THE UNITED STATES PATENT AND TRADEMARK OFFICE

#10

In re application of:

MICHAEL D. DAKE, ET AL.

Serial No.: 07/484,117

Filed: February 23, 1990

For: RADIOACTIVE CATHETER

Group Art Unit: 335

Examiner: J. P. LACYK

11/3/91

Pasadena, California

DECLARATION OF STEPHEN N. OESTERLE

Honorable Commissioner of Patents and Trademarks Washington, D. C. 20231

Sir:

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20231, ON

(DATE SIGNED)

I, Professor Stephen N. Oesterle, declare:

MY BACKGROUND

- 1. I am currently Associate Professor of Medicine (cardiology), Director, Catherization and Coronary Intervention Laboratories, Georgetown University Medical Center, Washington, D.C.
- 2. I received my Bachelor of Arts in chemistry, summa cum laude, from Harvard College, Cambridge, Massachusetts, with a Phi Betta Kappa award, in 1973. In 1977 I received my M.D., cum laude, from Yale University, New Haven, Connecticut.

- 3. My further qualifications are detailed in the attached curriculum vitae, which correctly and accurately presents my education, faculty and hospital appointments, professional and honorary society memberships, teaching assignments, fellowship programs of which I have been a director, and some of my publications. As indicated in my curriculum vitae, I have been assistant professor of medicine at Stanford University, Stanford, California. I am a fellow of the Society for Cardiac Angiography and Interventions; a fellow of the American College of Cardiology; and founding member and treasurer of the American Society of Cardiovascular Interventions.
- 4. In short, I am an expert in cardiology, and particularly interventional cardiology.

EXPERIMENTAL WORK

- 5. A device according to the present invention was constructed and tested for reliability and safety for delivery of radiation to the coronary vasculature in dogs. The methodology used, and the device used, was as described in the example portion of the present application.
- 6. The attached data sheets provide experimental information, namely the number of rads delivered during the test to the dogs. In general, the radiation was delivered for less

PC3\TEMP/7102SNO.DEC 2 10/21/91

than 30 minutes. About two months after the experimental work, tissue samples from the coronary arteries of the dogs were microscopically examined. The tissues examined were control (non-treated) tissue, radiated tissue, and radiated and denuded (angioplasty) tissue. Histology reports for the treated tissue are attached to this declaration. In the reports, the following abbreviations were used:

LAD - left anterior descending coronary artery

LCx - circumflex coronary artery

RCA - right coronary artery

7. The results of the tests indicate that intraluminal radiation treatment of a coronary artery of a mammal can safely and effectively be accomplished.

UTILITY

- 8. A person of ordinary skill in the art relating to coronary intervention would believe the present invention has utility, namely that it can prevent restenosis. I conclude this based on the following evidence:
 - (a) The experimental results discussed above.
- (b) The fact that keloid growth, which is the growth of scar tissue, can be prevented in many cases through the use of radiation therapy. Examples of articles that teach this are the Borok et al. article, "Role of Ionizing Irradiation For

393 Keloids", and Kovalic, et al., "Radiation Therapy Following Keloidectomy: A 20-Year Experience".

(c) The major component of restenosis is scar tissue. This is discussed in such articles as Faxon et al., "Mechanism of Angioplasty and Its Relation to Restenosis".

Thus, the claim for utility for the present invention is believable on its face to those of ordinary skill in the art.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application and any patent or patents resulting therefrom.

Date:	15/22/91	By:	
		Stephen N. Oesterle, M	.D.

(). a



Dog 2228

LCX-1 [radiation only]

LCX-2

LAD-1 [denudation & radiation]

LAD-2

Marginal [control]

Areas of denudation of endothelium. Vessel patent. Very mild intimal hyperplasia. One area of vessel disruption is probably artefact.

tangential cut through vessel - cannot adequately assess.

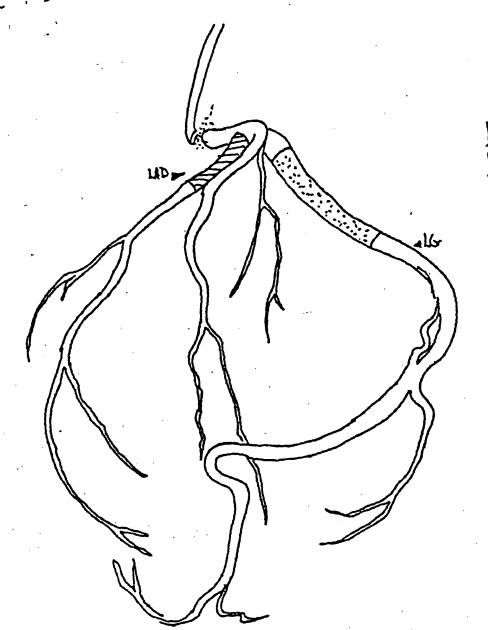
vessel patent - small area of very mild intimal hyperplasia.

vessel patent - mild intimal hyperplasia.

Small vessel, but intact; normal.

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Dog 2238

LAD-1 (Radiated only)

Normal

LAD-2 (Radiated only)

Some denudation of endothelium

Marginal (Control)

Normal

LCX-1 (Radiation and denudation)

denuded endothelium; occasional neutrophils adherent

to intima

LCX-2 (Radiation & denudation) area of denudation; vessel

otherwise intact

Dog 2239

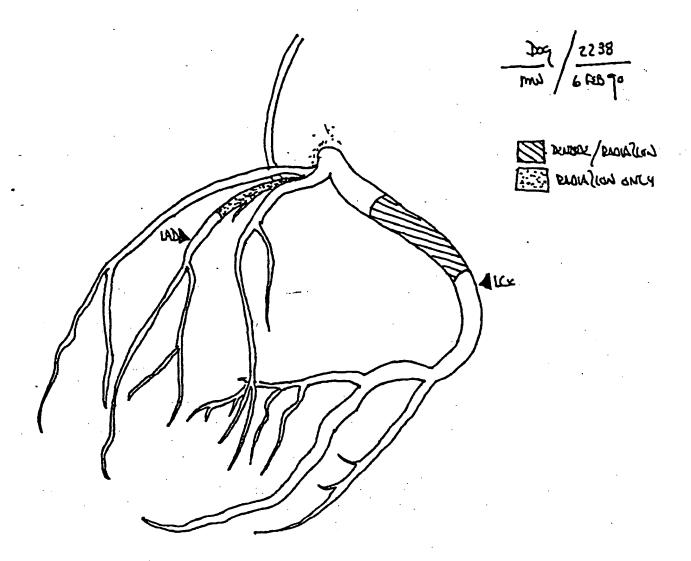
LAD-1 (Denuded and radiated) endothelium denuded, vessel otherwise intact

IAD-2 (Denuded and radiated) endothelium denuded; area of neutrophil infiltration into wall of vessel plus nuclear dust. Some edema or necrosis in media of this same area.

Marginal (Control)
Normal

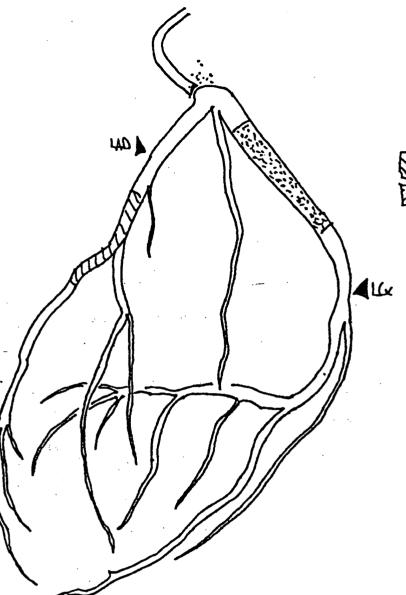
LCX-l (Radiated only) areas where elastic lamina appear lifted off of the vessel; areas where elastic lamina appears split. Some platelet and? fibrin adherent to intima; few neutrophils adherent to intima.

LCX-2 (Radiated Only)
Some denudation.
Elastic lamina cut tangentially.

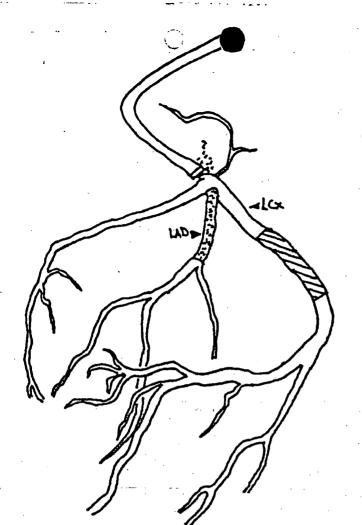


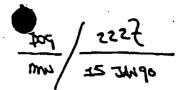
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Dog #2229

LCX-1 [denudation & radiation]

LCX-2

LAD-1
[radiation only]

LAD-2

Marginal [Control]

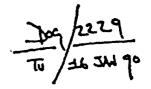
vessel patent - one small area of vessel appears disrupted- this may be artefact. Mild to moderate intimal hyperplasia. Some neutrophils adhering to intima.

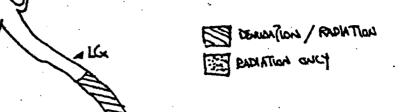
vessel patent - areas of denudation - intimal hyperplasia - mild - moderate.

vessel patent - areas of denudation - very mild intimal hyperplasia.

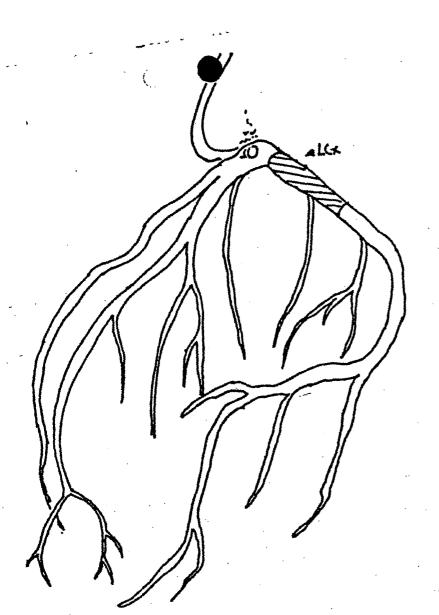
vessal patent - moderate intimal hyperplasia.

Normal





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BELLIATION / RADIATION

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Dr. Kloner's Path Reading

April 5, 1990

2206 - Chronic

Circ - 2 vessel patent intima & endothelium intact. (Denude, radiate)

2206 Circ - 1

vessel patent, mild intimal hyperplasia (about 5 cell layers think) on one side of vessel only.

2206 Marginal (Control)

Normal

2206 LAD -1 (Radiate)

Vessel patent intimal hyperplasia about 3-4 cell layers thick on one side of vessel. On the other side peculiar network of ? fibrin and ? neointimal cells.

2206 LAD - 2

Appears Normal.

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January 25, 1990

HISTOLOGY FOR DR. OESTERLE'S RADIATION STUDY (ROBERT A. KLONER'S READING)

2205 Circumflex Irradiated, nondenuded.

Slides 1: One area appears denuded with a few neutrophils attached to the surface.

Can't rule out some artifactual loss of intima. Some of intima cut tangentially.

Media intact.

2205 LAD Irradiated, denuded.

Slide 1: Areas of denudation

White cells attached to intima

Media appears intact

Slide 2: As above. Area of intima disrupted with probable platelet deposition.

Blood in lumen of vessel? post mortem clot. One area of vessel has round-cell infiltration

beneath elastic lamina.

2205 Marginal Portion of intima appears detached (looks artifactual)

A few isolated white cells adjacent to intima. Media intact. Otherwise looks

normal

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Study: #2226 (01/15/90)

LCX - denuded, radiated

- 1. areas of endothelium denudation leaving exposed elastic lamina
- 2. endothelium denuded in areas. One small zone of hemorrhage and edema in media with some neutrophils in adventitia of this area.

Marginal- Endothelium intact. Some artefact on one side of vessel.



Study 2227 (01/15/90)

LCX - denuded, radiated

- large portions of vessel denuded with overlying thin layer of probable thrombus, (RBC's, platelets, few WBC's).
- 2. As above; one area has edema, disruption and possible necrosis of the media. Small amount of hemorrhage in vessel wall with neutrophils as well.

LAD - radiated, not denuded.

- Some areas of denudation.
- 2. As above. Some areas where thin layer of platelets, RBC's overly intima.

Marginal-Control Normal January 25, 1990

HISTOLOGY FOR DR. OESTERLE'S RADIATION STUDY (ROBERT A. KLONER'S READING)

2204 Circumflex

Radiated, nondenuded

Slides 1 and 2:

While most of the vessel appears intact there is one area making up about 15-20% of the circumference which appears to have lost the endothelium. In the media of this area are some neutrophils and degenerated neutrophil nuclei ("nuclear dust"). There is also some hemorrhage, edema and possibly necrosis in the media of this area.

2204 Marginal

Control

Normal

2204 LAD

Radiated - denuded

Slide 1:

Much of, but not all of the endothelial lining is removed, leaving an exposed

elastic lamina.

There is a focal zone of hemorrhage into the media and neutrophil infiltration;

again, some degenerated neutrophil nuclei.

Slide 2:

Endothelial denudation, otherwise media appears intact.

THE AMERICAN MEDICAL ASSOCIATION

MANNINGAIL
GUIDICAIL



Editor-in-Chief
Jeffrey R.M. Kunz, MD

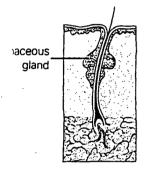


teach you to clean it with a mild antiseptic, and cover it with a dressing. This should be done frequently.

If the ulcer fails to heal, your physician may coat it with a white paste and then bandage it up. In some cases this still fails to clear up the problem, and you may be advised to go into the hospital for a few weeks. There you can rest in bed in the proper position, and your ulcer will be constantly observed and treated as necessary. To hasten healing, a skin graft (see Box, previous page) may be needed.

Sebaceous cysts

See p.242, Visual aids to diagnosis, 40.



A sebaceous gland is a tiny gland that lies just beneath the skin and produces an oily, waxy substance to keep the skin supple. A sebaceous cyst develops when the gland fills with a thick "cheesy" fluid that slowly accumulates. The cyst then grows slowly over many years. It can be seen as a pale lump beneath the skin. Such cysts are most often found in the scalp. In some cysts there is a narrow pore connecting the cyst and the skin surface. This pore is marked by a tiny, dark dot.

Sebaceous cysts usually occur singly. They are often painless and harmless, are quite common, and are often first noticed in young adults. The cause of these cysts is not known.

What are the risks?

If bacteria enter the pore, the cyst becomes infected. It then becomes enlarged, red, inflamed and tender. It may eventually burst and release foul-smelling pus. After this, the inflammation recedes but the cyst still remains and may become reinfected later. The cyst may also break beneath the skin. This causes a great deal of redness and pain. As the cyst heals, scar tissue may develop, and this may make it difficult to remove the cyst through surgery.

What should be done?

Most people with small cysts simply accept them. If a cyst becomes infected, or if you want one removed because it is unsightly, see your physician. Antibiotics are usually prescribed for an infected cyst. An obtrusive cyst can be removed by surgery in a simple outpatient operation, for which you may be given a local anesthetic. If, however, even a small part of the cyst is left behind, and this is sometimes unavoidable, it can recur.

Keloid

See p.241, Visual aids to diagnosis, 34. A keloid is a scar that grows excessively. It can occur after an operation, a burn, a vaccination, severe acne (see p.708), or even the piercing of an ear lobe. At first the scar seems normal, but after several months it grows and becomes noticeably larger and thicker. Occasionally, for some reason, a keloid develops after a very minor scratch.

Keloids are harmless, but they can itch, and they sometimes cause deformity. They are quite common in people with black skin, but rare in those with light skin.

What should be done?

Some keloids stop growing, or even disappear, for no apparent reason. If you want one treated for cosmetic reasons, consult your physician, who will probably inject a steroid medication into it. This sometimes makes it smaller. An alternative is X-ray treatment. A keloid cannot simply be cut out. This would leave a scar that might turn into another keloid. Removing the keloid and treating the new scar with injections, X-rays, or both may result in only a small scar.

Lichen planus

See p.441, /isual aids to diagnosis, 33.

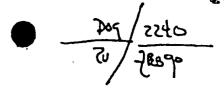
Lichen planus is an itchy skin rash of unknown origin. It is either small, shiny, reddish spots that appear suddenly, often on the wrists, or patches of thickened, discolored skin that gradually fade and leave a brown mark. Another type of lichen planus is a light, lacy pattern of slightly raised tissue in moist areas such as the vulva and also the inside of the mouth (see Oral lichen planus, p.452). Lichen planus can also make fingernails and toenails ridged.

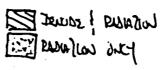
Lichen planus is most common in middle-

should consult your physician, because there are many other skin conditions, some of them serious, that resemble lichen planus.

What is the treatment?

Most of the time, a dermatologist (skin specialist) can diagnose lichen planus on sight. If the diagnosis is in doubt, you may have to undergo a biopsy, in which a sample of skin is removed and examined. Steroid ointment usually relieves the irritation and reduces the rash. But the rash often returns and





2240 - Marg. -

Vessel patent. Few neutrophils attached to

intima.

2240-Diag. 1

[radiated only]

Severe intimal hyperplasia; lumen is narrowed

by about 10%. Many neutrophils observed in vessel lumen. Cannot R/O early thrombus.

2240-Diag. 2 -

[radiated only]

Severe intimal hyperplasia; about a 20-30%

concentric luminal narrowing. Very impressive

disease. Possible early thrombus.

2240 LCX - 1

[denuded & radiated]

Vessel patent. Very mild intimal hyperplasia.

2240 LCX - 2

[denuded & radiated]

Vessel patent. Very mild intimal hyperplasia.

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2241 - Marg. -

Normal.

2241 - LAD 1

[denuded & radiated] Red cells and a few white cells adherent to

intima. Vessel patent.

2241 - LAD 2

[denuded & radiated] Severe intimal hyperplasia; lumen narrowed by

about 25%.

2241 - LCX - 1

[radiated only] .--

Vessel patent. - Mild to moderate intimal

hyperplasia.

2241 - LCX - 2

[radiated only]

Mild to moderate intimal hyperplasia. Vessel

patent.

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TAD 1220 -

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19/51/JT TC'OR FIFTO BILLATOL

Dr. Kloners's path reading

April 5, 1990

2207 Chronic

2207 Marginal

Poor slide. Small arteriole branch appears normal; no

large vessel.

2207 LAD 1

(denude & radiate)

Vessel patent. Zone of intimal hyperplasia in one area.

Intima appears lifted off of vessel ? artefact.

2207 *LAD 2

Vessel narrowed by about 40% by severe intimal

hyperplasia. Very striking finding.

2207 CIRC-1 (Radiate only)

Moderate intimal hyperplasia but vessel patent.

2207 CIRC 2

Normal.

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Drugs Sodium Pentobarbital ml Biotol 40 Helparh 1980 C Ce	Herek, Duwson, Alkee	DATE:	12·19·87
Sodium Pentobarbital ml Siotopes Generation	Eloner, Gaven	Weight	82161/37.3kg
Sodium Pentobarbital ml Biotal - 40 Heranh 4500 U Potagua 4000 U Potagua 4000 U Ru Nb Bin # Dead Nb KCI under deep anesthesia Nb Che Che Langholosia Balloon uplaked Prothad circ 1.5 min. 3.0 balloon uplaked Prothad circ 1.5 min. 3.0 balloon uplaked Prothad circ 1.5 min. 3.0 balloon 1026 Circ Local 1.5 min. 1.0 in et 10.07 km 10:26 Circ Mayor 10:11 / Aug e 10:21 George bishu un off more units Individual - 500 rade at 5 min. 10/333 - 10:52 = 600 mstal Robin Individual - 10:50 rade at 5 min. 10/433 - 10:52 = 600 mstal Robin Individual 1.500 rade at 5 min. 10/433 - 10:52 = 600 mstal Robin Individual 1.500 rade at 5 min. Individual 1.500 rade at 5 min.			Sex \mathfrak{S} \mathfrak{S}
KCI under deep anesthesia Previous International Allow Application of the state	Sodium Pentobarbital ml Biotal - 40 Hepurh 420 U Protoerne 40mg.	None 🗹 Ce 🗆 Ru 🗆 Nb	
Then the same of t	KCl under deep anesthesia Other	previouses Inhobelion 892 st 4,500 u sensonic Hesseunifalle Engtyplesty balloon w Brothnal circ 1 3.0 balloom: As sur dorros cuthetic in irridium: - 500 re	Hall(E)FA shake flate flate flate Lock
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