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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
18/598,482	03/07/2024	Benjamin E. Merritt	111552.8016.US07	3249
25096 7590 05/08/2024 PERKINS COIE LLP - SEA General PATENT-SEA P.O. BOX 1247 SEATTLE, WA 98111-1247			EXAMINER VU, QUYNH-NHU HOANG	
			ART UNIT 3783	PAPER NUMBER
			NOTIFICATION DATE 05/08/2024	DELIVERY MODE 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):

patentprocurement@perkinscoie.com



DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Election/Restriction

This application contains claims directed to the following patentably distinct species:

I) Claims 1-14 require that: *a first filament is flexible; a second filament is flexible; the first filament includes a first portion operably acted upon by a first one of the actuators, and a second portion operably acted upon by a second one of the actuators; the second filament includes a first portion operably acted upon by the first one of the actuators and a second portion operably acted upon by the second one of the actuators.* These limitations above do not include in the species II & III.

II) Claims 15-22 require that: *a tubular member is elastically deformable; a first filament configured in a first loop completely around the tubular member and having a first portion extending from the first loop toward the first actuator and a second portion extending from the first loop toward the second actuator; a second filament configured in a second loop completely around the tubular member and having a first portion extending from the second loop toward the first actuator and a second portion extending from the second loop toward the second actuator; wherein—the first actuator and the second actuator are biased away from one another to elastically deform the tubular member to the first position by (a) increasing a tension in the first filament to decrease a dimension of the first loop and (b) increasing a tension in the second filament to decrease a dimension of the second loop; and the first actuator and the second actuator are movable toward one another to permit the tubular member to return to the second position by (a) decreasing the tension in the first filament and (b) decreasing the tension in the second filament.* These limitations above do not include in the species I & III.

III) Claims 23-30 require that: *a pair of actuators biased to circumferentially constrict the first loop and the second loop to elastically deform the tubular member to a first position in which the lumen is constricted, wherein at least one the actuators is movable to decrease a level of tension in the first filament and a level of tension in the second filament to permit the tubular member to expand against the*

first loop and the second loop to a second position in which the lumen of the tubular member is at least partially open. These limitations above do not include in the species I & II.

This application contains claims directed to the following patentably distinct sub-species:

- | | | | |
|--------------|-----------|------------|-----------|
| 1) Figs. 1-4 | 2) Fig. 5 | 3) Fig. 6 | 4) Fig. 7 |
| 5) Fig. 8 | 6) Fig. 9 | 7) Fig. 12 | |

The species and sub-species are independent or distinct because they are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, or a single grouping of patentably indistinct species, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

There is a serious search and/or examination burden for the patentably distinct species as set forth above because at least the following reason(s) apply:

(a) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(b) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(c) the prior art applicable to one invention would not likely be applicable to another invention.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species or grouping of patentably indistinct species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse.

Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added

after the election, applicant must indicate which of these claims are readable on the elected species or grouping of patentably indistinct species.

Should applicant traverse on the ground that the species, or groupings of patentably indistinct species from which election is required, are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing them to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103 or pre-AIA 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Applicant is reminded that upon the cancelation of claims to a non-elected invention, the inventorship must be corrected in compliance with 37 CFR 1.48(a) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. A request to correct inventorship under 37 CFR 1.48(a) must be accompanied by an application data sheet in accordance with 37 CFR 1.76 that identifies each inventor by his or her legal name and by the processing fee required under 37 CFR 1.17(i).

The examiner has required restriction between product or apparatus claims and process claims. Where applicant elects claims directed to the product/apparatus, and all product/apparatus claims are subsequently found allowable, withdrawn process claims that include all the limitations of the allowable product/apparatus claims should be considered for rejoinder. All claims directed to a nonelected process invention must include all the limitations of an allowable product/apparatus claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product/apparatus claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product/apparatus are found allowable, an otherwise proper restriction requirement

between product/apparatus claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product/apparatus claim will not be rejoined. See MPEP § 821.04. Additionally, in order for rejoinder to occur, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product/apparatus claims. **Failure to do so may result in no rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to QUYNH-NHU HOANG VU whose telephone number is (571)272-3228. The examiner can normally be reached M-F 7:30 am-4:00 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, Michael Tsai can be reached on 571-270-5246. 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.

/QUYNH-NHU H. VU/
Primary Examiner, Art Unit 3783

<i>Index of Claims</i> 	Application/Control No. 18/598,482	Applicant(s)/Patent Under Reexamination Merritt et al.
	Examiner QUYNH-NHU H VU	Art Unit 3783

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

CLAIMS										
☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47										
CLAIM		DATE								
Final	Original	05/02/2024								
	1	+								
	2	+								
	3	+								
	4	+								
	5	+								
	6	+								
	7	+								
	8	+								
	9	+								
	10	+								
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