ACS in effect on the Effective Date shall continue to be the Bylaws of the Surviving Corporation without change or amendment until further amended in accordance with the provisions thereof and applicable California law.

2.2 Directors. Ronald W. Dollens, Keith E. Brauer and Ginger L. Howard, directors of ACS shall remain the directors of the Surviving Corporation to serve until the expiration of their current terms and until their successors have been duly elected and qualified.

2.3 Officers. The officers of ACS immediately preceding the Effective Date shall remain the officers of the Surviving Corporation on the Effective Date to serve at the pleasure of its Board of Directors and in each case, until their respective successors have been duly appointed, qualified and elected.

3. Miscellaneous.

3.1 Further Assurances. From time to time, as and when required by the Surviving Corporation or by its successors and assignees, there shall be executed and delivered on behalf of DVI such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other action, as shall be appropriate or necessary in order to vest or perfect in order to conform of record or otherwise, in the Surviving Corporation the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises, and authority of DVI and otherwise to carry out the purposes of this Merger Agreement, and the officers and directors of the Surviving Corporation are fully authorized in the name and on behalf of DVI or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

3.2 Amendment. At any time before or after approval by the shareholders of the Constituent Corporations, this Merger Agreement may be amended in any manner (except

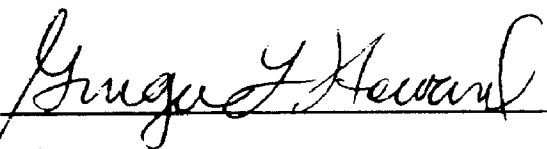
that any of the principal terms may not be amended without the approval of the shareholders of the Constituent Corporations) as may be determined in the judgment of the respective Board of Directors of DVI and ACS to be necessary, desirable or expedient in order to clarify the intention of the parties hereto or to effect or facilitate the purpose and intent of this Merger Agreement.

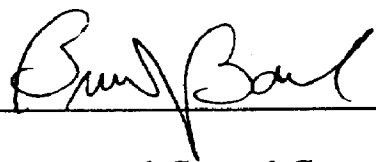
3.3 Abandonment. At any time before the Effective Date, this Merger Agreement may be terminated and the merger may be abandoned by the Board of Directors of either DVI or ACS or both, notwithstanding the approval of the Merger Agreement by the shareholders of the Constituent Corporations.

3.4 Counterparts. In order to facilitate the filing and certification of this Merger Agreement, the same may be executed in any number of counterparts, each of which shall be deemed to be an original.

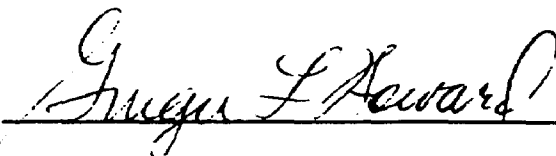
IN WITNESS WHEREOF, this Merger Agreement, having first been duly approved by the Board of Directors of ACS and DVI, is hereby executed on behalf of each said corporation by their respective officers, as of the date first written above.

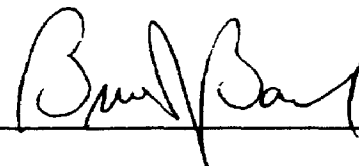
ADVANCED CARDIOVASCULAR
SYSTEMS, INC., a California corporation

By 
Its President and Chief Executive Officer

By 
Its Secretary and General Counsel .

DEVICES FOR VASCULAR
INTERVENTION, INC., a California
corporation

By 
Its Chairman of the Board

By 
Its Secretary and General Counsel

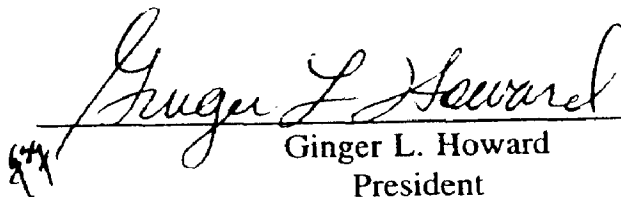
ADVANCED CARDIOVASCULAR SYSTEMS, INC.
OFFICERS'
CERTIFICATE OF APPROVAL
OF
AGREEMENT AND PLAN OF MERGER

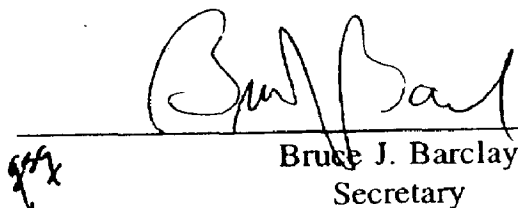
Ginger L. Howard and Bruce J. Barclay certify that:

1. They are the President and Secretary, respectively, of Advanced Cardiovascular Systems, Inc., a California corporation (the "Surviving Corporation").
2. The number of outstanding shares of each class entitled to vote on the attached Agreement and Plan of Merger is ^{one} ~~hundred~~ (100) shares of the Surviving Corporation's Common Stock.
3. The Agreement and Plan of Merger in the form attached was duly approved by the Board of Directors and Sole Shareholder of the Surviving Corporation.
4. The Agreement and Plan of Merger was approved was by the holders of one hundred percent (100%) of the outstanding shares of the Surviving Corporation's Common Stock.
5. No vote of the shareholders of Guidant Corporation, the Surviving Corporation's parent and sole shareholder, was required.

We further declare 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 our own knowledge.

Dated: November 24, 1997


Ginger L. Howard
President


Bruce J. Barclay
Secretary


DEVICES FOR VASCULAR INTERVENTION, INC.
OFFICERS'
CERTIFICATE OF APPROVAL
OF
AGREEMENT AND PLAN OF MERGER

Ginger L. Howard and Bruce J. Barclay certify that:

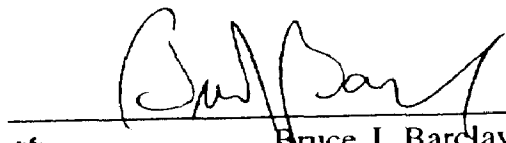
1. They are the Chairman of the Board and Secretary, respectively, of Devices for Vascular Intervention, Inc., a California corporation (the "Merging Corporation").
2. The number of outstanding shares of each class entitled to vote on the attached Agreement and Plan of Merger is ^{One}~~Hundred~~ (100) shares of the Merging Corporation's Common Stock.
3. The Agreement and Plan of Merger in the form attached was duly approved by the Board of Directors and Sole Shareholder of the Merging Corporation.
4. The Agreement and Plan of Merger was approved was by the holders of one hundred percent (100%) of the outstanding shares of the Merging Corporation's Common Stock.
5. No vote of the shareholders of Guidant Corporation, the Merging Corporation's parent and sole shareholder, was required.

We further declare 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 our own knowledge.

Dated: November 24, 1997



Ginger L. Howard
Chairman of the Board



Bruce J. Barclay
Secretary

Please type a plus sign (+) inside this box → +

PTO/SB/21 (12/97)
Approved for use through 9/30/00. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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BSTZ Docket No. 3764.P159X

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Patent Number	5,047,040
Issue Date	September 10, 1991
First Named Inventor	Simpson et al.
Application Serial No.	07/312,108
Filing Date	February 16, 1989
Attorney Docket Number	11836-17-1 US

Total Number of Pages in This Submission



ENCLOSURES (check all that apply)

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form | <input checked="" type="checkbox"/> Recordation Form Cover Sheet Agreement and Plan of Merger | <input type="checkbox"/> After Allowance Communication to Group |
| <input checked="" type="checkbox"/> Fee Attached | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment / Response | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition Checklist and Accompanying Petition | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> To Convert a Provisional Application | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Declaration and Power of Attorney | <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below): |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Terminal Disclaimer | Return Postcard |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | | |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application | | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |

Remarks

Please charge any insufficiencies or credit any overpayments to Deposit Account No. 02-2666.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	William W. Kidd, Reg. No. 31,772	Blakely, Sokoloff, Taylor & Zafman 12400 Wilshire Boulevard Seventh Floor Los Angeles, CA 90025-1026
Signature	<i>William W. Kidd</i>	
Date	8-21-2000	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date:

Typed or printed name	Carmen M. Rhoades
Signature	

Date

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PATENT
REEL: 011052 FRAME: 0945

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FEE TRANSMITTAL

for FY 2000

Patent fees are subject to annual revision.

Small Entity payments must be supported by a small entity statement, otherwise large entity fees must be paid. See Forms PTO/SB/09-12.

See 37 C.F.R. §§ 1.27 and 1.28.

TOTAL AMOUNT OF PAYMENT (\$) 40.00

Complete if Known

Patent Number	5,047,040
Issue Date	September 10, 1991
First Named Inventor	Simpson et al.
Application Serial No.	07/312,108
Filing Date	February 16, 1989
Attorney Docket No.	11836-17-1 US

METHOD OF PAYMENT (check one)

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number **02-2666**

Deposit Account Name **Blakely, Sokoloff, Taylor & Zafman**

☒ Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17

2. ☒ Payment Enclosed:

☒ Check ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 690	201 345	Utility filing fee	
106 310	206 155	Design filing fee	
107 480	207 240	Plant filing fee	
108 690	208 345	Reissue filing fee	
114 150	214 75	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

**or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
103 18	203 9	Claims in excess of 20	
102 78	202 39	Independent claims in excess of 3	
104 260	204 130	Multiple dependent claim, if not paid	
109 78	209 39	** Reissue independent claims over original patent	
110 18	210 9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$)

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet.	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 380	216 190	Extension for reply within second month	
117 870	217 435	Extension for reply within third month	
118 1,360	218 680	Extension for reply within fourth month	
128 1,850	228 925	Extension for reply within fifth month	
119 300	219 150	Notice of Appeal	
120 300	220 150	Filing a brief in support of an appeal	
121 260	221 130	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,210	241 605	Petition to revive - unintentional	
142 1,210	242 605	Utility issue fee (or reissue)	
143 430	243 215	Design issue fee	
144 580	244 290	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	
123 50	123 50	Petitions related to provisional applications	
126 240	126 240	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	40.00
146 690	246 345	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 690	249 345	For each additional invention to be examined (37 CFR § 1.129(b))	

Other fee (specify) _____

Other fee (specify) _____

SUBTOTAL (3) (\$) 40.00

* Reduced by Basic Filing Fee Paid

SUBMITTED BY

Name (Print/Type) William W. Kidd

Registration No. 31,772
(Attorney/Agent)

Complete (if applicable)

Telephone 512/330-0844

Signature

William W. Kidd

Date 8-21-2000

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.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

PATENT

REEL: 011052 FRAME: 0946

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146 690	246 345	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 690	249 345	For each additional invention to be examined (37 CFR § 1.129(b))	

Other fee (specify) _____

Other fee (specify) _____

SUBTOTAL (3) (\$) 40.00

* Reduced by Basic Filing Fee Paid

SUBMITTED BY

Name (Print/Type) **William W. Kidd**

Registration No. (Attorney/Agent)

31,772

Complete (if applicable)

Telephone **512/330-0844**

Signature

William W. Kidd

Date **8-21-2000**

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PATENT

REEL: 011052 FRAME: 0947

FORM PTO-1619A

Expires 06/30/99
OMB 0651-0027U.S. Department of Commerce
Patent and Trademark Office
PATENT

BSTZ Docket No. 3764.P159X

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PATENTS ONLY****TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).****Submission Type**

☒ **New**

☐ **Resubmission (Non-Recordation)**
Document ID#

☐ **Correction of PTO Error**
Reel # Frame #

☐ **Corrective Document**
Reel # Frame #

Conveyance Type

☐ **Assignment** ☐ **Security Agreement**

☐ **License** ☐ **Change of Name**

☒ **Merger** ☐ **Other**

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5,047,040		

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