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FOR IMMEDIATE RELEASE

JEROME CANADY, M.D. WINS AGAIN: EUROPEAN PATENT OFFICE REJECTS  
ERBE ELEKTORMEDIZIN GmbH, AND OLYMPUS CORPORATION'S OPPOSITION TO  
CANADY'S EUROPEAN PATENT ON ARGON PLASMA COAGULATOR FOR  
FLEXIBLE ENDOSCOPY

January 12, 2011 - Technical Board of Appeals for the European Patent Office (EPO), Munich, Germany rejected ERBE Elektromedizin GmbH, Tubingen, Germany, ERBE Medical UK Limited, Morley/Leeds, UK (collectively "ERBE"), and Olympus Corporation (KeyMed), Essex, UK (collectively "Olympus") opposition in favor of the inventor Jerome Canady, M.D (Dr. Canady). On June 29, 2010 the Technical Board of Appeals ruled that Dr. Canady's European Patent No. 0 595 967 (Argon Plasma Coagulation for Flexible Endoscopy) was valid. See ERBE Elektromedizin GmbH, ERBE Medical UK Limited, Olympus Corporation (KeyMed) v. Jerome Canady, M.D. appeal number: T1138/09-3.2.02

([http://www.canadysurgicalgroup.com/European\\_Patent\\_office\\_071665-decision\\_6-2010.pdf](http://www.canadysurgicalgroup.com/European_Patent_office_071665-decision_6-2010.pdf))

#### Background

On March 10, 2009 the Opposition Division of the European Patent Office rejected the oppositions of ERBE and Olympus Corporation against Canady's European Patent No. 0 595 967. The two electrosurgical companies joined their legal teams in attempt to revoke Dr Canady's European Patent for Argon Plasma Coagulator for flexible endoscopy based on lack of novelty. Dr Canady was represented by Christian Hano, Esq (v. Fuener, Ebbinghaus Finck Hano, Patentanwalt, Mariahilfplatz 2&3, Munich, Germany). ERBE has annual sales of 80 million dollars per year and KeyMed Limited is a 100% subsidiary of Olympus Corporation, a multi-billion dollar a year Japanese conglomerate in Tokyo, Japan. On May 20, 2009 ERBE filed an appeal after their opposition was rejected by the European Patent Office. Olympus Corporation did not file any submissions and was not present at the oral proceedings on June 29, 2010. ERBE had submitted multiple oppositions to Canady's European Patent with the EPO since 2002. ERBE had filed similar oppositions to Canady's U.S. Patent on Argon Plasma Coagulator for flexible endoscopy in the US Patent & Trademark Office (USPTO). After three attempts to revoke Dr Canady's US Patent, USPTO made a final ruling that Canady's US Patent No. 5,207,675 was valid (November 2002), See, USPTOApplications/Control Numbers 90/005,757, 90.006,115, 90/006,128, Art Unit:3739,

([http://www.canadysurgicalgroup.com/USPTO\\_Notice\\_of\\_Intent\\_to\\_Issue\\_Reexamination\\_Certificate.pdf](http://www.canadysurgicalgroup.com/USPTO_Notice_of_Intent_to_Issue_Reexamination_Certificate.pdf))

Dr Canady was represented by Timothy DeWitt, Esq,(24 IP Law Group USA, Annapolis, MD). On June 29, 2010 the EPO Technical Board rejected ERBE's, and Olympus's oppositions in addition to their experts' declarations from Harry Reich, M.D, F.A.C.O.G., Shavertown, PA, USA and

Richard Fleenor, Englewood, CO, USA. In the Board's final judgment, Dr. Canady's patent was inventive, novel and valid.

Despite the multiple oppositions by ERBE, the EPO and USPTO have made the final decisions that Dr Canady's patent, Argon Plasma Coagulation for Flexible Endoscopy are valid. Dr Canady received US Patent 5,207,675 May 1993

([http://www.canadysurgicalgroup.com/Canady\\_US\\_675\\_patent\\_US5207675A-1.pdf](http://www.canadysurgicalgroup.com/Canady_US_675_patent_US5207675A-1.pdf)) and

subsequent European patents for Germany, Italy, France, Spain, Netherlands, UK, and Sweden ([http://www.canadysurgicalgroup.com/Canadys\\_EPO\\_Patent\\_EPO595967B1-1.pdf](http://www.canadysurgicalgroup.com/Canadys_EPO_Patent_EPO595967B1-1.pdf)).

Argon Plasma Coagulation (APC) for flexible endoscopy is used by thousands of hospitals in the US and around the world. APC is standard technology in endoscopy centers today and has changed the management of many gastrointestinal complications i.e. radiation proctitis.

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