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40628	7590	02/04/2021	EXAMINER	
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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.

Notice of Pre-AIA or AIA Status

1. The present application is being examined under the pre-AIA first to invent provisions.
2. This action is in response to the application filed on 11/05/20.
3. Claims 1-24 are pending and have been examined.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 11/05/20 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

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:

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.

5. Claim(s) 1-12, 14-15 and 17-21 is/are rejected under pre-AIA 35 U.S.C. 102b as being anticipated by Kondo et al. (5,720,423).

Regarding claims 1-8, Kondo discloses a gas pressure system for a portable power tool, comprising a hollow cylinder (11a) having a movable piston (14) therewithin; and a storage chamber (14) that is in fluidic communication at all times with said cylinder, said storage chamber (14) being charged with a pressurized gas (col. 7, lines 44-67; and, col. 8, lines 1-2); wherein: said movable piston moves in a reciprocating pattern during an operating cycle, including moving through a drive stroke that is caused

by said pressurized gas; and said pressurized gas is not vented to atmosphere after said drive stroke, but instead said pressurized gas is re-used for a plurality of said operating cycles while a predetermined pressure is maintained (col. 2, lines 44-67; and, col. 8, lines 1-2); a movable driver that is in communication with said piston, said movable driver including at least one protrusion (10, 20a); and a lifter (10, 7) that causes said driver and said piston to move through a return stroke, by a mechanical engagement between said lifter (7) and said at least one protrusion (10, 20a) of the driver; a guide body (1b) with a linear passageway for said driver; wherein: said lifter moves in a rotational motion (Figs. 4A-4E) and causes said driver to move in a linear motion; said cylinder and piston act as a gas spring during said drive stroke, and said lifter does not engage said driver during said drive stroke (col. 7, lines 44-67; and, col. 8, lines 1-2); said movable piston moves through a pathway through said hollow cylinder between a higher pressure position and a lower pressure position; a motor (4) and an on-board electrical power source (5), wherein said motor provides motive power for said lifter; said on-board electrical power source comprises a detachable battery (5); wherein: said pressurized gas in the storage chamber remains above atmospheric pressure during all portions of an operating cycle (col. 2, lines 44-67; and, col. 8, lines 1-2).

Regarding claims 9-12, 14-15 and 17-20, Kondo discloses a portable fastener driving tool, comprising: a housing with a storage chamber (14) that contains a pressurized gas, a hollow cylinder (11a) that includes a movable piston (12), a driver (15) that is in communication with said piston at least during a drive stroke, a lifter (7, 10) that is in communication with said piston at least during a return stroke, a prime

mover (4), and a source of energy (5): wherein: said pressurized gas is used as a gas spring to propel said piston during said drive stroke: said prime mover causes said lifter to mechanically engage said driver during said return stroke; and said housing has no external energy source cable and no external hose attached thereto (col. 7, lines 44-67; and, col. 8, lines 1-2); wherein: said storage chamber and said hollow cylinder are always in fluidic communication, said pressurized gas is re-used for a plurality of operational cycles that each include said drive stroke and said return stroke while a predetermined pressure in the chamber is maintained (Fig. 2; col. 7, lines 44-67; and, col. 8, lines 1-2); wherein the prime mover comprises an electric motor (4) and the source of energy a detachably battery (5); a gas valve (13); a magazine (9); the lifter moves in a rotational motion and causes the driver to move in a linear motion and is not engaged with the driver during a drive stroke.

Claim Rejections - 35 USC § 103

6. 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.

7. Claims 22-24 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Kondo et al. (5,720,423) in view of Sollberger et al. (4,215,808).

Regarding claims 22-24, Kondo discloses the inventions substantially as claimed, as discussed above, comprising a driver having at least one protrusion, configured to be engaged by a rotatable lifter, but fails to disclose wherein said driver has at least one

longitudinal edge with a plurality of spaced-apart protrusions and wherein the lifter comprises a plurality of lifting pins from a face of the lifter. Sollberger teaches the concept of a lifter mechanism for a power tool's driver, wherein the driver comprises at least one longitudinal edge with a plurality of spaced-apart protrusions (as best shown in Figs. 4-5) and jacking means as a rotational lifter with a plurality of pins (i.e. teeth) for the purposes of engaging the protrusions with the pins to return the driver to its initial position, charging an air spring behind said driver to a predetermined pressure. It would have been obvious to one having ordinary skills in the art to have provided Kondo's driver and lifter with these features as taught by Sollberger in order to better assist in the returning of the driver and compression of the air spring.

Allowable Subject Matter

8. Claims 13 and 16 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.

7. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose or make obvious the claimed combination including the following features:

- A location of said rest position proximal to said higher pressure position. Note that the prior art issued to Kondo shows a rest position at location proximal to a lower pressure position.

The combinations of the claimed limitations are novel and found to be allowable over prior art. The cited references taken singly or in combination do not anticipate or make obvious the Applicant's claimed invention.

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."

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHELLE LOPEZ whose telephone number is (571)272-4464. The examiner can normally be reached on Monday thru Friday 8:30 am to 4:30 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, Anna Kinsaul can be reached on (571) 270 - 1926. 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 <https://ppair-my.uspto.gov/pair/PrivatePair>. 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.

/MICHELLE LOPEZ/
Primary Examiner, Art Unit 3731