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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MAIER & MAIER, PLLC
1000 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
MAYES, DIONNE WALLS	
ART UNIT	PAPER NUMBER
1747	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	12/226,819	HON, LIK	
	Examiner	Art Unit	
	DIONNE WALLS MAYES	1791	

-- 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 *29 October 2008*.

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) *1-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-32* 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 *29 October 2008* 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) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because the Figures are not clear and the elements thereon are extremely hard to discern. Also, the element numbers provided on the Figures are blurry and illegible. Further, the Figure numbers, i.e. “Figure 1”, “Figure 2A”, are “upside down” in all Figures except Figures 8-11.

2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including

annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as “Annotated Sheets” and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

4. The spacing of the lines of the specification is such as to make reading difficult. New application papers with lines double-spaced on good quality paper are required.

5. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

- “MCU” (for example, page 3)
- “silica gel corrugated membrane” (for example, page 3)
- “elastic alloy slice, Hall element of linear output (for example, page 3)
- “spray hole made of…” (for example, page 3)
- “cigarette liquid” (for example, page 4)

6. The disclosure is objected to because of the following informalities:

While, on page 7 of the instant specification, Applicant refers to “Example 1”, there is no indication of an “Example 1” in the written disclosure.

Appropriate correction is required.

General Claim Observations

7. A general review of the instant claims reveals claims, particularly claims 2-4, 6, 9-13, 15-17, 19-21 and 27-32, which are written in improper format. The claims are not written in double-spaced fashion, are narrative in form and are more than ONE sentence long, which is *NOT* in keeping with US Patent claim drafting practice. Appropriate correction is requested.

Claim Rejections - 35 USC § 112

8. 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.

9. Claims 1-32 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.

10. Regarding claim 1, it recites the limitation "the cigarette liquid bottle" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Further, Applicant has recited “cigarette type” and “cigar type”. However, the addition of the word “type” to an otherwise definite expression extends the scope of the expression so as to render the claim indefinite because it is unclear what “type” is intended to convey. See MPEP 2173.05(b)

Applicant is requested to review ALL the claims to ensure proper antecedent bases for each limitation in the claims, as a review of the claims indicates that they are “replete" with these insufficiencies. In general, the claims are confusing, and difficult to

read and comprehend. Applicant is requested to thoroughly review the clams to ensure the claimed invention is *distinctly* clamed in accordance to US Patent practice.

11. Regarding claim 3, it is not clear what the acronym "MOSFTET" means in this claim.

Claim Rejections - 35 USC § 102

12. 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.

13. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by CN 2719043 (as disclosed in equivalent publication CA 2 562 581).

CN 2719043 discloses all that is recited in the claim since it teaches an electronic atomization cigarette (corresponding to the claimed "emulation aerosol sucker") which includes an LED (1), cell (2), an electronic circuit board (3), and an air inlet (4) (corresponding to the claimed "battery assembly"); an atomizer (9) (corresponding to the claimed "atomizer assembly includes an atomizer"); a liquid-supplying bottle (corresponding to the claimed "cigarette bottle assembly includes the cigarette liquid bottle"). Further, the Figures show that the liquid-supplying bottle (11) connects with the atomizer (9) (see Figures and English disclosure in CA 2 562 581). Hence, CN 2719043 meets all the limitations of this claim.

Claim Rejections - 35 USC § 103

14. 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 negatived by the manner in which the invention was made.

15. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

16. Claims 2-32 rejected under 35 U.S.C. 103(a) as being unpatentable over CN 2719043 (as disclosed in equivalent publication CA 2 562 581).

The electronic cigarette of CN 2719043 either discloses or suggests nearly all of the claimed limitations, and includes pressure cavity (5), a sensor (6), a vapor-liquid separator (7) (corresponding to the claimed “air-liquid separator”), a ripple film (22) (corresponding to the claimed “silica gel corrugated membrane”), a heating element (corresponding to the claimed “heating body”) all provided within a housing shell (14), and a detachable mouthpiece (15) attached thereto. The ripple film (22) has a negative pressure cavity (8), and the sensor (6) connects with the ripple film (22) through a reed switch (19) (corresponding to the claimed "silica gel corrugated membrane on which there is the primary negative pressure cavity, the sensor being connected with the silica

gel corrugated membrane through the switch spring"). The liquid-supplying bottle (11) contains 0.4-3.5% nicotine, 0.05-2% cigarette essence, 0.1-3.1% organic acid, 0.1-0.5% anti-oxidation agent, and 1,2 propylene glycol (corresponding to the claimed “cigarette liquid”). All of the other remaining claimed features are either disclosed or obvious in light of the disclosure of CN 2719043 (see entire document and Figures of CA 2 562 581). However, CN 2719043 *does* fail to teach or suggest that its electronic cigarette is provided in more than two parts wherein external threads are provided on the housing where the battery is located, and internal threads are provided at an end of the housing section where the atomizer is located. But, it is known in many arts to provide devices in several pieces wherein each piece is connected by mating threads. Therefore, the fact that the claimed device is in more than two pieces, and the said pieces are connected by threads does not impart patentability to the claims.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Hon (US. Pat. App. Pub. 2006/0196518)
- Katase (US. Pat. App. Pub. 2005/0016550)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIONNE WALLS MAYES whose telephone number is (571)272-5836. The examiner can normally be reached on Monday thru Thursday, and alternate Fridays, 8:00A - 5:00P EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. 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). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DIONNE WALLS MAYES/
Examiner, Art Unit 1791