



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/397,488	01/03/2017	David LYMBEROPOULOS	SAFO/0012USPC02	1341

26290	7590	03/10/2017
PATTERSON & SHERIDAN, L.L.P.		
24 Greenway Plaza, Suite 1600		
Houston, TX 77046		

EXAMINER	
MCCALISTER, WILLIAM M	

ART UNIT	PAPER NUMBER
3753	

NOTIFICATION DATE	DELIVERY MODE
03/10/2017	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):

PSDocketing@pattersonsheridan.com
pair_eofficeaction@pattersonsheridan.com
jcardenas@pattersonsheridan.com

Office Action Summary	Application No. 15/397,488	Applicant(s) LYMBEROPOULOS ET AL.	
	Examiner WILLIAM MCCALISTER	Art Unit 3753	AIA (First Inventor to File) Status 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 MONTHS 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 1/3/17.
☐ 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) 1-22 is/are pending in the application.
5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6) ☐ Claim(s) _____ is/are allowed.

7) ☒ Claim(s) 1-22 is/are rejected.

8) ☐ Claim(s) _____ 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 or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10) ☐ The specification is objected to by the Examiner.

11) ☒ The drawing(s) filed on 1/3/17 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) ☒ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

4) ☐ Other: _____.

The present application is being examined under the pre-AIA first to invent provisions.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on nonstatutory double patenting provided the reference application or patent either is shown to be commonly owned with the examined application, or claims an invention made as a

result of activities undertaken within the scope of a joint research agreement. See MPEP § 717.02 for applications subject to examination under the first inventor to file provisions of the AIA as explained in MPEP § 2159. See MPEP §§ 706.02(l)(1) - 706.02(l)(3) for applications not subject to examination under the first inventor to file provisions of the AIA. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO Internet website contains terminal disclaimer forms which may be used. Please visit www.uspto.gov/patent/patents-forms. The filing date of the application in which the form is filed determines what form (e.g., PTO/SB/25, PTO/SB/26, PTO/AIA/25, or PTO/AIA/26) should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal Disclaimers, refer to www.uspto.gov/patents/process/file/efs/guidance/eTD-info-I.jsp.

Claims 1-22 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 9,441,453. Although the claims at issue are not identical, they are not patentably distinct from each other because, aside from stylistic differences, the patented claims recite more than the pending claims.

Claim Rejections - 35 USC § 102

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

Art Unit: 3753

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.

Claim(s) 22 is/are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Wailes (US 3,776,249).

Wailes discloses:

22. A control system for controlling fluid flow through a flow line that extends from a pump to a wellhead, the control system comprising:

a safety valve (11) configured to relieve pressurized fluid from the flow line (the side of 12 that is upstream of 11);

a valve actuator (16) configured to actuate the safety valve between an open position and a closed position;

a transducer (41) configured to measure pressure in the flow line;

an electronic controller assembly (122) programmed with a predetermined condition (the "predetermined minimum level" at low pressure detector 68) and configured to receive a signal from the transducer corresponding to the measured pressure in the flow line;

a fluid drive assembly (121; alternatively 119) in communication with the electronic controller assembly, wherein the electronic controller assembly is configured to actuate the fluid drive assembly to supply fluid to the valve actuator (16) to actuate the safety valve to the closed position; and

a valve assembly (119; alternatively 121) in communication with the electronic controller assembly, wherein the electronic controller assembly is configured to actuate the valve assembly in response to a comparison of the measured pressure to the predetermined condition to release fluid from the valve actuator (16) to actuate the safety valve to the open position to relieve fluid from the flow line.

Claim Rejections - 35 USC § 103

In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

The following is a quotation of pre-AIA 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, 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.

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 pre-AIA 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.

This application currently names joint inventors. In considering patentability of the claims under pre-AIA 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of pre-AIA 35 U.S.C. 103(c) and potential pre-AIA 35 U.S.C. 102(e), (f) or (g) prior art under pre-AIA 35 U.S.C. 103(a).

Claim 22 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Vinegar (US 2003/0051881) in view of Cotham (US 5,335,730).

Vinegar discloses a control system for controlling fluid flow through a flow line that extends from a pump to a wellhead, the control system comprising:

- a safety valve (74) configured to relieve pressurized fluid from the flow line (the side of 26 that is upstream of 74);

- a valve actuator (84) configured to actuate the safety valve between an open position and a closed position;

- an electronic controller assembly (90);

- a fluid drive assembly (76, 78) in communication with the electronic controller assembly, wherein the electronic controller assembly is configured to actuate the fluid drive assembly to supply fluid to the valve actuator to actuate the safety valve to the closed position; and

- a valve assembly (82) in communication with the electronic controller assembly, wherein the electronic controller assembly is configured to actuate the valve assembly to release fluid from the valve actuator (16) to actuate the safety valve to the open position to relieve fluid from the flow line.

Vinegar does not disclose the electronic controller assembly to actuate the valve assembly in response to a comparison between a predetermined condition and a pressure along the flow line. Cotham teaches that it was known in the art at the time of invention to use a similar electronic controller assembly (114) compare a predetermined

condition to a pressure signal from a pressure transducer (135) along a similar flow line (see col. 8 lines 6-25), in order to actuate a similar safety valve. To protect against over- or under-pressures in Vinegar's system, it would have been obvious to configure Vinegar's controller to receive a signal from a transducer connected to the flow line, and to compare the signal to a predetermined condition, in order to actuate the safety valve via the valve assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **William McCalister**, whose telephone number **571-270-1869**. The examiner can normally be reached on Monday-Friday (7:00AM-5:30PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisors can be reached by phone. Craig Schneider can be reached at 571-272-3607, John Fristoe can be reached at 571-272-4926 and Mary McManmon can be reached at 571-272-6007. 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

Application/Control Number: 15/397,488

Page 8

Art Unit: 3753

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WILLIAM MCCALISTER/

Primary Examiner, Art Unit 3753

3/2/17