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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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11/258,645

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Brennon L. White

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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 11/258,645	Applicant(s) WHITE ET AL.	
	Examiner Rodney B. White	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-30 is/are allowed.
- 6) ☒ Claim(s) 19-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's arguments filed 08/25/2006 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has not bothered to amend Claim 19, specifically the language Claim 19, lines 12-13, that reads "the holes located substantially the same distance from the chamber opening" is unclear and confusing language. The reason this language is unclear is because on lines 15-16, Applicant defines "the total cross-sectional area of each group of holes being greater than the total cross-sectional area of any group of holes **nearer the chamber opening**", when on line 13 he defines "plurality of holes" as being "**located substantially the same distance from the chamber opening**". So if all of the holes are "located substantially the same difference from the chamber

opening” how can “any group of holes” be “nearer the chamber opening” than another group as defined?

Also, in Claim 19, beginning on line 14, Applicant defines “the top portion of the chamber including more than one group of holes, the total cross-sectional area of each group of holes being greater than the total cross-sectional area of any group of holes nearer the chamber opening.” So how can Applicant use the phrase “each group”, which means all of the groups, when comparing “any group”, which is one of all of the groups. Again, Applicant uses contradictory language.

It is not clear why Applicant cannot see how this limitations on lines 13 and 15-16 are contradictory to one another. That is why it looks as if Applicant is attempting to define that there is more than one group of holes and that the holes in the different groups of holes are of a different size from the holes in another group, with each group of holes having each of its holes located a same distance from the chamber opening, and each group of holes having a sum total cross-sectional area, the sum total cross-sectional area of each group of holes increasing the farther they are from the chamber opening or each individual hole is increasing in size the farther they are from the chamber opening. This feature is very clear in Fig. 2 where the holes 42-46 increase in size from the rearward most portion of the seat cushion to the frontward most portion. Look at how much larger hole 46 is bigger than hole 42. After viewing Fig. 2, it appears such a configuration is what Applicant is trying to define. However, it is not clear if that is what the language on lines 12-13 actually define since the language is contradictory in nature.

The aforementioned problem renders the claim vague and/indefinite.
Clarification and/or correction is required, perhaps using similar language as suggested above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19-30, so far as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lord (U.S. Patent No. 5,715,695)

Lord teaches a ventilated seat assembly for use with an air mover comprising: a seat 12 having a seat base 14 and a backrest 18, at least one of the seat base and the backrest comprising a cushion and a trim cover; an generally enclosed chamber formed by a top portion 28 formed from an air-impermeable bottom portion 30 and including an opening for receiving air from the air mover, the top portion of the chamber including a plurality of holes 34 for allowing air movement through the, a spacer 50 located within the chamber, where in each of the holes has a cross-sectional area, the holes located substantially, the same distance from the chamber opening forming a group of having a total cross-sectional area, the top portion of the chamber including more than one group

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of holes, the total cross sectional area of each group of holes being greater than the total cross-sectional area of any group of holes nearer the chamber opening, wherein the trim cover and the top portion of the chamber are separate elements, wherein the bottom portion of the chamber and the cushion are separate elements.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lord in view of Inoue et al (U.S. Patent No. 5,450,894).

Lord teaches the structure substantially as claimed but does not teach a heater used with the vehicle seat and the "tail". However, Inoue et al teaches a heater used with moving air in a vehicle seat as well as a "tail" such as "tube 64" seen in one of its embodiments (See Fig. 1) extending outside of the cushion. It would have been obvious and well within the level of ordinary skill in the art to modify the seat, as taught by Lord, to include a heater, as taught by Inoue et al, since it would allow the seat have both cooled and heated air to allow the greatest comfort in either hot or cool weather.

Claims 26-30 are allowed.

The following is an examiner's statement of reasons for allowance: Prior art does not teach the elongate tail extending between the bag and the air mover, the elongate tail being formed from an extension of the top portion of the bag and an extension of the bottom portion of the bag and including an opening coupled to the air mover; and a trim cover extending around at least a portion of the cushion and the bag.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gregory et al teach that a plurality of holes/apertures can be varied in sizes (See column 6, lines 51-52).

Remarks

Applicant argues that Lord (U.S. Patent No. 5,715,695) does not teach the limitation "the top portion of the chamber including more than one group of holes, the total cross-sectional area of each group of holes being greater than the total cross-sectional area of any group of holes nearer the chamber opening." However, Applicant has not specified how those plurality of holes are divided into groups. Applicant uses terms such as "more than one group of holes", "each group", and "any group" when describing the holes. But it seems "each group" and "any group" can be interpreted as the same thing or as one in the same. Therefore, "any" group of holes on the Lord reference may have a larger cross-sectional area than another group of holes. For example, one could take five holes anywhere on the Lord reference, but more specifically a group of holes toward the front-most portion of the seat cushion, and call it "one group", and then take four or any lesser number of holes on the Lord reference, but more specifically a group closer to its chamber opening, and call it a "second group". While all of the holes in the Lord reference may be the same size, a group of five at the further away from the chamber opening will have a larger cross-sectional area than the group of four holes nearer the chamber opening.

It appears Applicant needs to be more specific in defining the "groups" of holes to render claim 19 patentably distinct over the Lord patent. It is clearly understood, as Applicant states in his "Remarks", that the "total cross-sectional area" of a group-of holes can be determined by the size of the holes and the number of the holes. The total cross-sectional area of a group of holes can be changed, with the number of the holes changing in relation to the size of the holes. However, Applicant, with his contradictory

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and ambiguous language, i.e. "more than group", "each group" and "any group", has not successfully and clearly defined such a limitation. Perhaps Applicant should consider using the language suggested by the Examiner, or some form of it, to possibly render Claim 19 patentably distinct over the Lord patent or Applicant should refine the language in question. Perhaps an Interview is necessary to clarify the language if Applicant maintains that his language is sufficient as presently presented.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

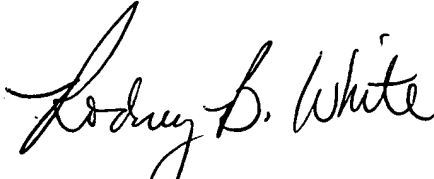
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner
Art Unit 3636
October 31, 2006



RODNEY B. WHITE
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 11/258,645		Applicant(s)/Patent Under Reexamination WHITE ET AL.	
	Examiner Rodney B. White		Art Unit 3636	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,597,200 A	01-1997	Gregory et al.	297/180.13
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.