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| APPLICATION NO.                                                              | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.             | CONFIRMATION NO.            |
|------------------------------------------------------------------------------|-------------|----------------------|---------------------------------|-----------------------------|
| 11/801,647                                                                   | 05/09/2007  | Gregory W. Haggquist | 6000.108.01US (TT-8)            | 4523                        |
| 61529                                                                        | 7590        | 07/03/2013           |                                 |                             |
| Neugeboren O'Dowd PC<br>1227 Spruce Street<br>SUITE 200<br>BOULDER, CO 80302 |             |                      | EXAMINER<br>GREENE, JASON M     |                             |
|                                                                              |             |                      | ART UNIT<br>1772                | PAPER NUMBER                |
|                                                                              |             |                      | NOTIFICATION DATE<br>07/03/2013 | DELIVERY MODE<br>ELECTRONIC |

**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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

craig@neugeborenlaw.com  
sean@neugeborenlaw.com  
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|                              |                                      |                                              |                                                  |
|------------------------------|--------------------------------------|----------------------------------------------|--------------------------------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b><br>11/801,647 | <b>Applicant(s)</b><br>HAGGQUIST, GREGORY W. |                                                  |
|                              | <b>Examiner</b><br>Jason M. Greene   | <b>Art Unit</b><br>1772                      | <b>AIA (First Inventor to File) Status</b><br>No |

**-- 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 5 June 2013.  
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on \_\_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ 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

- 5) ☒ Claim(s) 1,3-33 and 35-81 is/are pending in the application.  
5a) Of the above claim(s) 42-62 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1,3-33,35-41,63-73 and 78-81 is/are rejected.
- 8) ☒ Claim(s) 74-77 is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

\* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see [http://www.uspto.gov/patents/init\\_events/pph/index.jsp](http://www.uspto.gov/patents/init_events/pph/index.jsp) or send an inquiry to [PPHfeedback@uspto.gov](mailto:PPHfeedback@uspto.gov).

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 9 May 2007 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).

### 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).

#### Certified copies:

- a) ☐ All    b) ☐ Some \*    c) ☐ None of the:
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 type="checkbox"/> Notice of References Cited (PTO-892)                                           | 3) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 4) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to Amendment***

### ***Response to Arguments***

1. Applicant's arguments, see page 17, line 7 to page 19, line 5, filed 5 June 2013, with respect to the rejection(s) of claim(s) 1, 3-33, 35-41 and 63-73 under 35 USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 35 USC 112, first paragraph.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of 35 U.S.C. 112(a):  
(a) IN GENERAL.—The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor or joint inventor of carrying out the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), first paragraph:  
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 3-33, 35-41, 63-73 and 78-81 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, because the specification, while being

Art Unit: 1772

enabling for the first thickness being about 2.5 times the second thickness, does not reasonably provide enablement for the first thickness being up to an order of magnitude larger than the second thickness. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

In particular, the only dimensions mentioned in the disclosure are at Example 1 in which the first thickness is disclosed as 1 mil (25.4  $\mu\text{m}$ ) and the second thickness is disclosed as 10  $\mu\text{m}$ . See paragraphs [0049]-[0050] of the specification and the arguments filed 5 June 2013 at page 17, lines 15-22. This single data point is insufficient to enable the entire instantly claimed range of the first thickness being less than 10 times larger than the second thickness (i.e. an order of magnitude).

Claims 3-27, 29-33, 35-41, 64-67, 69-73 and 78-81 are likewise rejected due to their dependence from independent claims 1, 28, 63, 68.

### ***Allowable Subject Matter***

4. Claims 74-77 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

Claims 74-77 are drafted to correspond to the specific example disclosed in the specification and are therefore supported by the disclosure.

The Examiner also notes that claims directed to a specific thickness ratio of the first thickness being about 2.5 times the second thickness would likewise find support in the disclosure at Example 1 and be allowable.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). 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 date of this final action.

Art Unit: 1772

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Greene whose telephone number is (571)272-1157. The examiner can normally be reached on Monday - Friday (9:00 AM to 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Insuk Bullock can be reached on (571) 272-5954. 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.

/Jason M. Greene/  
Primary Examiner, Art Unit 1772

jmg  
June 28, 2013