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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/015,269	08/09/2023	9586659	GBWHCC001-EPR	5917
530	7590	06/24/2024	EXAMINER	
Lerner David LLP			MCPARTLIN, SARAH BURNHAM	
20 COMMERCE DRIVE				
CRANFORD, NJ 07016				
			ART UNIT	PAPER NUMBER
			3993	
			MAIL DATE	DELIVERY MODE
			06/24/2024	PAPER

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.



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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

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Henderson, NV 89014

***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/015,269 .

PATENT UNDER REEXAMINATION 9586659 .

ART UNIT 3993 .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Notice of Intent to Issue Ex Parte Reexamination Certificate	Control No. 90/015,269	Patent Under Reexamination 9586659	
	Examiner SARAH B MCPARTLIN	Art Unit 3993	AIA Status Yes

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

1. ☒ Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. *Cf.* 37 CFR 1.313(a). A Certificate will be issued in view of
 - (a) ☒ Patent owner's communication(s) filed: 3/4/2024.
 - (b) ☐ Patent owner's failure to file an appropriate timely response to the Office action mailed: ____.
 - (c) ☐ Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
 - (d) ☐ The decision on appeal by the ☐ Board of Patent Appeals and Interferences ☐ Court dated ____
 - (e) ☐ Other: ____.
2. The Reexamination Certificate will indicate the following:
 - (a) Change in the Specification: ☐ Yes ☒ No
 - (b) Change in the Drawing(s): ☐ Yes ☒ No
 - (c) Status of the Claim(s):
 - (1) Patent claim(s) confirmed: 1-15.
 - (2) Patent claim(s) amended (including dependent on amended claim(s)): 16-20
 - (3) Patent claim(s) canceled: ____.
 - (4) Newly presented claim(s) patentable: 21-28.
 - (5) Newly presented canceled claims: ____.
 - (6) Patent claim(s) ☐ previously ☐ currently disclaimed: ____
 - (7) Patent claim(s) not subject to reexamination: ____.
3. ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
4. ☐ Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
5. ☐ Note attached NOTICE OF REFERENCES CITED (PTO-892).
6. ☒ Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).
7. ☐ The drawing correction request filed on ____ is: ☐ approved ☐ disapproved.
8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the certified copies have
 - ☐ been received.
 - ☐ not been received.
 - ☐ been filed in Application No. ____.
 - ☐ been filed in reexamination Control No. ____.
 - ☐ been received by the International Bureau in PCT Application No. ____.

* Certified copies not received: ____.

9. ☐ Note attached Examiner's Amendment.
10. ☐ Note attached Interview Summary (PTO-474).
11. ☐ Other: ____.

All correspondence relating to this reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

/SARAH B MCPARTLIN/ Primary Examiner, Art Unit 3993	
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cc: Requester (if third party requester)

DETAILED ACTION

Notice of Pre-AIA or AIA Status

1. The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Reexamination

2. The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding:

Claims 1-20 were rejected in the non-final office action mailed on 12/5/2023 over Braden (2011/0111650A1) in view of Rorabuagh et al. (5,544,607). The rejection relied upon Rorabaugh for his teaching of hydrofoil interconnected with a strut. Applicant's representative explained how the hydrofoil taught by Rorabaugh has "adjustable surfaces" that are steered by a movable steering gear. The teaching of adjustable surfaces directly contradicts the claim limitation of claims 1 and 16 requiring "the hydrofoil having no movable surface." For at least this reason, the Examiner confirms claims 1-20 as patentable over Braden in view of Rorabaugh et al.

Claims 1-2, 4-6, 8-11, 13-16 and 18-20 were further rejected in the non-final office action mailed on 12/5/2023 over Braden (2011/0111650A1) in view of Woolley (US 2005/0255764A1). The rejection relied upon Woolley for his teaching of a hydrofoil attached to a strut. The Examiner reasoned that adding a hydrofoil as taught by Woolley to the strut disclosed by Braden would increase stability of the watercraft. Applicant's representative persuasively argued that the addition of a hydrofoil as taught by Woolley to the strut disclosed by Braden as proposed by the Examiner would not create increase stability but would instead result in tremendous instability thereby making the watercraft unfit for its intended purpose. A hydrofoil provides a lifting force. In order for the Braden motor to continue to provide thrust to the board through the water concurrently with a lifting force created by the added hydrofoil, the strut would need to be lengthened to ensure that the motor remains in water. Lengthening of the strut would move the propulsion force provided by the motor further from the center of gravity of the watercraft imparting a destabilizing torque that would make the watercraft pitch upward at a nose thereof. Applicant's representative further reasons that there is nothing provided by the proposed combination that

would counteract the destabilizing torque. Woolley teaches a propulsion force for a watercraft provided by a tow rope. The tow rope effectively directs the propulsion force through the center of gravity of the watercraft which helps the watercraft maintain stability while being lifted by the hydrofoil. Moving the thrust away from the center of gravity, as would be the case in the Examiner's proposed combination, essentially equates to towing a roller skater via a tow rope tied around the skaters ankles. The Examiner is persuaded by the reasoning of Applicant's representative that the proposed combination would not increase stability and is therefore not obvious. At least for these reasons, the Examiner confirms claims 1-20 as patentable over Braden in view of Woolley et al.

Conclusion

3. Claims 1-28 are allowed.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH B. MCPARTLIN whose telephone number is (571)272-6854. The examiner can normally be reached M-F 7 am - 4 pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gay Spahn** can be reached on 571-272-7731. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of published or unpublished applications may be obtained from Patent Center. Unpublished application information in Patent Center is available to registered users. To file and manage patent submissions in Patent Center, visit: <https://patentcenter.uspto.gov>. Visit <https://www.uspto.gov/patents/apply/patent-center> for more information about Patent Center and <https://www.uspto.gov/patents/docx> for information about filing in DOCX format. For additional questions, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance

from a USPTO Customer Service Representative, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

All correspondence relating to this ex parte reexamination proceeding should be directed:

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By Mail to: Mail Stop *Ex Parte* Reexam
Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
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By FAX to: (571) 273-9900
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