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NOTICE OF ALLOWANCE AND FEE(S) DUE

164668 7590 09/18/2025
FAST IP, LLC
1172 West 700 North
Suite 200
Lindon, UT 84042

EXAMINER	
PRANGE, SHARON M	
ART UNIT	PAPER NUMBER
3732	

DATE MAILED: 09/18/2025

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/989,156	11/17/2022	MICHAEL PRATT	P-00294	9468

TITLE OF INVENTION: RAPID-ENTRY SHOE

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$1290	\$0.00	\$0.00	\$1290	12/18/2025

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 40% the amount of undiscounted fees, and micro entity fees are 20% the amount of undiscounted fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via the USPTO patent electronic filing system.

By mail, send to: Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By fax, send to: (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications. **Because electronic patent issuance may occur shortly after issue fee payment, any desired continuing application should preferably be filed prior to payment of this issue fee in order not to jeopardize copendency.**

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

164668 7590 09/18/2025
FAST IP, LLC
1172 West 700 North
Suite 200
Lindon, UT 84042

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being transmitted to the USPTO via the USPTO patent electronic filing system or by facsimile to (571) 273-2885, on the date below.

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/989,156	11/17/2022	MICHAEL PRATT	P-00294	9468

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nonprovisional	UNDISCOUNTED	\$1290	\$0.00	\$0.00	\$1290	12/18/2025

EXAMINER	ART UNIT	CLASS-SUBCLASS
PRANGE, SHARON M	3732	036-03400R

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/AIA/122 or PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/AIA/47 or PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) The names of up to 3 registered patent attorneys or agents OR, alternatively,

1 _____

(2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. Fees submitted: ☐ Issue Fee ☐ Publication Fee (if required)

4b. Method of Payment: (Please first reapply any previously paid fee shown above)

☐ Electronic Payment via the USPTO patent electronic filing system ☐ Enclosed check ☐ Non-electronic payment by credit card (Attach form PTO-2038)

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

5. Change in Entity Status (from status indicated above)

☐ Applicant certifying micro entity status. See 37 CFR 1.29

☐ Applicant asserting small entity status. See 37 CFR 1.27

☐ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____



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164668	7590	09/18/2025	EXAMINER	
FAST IP, LLC			PRANGE, SHARON M	
1172 West 700 North			ART UNIT	
Suite 200			PAPER NUMBER	
Lindon, UT 84042			3732	
DATE MAILED: 09/18/2025				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (Applications filed on or after May 29, 2000)

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. The United States Patent and Trademark Office (USPTO) collects the information in this record under authority of 35 U.S.C. 2. The USPTO's system of records is used to manage all applicant and owner information including name, citizenship, residence, post office address, and other information with respect to inventors and their legal representatives pertaining to the applicant's/owner's activities in connection with the invention for which a patent is sought or has been granted. The applicable Privacy Act System of Records Notice for the information collected in this form is COMMERCE/PAT-TM-7 Patent Application Files, available in the Federal Register at 78 FR 19243 (March 29, 2013).

<https://www.govinfo.gov/content/pkg/FR-2013-03-29/pdf/2013-07341.pdf>

Routine uses of the information in this record may include disclosure to:

- 1) law enforcement, in the event that the system of records indicates a violation or potential violation of law;
- 2) a federal, state, local, or international agency, in response to its request;
- 3) a contractor of the USPTO having need for the information in order to perform a contract;
- 4) the Department of Justice for determination of whether the Freedom of Information Act (FOIA) requires disclosure of the record;
- 5) a Member of Congress submitting a request involving an individual to whom the record pertains, when the individual has requested the Member's assistance with respect to the subject matter of the record;
- 6) a court, magistrate, or administrative tribunal, in the course of presenting evidence, including disclosures to opposing counsel in the course of settlement negotiations;
- 7) the Administrator, General Services Administration (GSA), or their designee, during an inspection of records conducted by GSA under authority of 44 U.S.C. 2904 and 2906, in accordance with the GSA regulations and any other relevant (i.e., GSA or Commerce) directive, where such disclosure shall not be used to make determinations about individuals;
- 8) another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c));
- 9) the Office of Personnel Management (OPM) for personnel research purposes; and
- 10) the Office of Management and Budget (OMB) for legislative coordination and clearance.

If you do not furnish the information requested on this form, the USPTO may not be able to process and/or examine your submission, which may result in termination of proceedings, abandonment of the application, and/or expiration of the patent.

Notice of Allowability	Application No. 17/989,156	Applicant(s) PRATT, MICHAEL	
	Examiner SHARON M PRANGE	Art Unit 3732	AIA (First Inventor to File) Status No

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 06/05/2025 and interview 09/03/2025.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
2. ☐ 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.
3. ☒ The allowed claim(s) is/are 1-3,7,10-11,15-16,18-19,23-24,26,28 and 30-35. As a result of the allowed claim(s), 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**.
4. ☐ 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)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. ☐ Notice of References Cited (PTO-892) | 5. ☒ Examiner's Amendment/Comment |
| 2. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____. | 6. ☐ Examiner's Statement of Reasons for Allowance |
| 3. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material _____. | 7. ☐ Other _____. |
| 4. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____. | |

/SHARON M PRANGE/
Primary Examiner, Art Unit 3732

Notice of Pre-AIA or AIA Status

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

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in an interview with Gregory Johnson on 09/03/2025.

The application has been amended as follows:

1. (Currently Twice Amended) A rapid-entry shoe, comprising:
 - a sole;
 - an upper coupled to the sole and at least partially comprising a flexible material; and
 - a heel structure contained within a rear portion of the upper, the heel structure extending from the sole and forming a concave structure extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe and comprising:
 - a lower portion coupled to the sole and extending around the rear portion of the upper between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe;
 - a midportion having a lower-most section that is integral with, and extends upward ~~the lower portion and extending upward~~ from an upper-most ~~[[edge]]~~ section of the lower portion, the midportion ~~[[and]]~~ having a midportion rearmost edge, the lower portion and the midportion forming a continuous structure; and
 - an uppermost portion extending upward from the midportion and having an uppermost portion rearmost edge;

wherein the uppermost portion rearmost edge extends further rearward in a direction away from a front of the rapid-entry shoe than the midportion rearmost edge; and

wherein in response to a downward force applied to the heel structure, the ~~uppermost portion rearmost edge~~, the uppermost portion ~~rearmost edge~~ is lowered and the flexible material is expanded.

10. (Currently Twice Amended) A rapid-entry shoe, comprising:

an upper comprising a flexible material; and

a heel structure provided in a rear portion of the rapid-entry shoe, the heel structure comprising:

a lower portion coupled to a sole of the rapid-entry shoe and extending completely around the rear portion;

a midportion integrally formed with, and extending from, the lower portion such that the midportion and the lower portion form a single continuous piece and define abutting and non-overlapping regions, the midportion extending completely around the rear portion; and

an upper portion extending from the midportion and extending further rearward than the midportion wherein the upper portion directs a foot into an opening of the rapid-entry shoe;

wherein at least a portion of the rapid-entry shoe is lowered and is pivoted about an axis in response to the foot applying a pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe; and

wherein the flexible material is expanded in response to the foot applying the pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe.

18. (Currently Twice Amended) A rapid-entry shoe, comprising:

a sole;

an upper comprising a flexible material and defining an opening of the rapid-entry shoe;

a heel structure disposed at a rear portion of the rapid-entry shoe and extending from the sole, the heel structure comprising:

a first portion coupled to the sole and extending around the rear portion of the rapid-entry shoe between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe;

a second portion contiguous with, and extending upward from, the first portion, wherein a transition between the first portion and the second portion defines a continuous and non-overlapping profile; and

a third portion extending upward from the second portion and extending rearward to an extent greater than the second portion, the third portion allowing the heel structure to at least partially move downward or pivot about an axis of rotation proximal to the sole in response to a foot being inserted into the opening of the rapid-entry shoe;

wherein the flexible material transitions from a non-expanded state to an expanded state in response to the foot being inserted into the opening of the rapid-entry shoe.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON M PRANGE whose telephone number is (571)270-5280. The examiner can normally be reached M-F 8:30-5 EST.

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, Khoa Huynh can be reached at (571) 272-4888. 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

Art Unit: 3732

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.

/SHARON M PRANGE/
Primary Examiner, Art Unit 3732

S/N: 17/989,156

PATENT
Conf. No. 9468

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	Michael Pratt	Examiner:	Prange, Sharon
Serial No.:	17/989,156	Group Art Unit:	3732
Filed:	November 17, 2022	Docket No.:	P-00294
Title:	Rapid-Entry Shoe		

AMENDMENT & RESPONSE TO NON-FINAL OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Non-Final Office Action mailed March 26, 2025, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Remarks/Arguments begin on page 7 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions and listings of claims in this application:

Listing of Claims:

1. (Currently Amended) A rapid-entry shoe, comprising:

a sole;

an upper coupled to the sole and at least partially comprising a flexible material; and

a heel structure contained within a rear portion of the upper, the heel structure extending from the sole and forming a concave structure extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe and comprising:

a lower portion coupled to the sole and extending around the rear portion of the upper between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe;

a midportion integral with the lower portion and extending upward from an uppermost edge of the lower portion and having a midportion rearmost edge, the lower portion and the midportion forming a continuous structure; and

an uppermost portion extending upward from the midportion and having an uppermost portion rearmost edge;

wherein the uppermost portion rearmost edge extends further rearward in a direction away from a front of the rapid-entry shoe than the midportion rearmost edge; and

wherein in response to a downward force applied to the uppermost portion rearmost edge, the uppermost portion rearmost edge is lowered and the flexible material is expanded.

2. (Previously Presented) The rapid-entry shoe of claim 1, further comprising a slit provided in the upper.

3. (Previously Presented) The rapid-entry shoe of claim 2, wherein the flexible material is provided in the slit.

4. (Canceled)

5. (Canceled)

6. (Canceled)

7. (Previously Presented) The rapid-entry shoe of claim 1, wherein the lower portion and the midportion define an opening.

8. (Canceled)

9. (Canceled)

10. (Currently Amended) A rapid-entry shoe, comprising:

an upper comprising a flexible material; and

a heel structure provided in a rear portion of the rapid-entry shoe, the heel structure comprising:

a lower portion coupled to a sole of the rapid-entry shoe and extending completely around the rear portion;

a midportion integrally formed with, and extending from, the lower portion, the midportion extending completely around the rear portion; and

an upper portion extending from the midportion and extending further rearward than the midportion wherein the upper portion directs a foot into an opening of the rapid-entry shoe;

wherein at least a portion of the rapid-entry shoe is lowered and is pivoted about an axis in response to the foot applying a pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe; and

wherein the flexible material is expanded in response to the foot applying the pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe.

11. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a slit provided in the upper, wherein the flexible material is provided in the slit.

12. (Canceled)

13. (Canceled)

14. (Canceled)

15. (Previously Presented) The rapid-entry shoe of claim 10, wherein the heel structure at least partially surrounds the rear portion of the rapid-entry shoe.

16. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a shoe cushioning component provided on at least a portion of the heel structure.

17. (Canceled)

18. (Currently Amended) A rapid-entry shoe, comprising:

a sole;

an upper comprising a flexible material and defining an opening of the rapid-entry shoe;

a heel structure disposed at a rear portion of the rapid-entry shoe and extending from the sole, the heel structure comprising:

a first portion coupled to the sole and extending around the rear portion of the rapid-entry shoe between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe;

a second portion contiguous with, and extending upward from, the first portion;
and

a third portion extending upward from the second portion and extending rearward to an extent greater than the second portion, the third portion allowing the heel structure to at least partially move downward or pivot about an axis of rotation proximal to the sole in response to a foot being inserted into the opening of the rapid-entry shoe;

wherein the flexible material transitions from a non-expanded state to an expanded state in response to the foot being inserted into the opening of the rapid-entry shoe.

19. (Previously Presented) The rapid-entry shoe of claim 18, wherein the flexible material forms at least a portion of a topline of the rapid-entry shoe.

20. (Canceled)

21. (Canceled)

22. (Canceled)

23. (Previously Presented) The rapid-entry shoe of claim 7, wherein the opening is positioned below the midportion and between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe.

24. (Previously Presented) The rapid-entry shoe of claim 10, wherein the axis is proximal to the sole of the rapid-entry shoe.

25. (Canceled)

26. (Previously Presented) The rapid-entry shoe of claim 1, wherein the downward force being applied to the uppermost portion rearmost edge causes at least a portion of the heel structure to move down and back.

27. (Canceled)

28. (Previously Presented) The rapid-entry shoe of claim 10, wherein the pressure being applied to the upper portion causes at least a portion of the heel structure to move down and back.

29. (Canceled)

30. (Previously Presented) The rapid-entry shoe of claim 18, wherein a downward force being applied to the third portion causes at least a portion of the heel structure to move down and back.

31. (New) The rapid-entry shoe of claim 18, further comprising an opening associated with the second portion.

32. (New) The rapid-entry shoe of claim 31, wherein the opening is provided between the second portion and the third portion.

33. (New) The rapid-entry shoe of claim 10, wherein the midportion at least partially defines an opening of the heel structure.

34. (New) The rapid-entry shoe of claim 33, wherein the opening of the heel structure is provided between the midportion and the upper portion.

35. (New) The rapid-entry shoe of claim 33, wherein the opening of the heel structure is covered by the upper.

REMARKS/ARGUMENTS

This Amendment and the following remarks are intended to fully respond to the Non-Final Office Action dated March 26, 2025, hereinafter the “Office Action.” In that Office Action, the specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter; claims 25, 27 and 29 were rejected under 35 U.S.C. § 112(a) for allegedly failing to comply with the written description requirement; claims 1, 7, 10, 15, 16, 18, 19 and 22-30 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by DE 196 11 797 (hereinafter, “Richter”) and claims 2, 3 and 11 were rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over Richter in view of U.S. Patent Publication No. 2011/0016751 (hereinafter, “Somerville”).

Reconsideration of these rejections, as they might apply to the original and amended claims, in view of these remarks, is respectfully requested. In this Amendment, claims 1, 10 and 18 have been amended, claims 22, 25, 27 and 29 have been canceled without prejudice and new claims 31-35 have been added. No new matter has been added. Therefore, claims 1-3, 7, 10-11, 15-16, 18-19, 23-24, 26, 28 and 30-35 are presented for examination.

Statement of Summary of Examiner Interview

Applicant thanks Examiner Prange for the interview held with Applicant’s representative Greg Johnson, Reg. No. 59,027, on June 4, 2025. During that interview, the 35 U.S.C. § 102(b) rejection was discussed in view of proposed amendments to claim 1. While no agreement was reached as to the allowability of the claims, the independent claims have been amended to include the various features discussed in the interview.

Objection to the Specification

The specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter.

Without acquiescing to the propriety of the rejection, and solely for the purpose of advancing prosecution, claims 25, 27 and 29 have been canceled without prejudice. Therefore, the objection to the specification is moot. As such, Applicant respectfully requests Examiner Prange withdraw the objection to the specification.

Claim Rejections Under 35 U.S.C. § 112

Claims 25, 27 and 29 were rejected under 35 U.S.C. § 112(a) for allegedly failing to comply with the written description requirement.

Without acquiescing to the propriety of the rejection, and solely for the purpose of advancing prosecution, claims 25, 27 and 29 have been canceled without prejudice. Therefore, the 35 U.S.C. § 112(a) rejection is moot. Accordingly, Applicant respectfully requests Examiner Prange withdraw the 35 U.S.C. § 112(a) rejection of claims 25, 27 and 29.

Claim Rejections Under 35 U.S.C. § 102

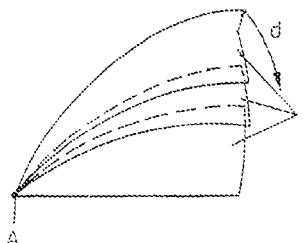
Claims 1, 7, 10, 15, 16, 18, 19 and 22-30 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Richter.

Preliminarily, claims 22, 25, 27 and 29 have been canceled without prejudice. Therefore, the rejection of these claims is moot.

Claims 1, 7, 23 and 26

Claim 1 is directed to a heel structure for a rapid-entry shoe. In an effort to advance prosecution, claim 1 has been amended to recite that the heel structure includes “a lower portion coupled to the sole and extending around the rear portion of the upper between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe; [and] a midportion integral with the lower portion and extending upward from an upper-most edge of the lower portion and having a midportion rearmost edge, the lower portion and the midportion forming a continuous structure.” Applicant submits that Richter does not disclose or suggest at least the above-recited features of claim 1.

Richter describes a heel part for a shoe. In the Office Action, Examiner Prange equates the heel part of Richter to the heel structure of claim 1. For Examiner Prange’s convenience, Figure 5 of Richter, that illustrates the heel part, is reproduced below.



When describing the heel part, the English translation of Richter states, “Other design options are to manufacture the heel part from *individual, overlapping segments* (Figure 5). In order to achieve a uniform thickness of the rear cap despite the overlap, the individual bracket segments *1 must taper* in the overlap areas (see Figure 7). If you step on this heel part, the *individual segments slide over each other* in a defined manner.” (Richter, para. [0009], emphasis added).

Thus, according to Richter, the heel part requires:

- 1) individual segments;
- 2) that the individual segments overlap; and
- 3) that the overlapping areas of each segment are tapered.

In contrast, and as previously explained, claim 1 requires that its heel structure includes a lower portion and a midportion. Additional requirements include:

- 1) that the midportion is “integral with the lower portion”;
- 2) that the midportion extends “upward from an upper-most edge of the lower portion”; and
- 3) that “the lower portion and the midportion [form] a continuous structure.”

Applicant submits that the individual, tapered and overlapping segments of Richter are not equivalent to heel structure of claim 1. Specifically, individual segments that are coupled together, have overlapping tapered areas, and slide over each other, is not equivalent to a midportion being “integral with the lower portion” – even if the segments pivot around the same axis. Additionally, because the segments in Richter overlap and “slide over each other” and “must taper”, one segment cannot extend “upward from an upper-most edge” of another segment nor can individual segments form “a continuous structure.”

Based on the above, Applicant submits that claim 1, and its dependent claims, are patentable over Richter and are in condition for allowance.

Claims 10, 15-16, 24 and 28

Claim 10 includes similar features to those described above with respect to claim 1. For example, claim 10 recites in part, “a lower portion coupled to a sole of the rapid-entry shoe and

extending completely around the rear portion; [and] a midportion integrally formed with, and extending from, the lower portion, the midportion extending completely around the rear portion.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 10, and its respective dependent claims, are patentable over Richter and are in condition for allowance for at least similar reasons.

Claims 18-19 and 30

Claim 18 includes similar features to those described above with respect to claim 1. For example, claim 18 recites in part, “a first portion coupled to the sole and extending around the rear portion of the rapid-entry shoe between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe; [and] a second portion contiguous with, and extending upward from, the first portion.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 18, and its respective dependent claims, are patentable over Richter and are in condition for allowance for at least similar reasons.

Claim Rejections Under 35 U.S.C. § 103

Claims 2, 3 and 11 were rejected 35 U.S.C. § 103(a) as allegedly being unpatentable over Richter in view of Somerville.

Claims 2, 3 and 11 depend from claim 1 and claim 10 respectively. As previously discussed, Applicant submits that claim 1 and claim 10 are patentable over Richter and further submits that Somerville does not make up for the deficiencies of Richter. Accordingly, Applicant submits that claims 2, 3 and 11 are also patentable over the recited combination of references, and are in condition for allowance, at least for their dependency on claim 1 and claim 10.

New Claims 31-35

Claims 31-35 depend, either directly or indirectly, from claims 10 and 18 respectively. As previously described, claims 10 and 18 are patentable over Richter. Accordingly, Applicant submits that claims 31-35 are also patentable over Richter, and are in condition for allowance, at least for their dependency on claims 10 and 18.

CONCLUSION

This Amendment fully responds to the Non-Final Office Action mailed March 26, 2025. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the references of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

In light of the above remarks and amendments, Applicant submits this application is in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

Dated: June 5, 2025

/Gregory G. Johnson/

Gregory G. Johnson, Reg. No. 59,027

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/989,156	11/17/2022	MICHAEL PRATT	P-00294	9468
164668	7590	03/26/2025	EXAMINER	
FAST IP, LLC 1172 West 700 North Suite 200 Lindon, UT 84042			PRANGE, SHARON M	
			ART UNIT	PAPER NUMBER
			3732	
			NOTIFICATION DATE	DELIVERY MODE
			03/26/2025	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):

enielsen@kizik.com

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

This is in response to Applicant's amendment in which claims 1, 10, 18, and 24 have been amended, claims 1-3, 7, 10-11, 15-16, 18-19, and 22-30 remain pending.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Regarding claims 25, 27, and 29, there is no antecedent basis that the uppermost/upper/third portion "prevents forward collapse of the heel structure when the pressure is applied to the upper portion."

Applicant is reminded that no new matter may be added to the specification.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph 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 the first paragraph of pre-AIA 35 U.S.C. 112:

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 25, 27, and 29 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled

in the relevant art that the inventor or a joint inventor, or for applications subject to pre-AIA 35 U.S.C. 112, the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 25, 27, and 29, there is no support in the original specification that the uppermost/upper/third portion “prevents forward collapse of the heel structure when the pressure is applied to the upper portion.”

Claim Rejections - 35 USC § 102

4. 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 (i.e., changing from AIA to pre-AIA) 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.

5. 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:

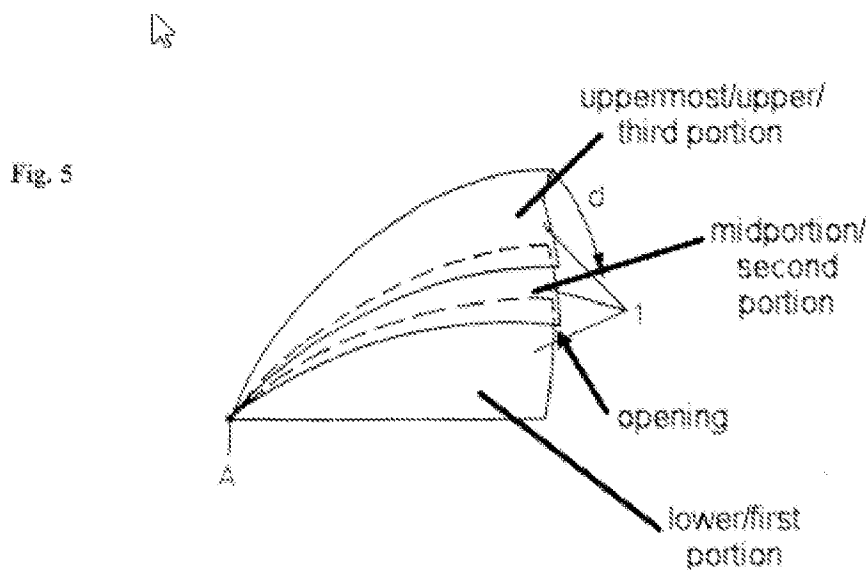
A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claim(s) 1, 7, 10, 15, 16, 18, 19, and 22-30 is/are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Richter (DE 196 11 797 A1).

Regarding claim 1, Richter discloses a rapid-entry shoe, comprising: a sole; an upper coupled to the sole and at least partially comprising a flexible material (as seen in Fig. 1); and a heel structure (1) contained within a rear portion of the upper, the heel structure extending from the sole and forming a concave structure extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe and comprising: a lower portion coupled to the sole and extending around the rear portion of the upper between the medial side of the rapid-entry shoe and the lateral side of the rapid-

entry shoe; a midportion integral with the lower portion and extending upward from the lower portion and having a midportion rearmost edge, the lower portion and the midportion forming a continuous structure; and an uppermost portion extending upward from the midportion and having an uppermost portion rearmost edge (see annotated Fig. 5); wherein the uppermost portion rearmost edge extends further rearward in a direction away from a front of the rapid-entry shoe than the midportion rearmost edge (Fig. 5); and wherein in response to a downward force applied to the uppermost portion rearmost edge, the uppermost portion rearmost edge is lowered and the flexible material is expanded (Fig. 1).



Regarding claim 7, Richter discloses that the lower portion and the midportion define an opening (see annotated Fig. 5).

Regarding claim 10, Richter discloses a rapid-entry shoe, comprising: an upper comprising a flexible material (Fig. 1); and a heel structure (1) provided in a rear portion of the rapid-entry shoe, the heel structure comprising: a lower portion coupled to a sole of the rapid-entry shoe and extending completely around the rear portion; a midportion integral with and extending from the lower portion, the midportion extending completely around the rear portion; and an upper portion extending from the midportion and extending further rearward than the midportion wherein the upper portion directs a

foot into an opening of the rapid-entry shoe (see annotated Fig. 5); wherein at least a portion of the rapid-entry shoe is lowered and is pivoted about an axis in response to the foot applying a pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe (Fig. 1); and wherein the flexible material is expanded in response to the foot applying the pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe (Fig. 1).

Regarding claim 15, Richter discloses that the heel structure at least partially surrounds the rear portion of the rapid-entry shoe (Fig. 1, 5).

Regarding claim 16, Richter discloses a shoe cushioning component (rear portion of upper) provided on at least a portion of the heel structure.

Regarding claim 18, Richter discloses a rapid-entry shoe, comprising: a sole; an upper comprising a flexible material and defining an opening of the rapid-entry shoe (Fig. 1); a heel structure (1) disposed at a rear portion of the rapid-entry shoe and extending from the sole, the heel structure comprising: a first portion coupled to the sole and extending around the rear portion of the rapid-entry shoe between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe; a second portion extending upward from the first portion; and a third portion extending upward from the second portion and extending rearward to an extent greater than the second portion (see annotated Fig. 5), the third portion allowing the heel structure to at least partially move downward or pivot about an axis of rotation proximal to the sole in response to a foot being inserted into the opening of the rapid-entry shoe (Fig. 1); wherein the flexible material transitions from a non-expanded state to an expanded state in response to the foot being inserted into the opening of the rapid-entry shoe (Fig. 1).

Regarding claim 19, Richter discloses that the flexible material forms at least a portion of a topline of the rapid-entry shoe (Fig. 1).

Regarding claim 22, Richter discloses that the first portion and second portion form a single, continuous structure (Fig. 5; wherein all of the portions are continuous and connected at least at point A).

Regarding claim 23, Richter discloses that the opening is positioned below the midportion and between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe (Fig. 5).

Regarding claim 24, Richter discloses that the axis is proximal to the sole of the rapid-entry shoe (Fig. 1, 5).

Regarding claims 25, 27, and 29, Richter discloses that the uppermost/upper/third portion of the heel structure prevents forward collapse of the heel structure when the downward force is applied to the uppermost portion rearmost edge (Fig. 1).

Regarding claims 26, 28, and 30, Richter discloses that the downward force being applied to the uppermost/upper/third portion rearmost edge causes at least a portion of the heel structure to move down and back (Fig. 1).

Claim Rejections - 35 USC § 103

7. 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.

8. Claims 2, 3, and 11 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Richter, as applied to claims 1 and 10, in view of Somerville (US 2011/0016751).

Regarding claims 2, 3, and 11, Richter does not disclose a slit in the upper. Somerville teaches a rapid-entry shoe comprising: a sole (4); an upper (8, 52) coupled to the sole and at least partially comprising a flexible material (50) provided within a slit in the upper; and a heel structure (10)

contained within a rear portion of the upper (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a flexible material within a slit, as taught by Somerville, to the upper of Richter, in order to provide improved stretchability and elastic rebound at the sides of the heel portion, allowing the heel to fully open, and helping to bias the upper back to the closed position.

Response to Arguments

9. Applicant's arguments filed 08/05/2024 have been fully considered but they are not persuasive. Applicant argues that paragraph [0057] provides support for the limitations of claims 25, 27, and 29 (see also attachment to interview summary dated 08/05/2024). However, the recited text refers to a different embodiment than the instant claimed invention. Further, the recited text does not provide support for the specific limitations recited in claims 25, 27, and 29. While the paragraph states that the loop portion is "resistant to undesired bending in other directions," it is silent regarding preventing forward collapse.

10. Applicant's further arguments with respect to claim(s) 1-3, 7, 10-11, 15-16, 18-19, and 22-30 have been considered but are moot because the new ground of rejection does not rely on any reference applied in the prior rejection of record for any teaching or matter specifically challenged in the argument.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON M PRANGE whose telephone number is (571)270-5280. The examiner can normally be reached M-F 8:30-5 EST.

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, Khoa Huynh can be reached on (571) 272-4888. 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.

/SHARON M PRANGE/
Primary Examiner, Art Unit 3732

S/N: 17/989,156

PATENT
Conf. No. 9468

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	Michael Pratt	Examiner:	Prange, Sharon
Serial No.:	17/989,156	Group Art Unit:	3732
Filed:	November 17, 2022	Docket No.:	P-00294
Title:	Rapid-Entry Shoe		

AMENDMENT & RESPONSE TO FINAL OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Final Office Action mailed June 3, 2024, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Remarks/Arguments begin on page 7 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions and listings of claims in this application:

Listing of Claims:

1. (Currently Amended) A rapid-entry shoe, comprising:

a sole;

an upper coupled to the sole and at least partially comprising a flexible material; and

a heel structure contained within a rear portion of the upper, the heel structure extending from the sole and forming a concave structure extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe and comprising:

a lower portion coupled to the sole and extending around the rear portion of the upper between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe;

a midportion integral with the lower portion and extending upward from the lower portion and having a midportion rearmost edge, the lower portion and the midportion forming a continuous structure; and

an uppermost portion extending upward from the midportion and having an uppermost portion rearmost edge;

wherein the uppermost portion rearmost edge extends further rearward in a direction away from a front of the rapid-entry shoe than the midportion rearmost edge; and

wherein[[,]] in response to a downward force applied to the uppermost portion rearmost edge, the uppermost portion rearmost edge is lowered and the flexible material is expanded.

2. (Previously Presented) The rapid-entry shoe of claim 1, further comprising a slit provided in the upper.

3. (Previously Presented) The rapid-entry shoe of claim 2, wherein the flexible material is provided in the slit.

4. (Canceled)

5. (Canceled)

6. (Canceled)

7. (Previously Presented) The rapid-entry shoe of claim 1, wherein the lower portion and the midportion define an opening.

8. (Canceled)

9. (Canceled)

10. (Currently Amended) A rapid-entry shoe, comprising:

an upper comprising a flexible material; and

a heel structure provided in a rear portion of the rapid-entry shoe, the heel structure comprising:

a lower portion coupled to a sole of the rapid-entry shoe and extending completely around the rear portion;

a midportion integral with and extending from the lower portion, the midportion extending completely around the rear portion; and

an upper portion extending from the midportion and extending further rearward than the midportion wherein the upper portion directs a foot into an opening of the rapid-entry shoe;

wherein at least a portion of the rapid-entry shoe is lowered and is pivoted about an axis in response to the foot applying a pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe; and

wherein the flexible material is expanded in response to the foot applying the pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe.

11. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a slit provided in the upper, wherein the flexible material is provided in the slit.

12. (Canceled)

13. (Canceled)

14. (Canceled)

15. (Previously Presented) The rapid-entry shoe of claim 10, wherein the heel structure at least partially surrounds the rear portion of the rapid-entry shoe.

16. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a shoe cushioning component provided on at least a portion of the heel structure.

17. (Canceled)

18. (Currently Amended) A rapid-entry shoe, comprising:

- a sole;

- an upper comprising a flexible material and defining an opening of the rapid-entry shoe;

- a heel structure disposed at a rear portion of the rapid-entry shoe and extending from the sole, the heel structure comprising:

- a first portion coupled to the sole and extending around the rear portion of the rapid-entry shoe between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe;

- a second portion extending upward from the first portion; and

- a third portion extending upward from the second portion and extending rearward to an extent greater than the second portion, the third portion allowing the heel structure to at least partially move downward or pivot about an axis of rotation proximal to the sole in response to a foot being inserted into the opening of the rapid-entry shoe;

wherein the flexible material transitions from a non-expanded state to an expanded state in response to the foot being inserted into the opening of the rapid-entry shoe.

19. (Previously Presented) The rapid-entry shoe of claim 18, wherein the flexible material forms at least a portion of a topline of the rapid-entry shoe.

20. (Canceled)

21. (Canceled)

22. (Previously Presented) The rapid-entry shoe of claim 18, wherein the first portion and second portion form a single, continuous structure.

23. (Previously Presented) The rapid-entry shoe of claim 7, wherein the opening is positioned below the midportion and between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe.

24. (Currently Amended) The rapid-entry shoe of claim 10, wherein the axis is proximal to [[a]] the sole of the ~~rapid-entry~~ rapid-entry shoe.

25. (Previously Presented) The rapid-entry shoe of claim 1, wherein the uppermost portion of the heel structure prevents forward collapse of the heel structure when the downward force is applied to the uppermost portion rearmost edge.

26. (Previously Presented) The rapid-entry shoe of claim 1, wherein the downward force being applied to the uppermost portion rearmost edge causes at least a portion of the heel structure to move down and back.

27. (Previously Presented) The rapid-entry shoe of claim 10, wherein the upper portion of the heel structure prevents forward collapse of the heel structure when the pressure is applied to the upper portion.

28. (Previously Presented) The rapid-entry shoe of claim 10, wherein the pressure being applied to the upper portion causes at least a portion of the heel structure to move down and back.

29. (Previously Presented) The rapid-entry shoe of claim 18, wherein the third portion of the heel structure prevents forward collapse of the heel structure when a downward force is applied to the third portion.

30. (Previously Presented) The rapid-entry shoe of claim 18, wherein a downward force being applied to the third portion causes at least a portion of the heel structure to move down and back.

REMARKS/ARGUMENTS

This Amendment and the following remarks are intended to fully respond to the Final Office Action dated June 3, 2024, hereinafter the “Office Action.” In that Office Action, the specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter; the drawings were objected to for not including reference numbers for various claim elements; claim 24 was objected to for an antecedent issue, claims 1-3, 7, 23, 25-27 and 29 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement; and claims 1-3, 7, 10-11, 15-16, 18-19 and 22-30 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Publication No. 2011/0016751 to Somerville (hereinafter “Somerville”).

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. In this Amendment, claims 1, 10, 18 and 24 have been amended. No claims have been added or canceled and no new matter has been added. Therefore, claims 1-3, 7, 10-11, 15-16, 18-19 and 22-30 are provided for examination.

Statement of Summary of Examiner Interview

Applicant thanks Examiner Prange for the telephonic interview held with Applicant’s representatives Eric Nielsen, Reg No. 60,183, and Greg Johnson, Reg. No. 59,027, on July 2, 2024.

During that interview, the various rejections and objections were discussed. While no agreement was reached as to the allowability of the claims, the claims have been amended to include some of the various features discussed in the interview. Accordingly, Applicant submits that all outstanding rejections and objections should be withdrawn.

Objection to the Specification

The specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter.

The objections to the specification were discussed in the interview of July 2, 2024. During that interview, support for the claim features in question were discussed in view of the drawings and the specification of the application as originally filed. Accordingly, Applicant respectfully requests the Examiner withdraw the objections to the specification.

Objection to the Drawings

The drawings were objected to for failing to include reference numbers for some claimed features.

The objections to the drawings were discussed in the Examiner interview of July 2, 2024. During that interview, Applicant's representatives and Examiner Prange discussed the various portions of the heel structure in view of at least FIG. 29 and associated portions of the specification of the application as originally filed. Based on this discussion and on the features shown and described in the application, Applicant requests the Examiner withdraw the objections to the drawings.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-3, 7, 23, 25-27 and 29 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement.

The 35 U.S.C. § 112, first paragraph rejection of these claims was discussed in the Examiner interview of July 2, 2024. During that interview, Applicant's representatives and Examiner Prange discussed the various rejections in view of the application and figures as originally filed. Based on this discussion, and on the claim amendments included herewith, Applicant requests the Examiner withdraw the 35 U.S.C. § 112, first paragraph rejection of the claims.

Claim Rejections Under 35 U.S.C. § 102

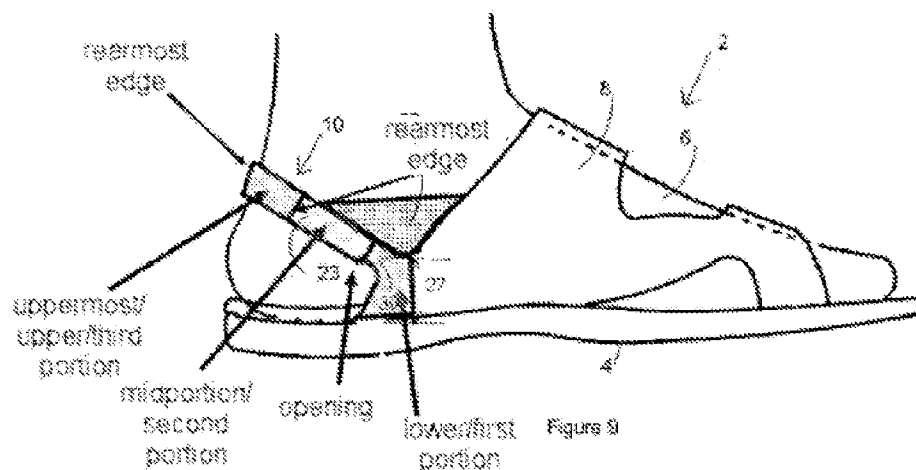
Claims 1-3, 7, 10-11, 15-16, 18-19 and 22-30 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Somerville.

Claims 1-3, 7, 23 and 25-26

Without acquiescing to the propriety of the rejection and solely for the purpose of advancing prosecution, claim 1 has been amended to recite, among other features, "a lower portion coupled to the sole and extending around the rear portion of the upper between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe." Applicant submits that Somerville does not disclose or suggest all of the above-recited features of claim 1.

In the Office Action, the Examiner equates various portions of the heel restraint and heel strap disclosed in Somerville to the lower portion, the midportion and the upper portion of

Applicant's heel structure. The Examiner's interpretation of Sommerville's heel restraint and heel strap, originally provide in the Office Action, is reproduced as annotated FIG. 9 below.



In annotated FIG. 9, the Examiner equates the neck portion 30 (referred to in annotated FIG. 9 as the “lower/first portion”) of Sommerville’s heel restraint 10 to the lower portion of claim 1. While Applicant disagrees with the Examiner’s interpretation, claim 1 has been amended to recite that the lower portion extends “around the rear portion of the upper between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe.”

In contrast, the lower/first portion of Sommerville does not extend around a rear portion of the shoe as required by claim 1. Rather, the lower/first portion of Sommerville only partially extends along a side of the shoe.

Accordingly, Applicant submits that claim 1, and dependent claims 2-3, 7, 23 and 25-26, are patentable over Somerville and are in condition for allowance.

Claims 10-11, 15-16, 24 and 27-28

Claim 10 includes similar features to those described above with respect to claim 1. For example, claim 10 recites in part, “a lower portion coupled to a sole of the rapid-entry shoe and extending completely around the rear portion; [and] a midportion integral with and extending from the lower portion, the midportion extending completely around the rear portion.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 10, and its respective dependent claims, are patentable over Somerville and are in condition for allowance for at least similar reasons.

Claims 18-19, 22 and 29-30

Claim 18 includes similar features to those described above with respect to claim 1. For example, claim 18 recites in part, “a first portion coupled to the sole and extending around the rear portion of the rapid-entry shoe between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 18, and its respective dependent claims, are patentable over Somerville and are in condition for allowance for at least similar reasons.

CONCLUSION

This Amendment fully responds to the Final Office Action mailed June 3, 2024. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the references of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

In light of the above remarks and amendments, Applicant submits this application is in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

Dated: August 5, 2024

/Eric Nielsen/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/989,156	11/17/2022	MICHAEL PRATT	P-00294	9468
164668	7590	06/03/2024	EXAMINER	
FAST IP, LLC			PRANGE, SHARON M	
1172 West 700 North				
Suite 200				
Lindon, UT 84042				
			ART UNIT	PAPER NUMBER
			3732	
			NOTIFICATION DATE	DELIVERY MODE
			06/03/2024	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):

enielsen@kizik.com

Office Action Summary

Application No.

17/989,156

Applicant(s)

PRATT, MICHAEL

Examiner

SHARON M PRANGE

Art Unit

3732

AIA (FITF) 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 29 April 2024.
☐ 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) 1-3,7,10-11,15-16,18-19 and 22-30 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) 1-3,7,10-11,15-16,18-19 and 22-30 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 17 November 2022 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: ____.

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

This is in response to Applicant's amendment in which claims 1, 7, 10, 18, 22, and 23 have been amended, claims 4, 5, 8, 9, 1,3 14, and 17 have been canceled, claims 24-30 have been added, and claims 1-3, 7, 10-11, 15-16, 18-19 and 22-30 remain pending.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Regarding claim 1, there is no antecedent basis for "a heel structure *contained within* a rear portion."

Regarding claim 1, there is no antecedent basis for the heel structure "forming a concave structure extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe."

Regarding claim 23, there is no antecedent basis for the opening being "positioned ... between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe."

Regarding claims 25, 27, and 29, there is no antecedent basis that the uppermost/upper/third portion "prevents forward collapse of the heel structure when the pressure is applied to the upper portion."

Applicant is reminded that no new matter may be added to the specification.

Drawings

3. The drawings are objected to because several claim limitations are not given reference numbers and specifically pointed out in the drawings, and it is not clear which elements in the drawings are referred to in the claim limitations:

a lower/first portion (claims 1, 10, 18), a midportion/second portion (claims 1, 10, 18), an uppermost/upper/third portion (claims 1, 10, 18), an opening (claim 7), the heel structure being contained within a rear portion of the upper (claim 1), the heel structure forming a concave structure and extending between a medial side and a lateral side of the rapid-entry shoe (claim 1), the opening being positioned below the midportion and between the medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe (claim 23).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 24 is objected to because of the following informalities: Claim 24 recites "a sole", which has been previously recited in claim 10. It appears that the limitation should read --the sole--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph 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 the first paragraph of pre-AIA 35 U.S.C. 112:

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.

6. Claims 1-3, 7, 23, 25-27, and 29 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for applications subject to pre-AIA 35 U.S.C. 112, the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 1, there is no support in the original specification for the heel structure being *contained within* a rear portion of the upper. There is no discussion in the specification regarding the specific relationship between the heel structure and the upper, and the drawings do not clearly show how the two elements interact with each other.

Regarding claim 1, there is no support in the original specification for the heel structure forming a concave structure extending between a medial side and a lateral side of the rapid-entry shoe. This language is not in the original specification, and the drawings have only a side view of the heel structure which does not show it extending between two sides of the shoe or being concave.

Regarding claim 23, there is no support in the original specification for the opening being positioned below the midportion and between the medial side of the rapid-entry shoe and a lateral side

of the rapid-entry shoe. This language is not in the original specification, and the drawings have only a side view of the heel structure which does not show it extending between two sides of the shoe.

Regarding claims 25, 27, and 29, there is no support in the original specification that the uppermost/upper/third portion “prevents forward collapse of the heel structure when the pressure is applied to the upper portion.”

Claims 2-3, 7, and 26 depend from rejected claim 1.

Claim Rejections - 35 USC § 102

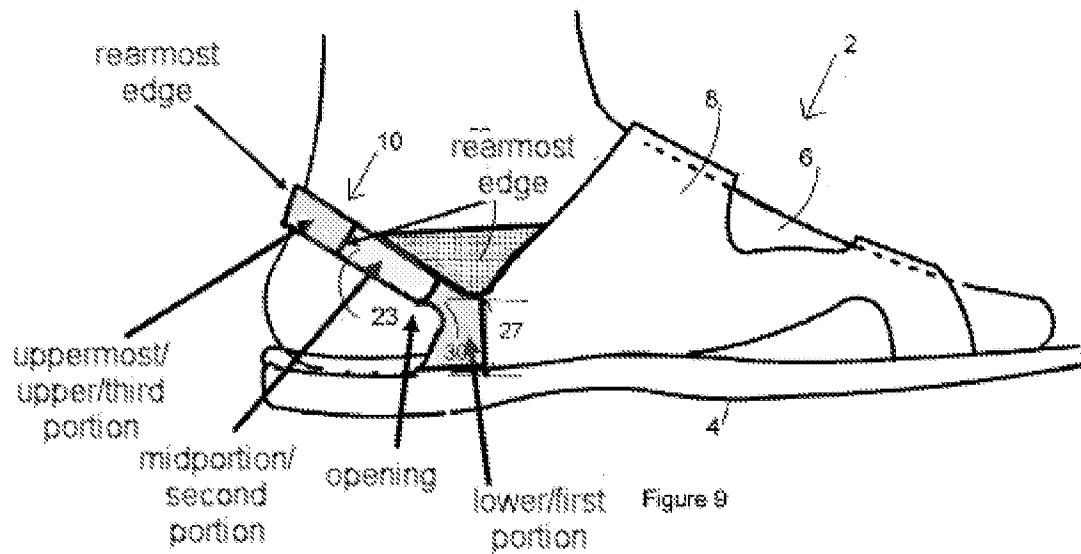
7. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis (i.e., changing from AIA to pre-AIA) for the rejection will not be considered a new ground of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

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claim(s) 1-3, 7, 10-11, 15-16, 18-19 and 22-30 is/are rejected under pre-AIA 35 U.S.C. 102(e) as being anticipated by Somerville (US 2011/0016751).

Regarding claim 1, Somerville discloses a rapid-entry shoe comprising: a sole (4); an upper (8, 52) coupled to the sole and at least partially comprising a flexible material (50); and a heel structure (10) contained within a rear portion of the upper, the heel structure extending from the sole portion and forming a concave structure extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe and comprising: a lower portion coupled to the sole; a midportion integral with the lower portion and extending upward from the lower portion and having a midportion rearmost edge; and an uppermost portion extending upward from the midportion and having an uppermost portion rearmost edge (see annotated Fig. 9 below); wherein the uppermost portion rearmost edge

extends further rearward in a direction away from a front of the rapid-entry shoe than the midportion rearmost edge; and wherein in response to a downward force applied to the uppermost portion rearmost edge, the uppermost portion rearmost edge is lowered and the flexible material is expanded (as seen in Fig. 8) (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10).



Regarding claim 2, Somerville discloses a slit provided in the upper (as seen in Fig. 9, 10).

Regarding claim 3, Somerville discloses that the flexible material is provided in the slit (Fig. 9, 10).

Regarding claim 7, Somerville discloses that the lower portion and the midportion define an opening (as seen in annotated Fig. 9 above).

Regarding claim 10, Somerville discloses a rapid-entry shoe, comprising: an upper (8) comprising a flexible material (50); and a heel structure (10) provided in a rear portion of the rapid-entry shoe, the heel structure comprising: a lower portion coupled to a sole (4) of the rapid-entry shoe; a midportion integral with and extending from the lower portion; and an upper portion extending from the midportion and extending further rearward than the midportion (as seen in annotated Fig. 9 above),

wherein the upper portion directs a foot into an opening of the rapid-entry shoe; wherein at least a portion of the rapid-entry shoe is lowered and is pivoted about an axis in response to the foot applying a pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe (Fig. 8); and wherein the flexible material is expanded in response to the foot applying the pressure to the upper portion when the foot is inserted into the opening of the rapid-entry shoe (Fig. 8) (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10).

Regarding claim 11, Somerville discloses a slit provided in the upper, wherein the flexible material is provided in the slit (Fig. 9, 10).

Regarding claim 15, Somerville discloses that the heel structure at least partially surrounds the rear portion of the rapid-entry shoe (Fig. 9, 10).

Regarding claim 16, Somerville discloses a shoe cushioning component (52) provided on at least a portion of the heel structure (Fig. 10).

Regarding claim 18, Somerville discloses a rapid-entry shoe comprising: a sole (4); an upper (8) comprising a flexible material (50) and defining an opening of the rapid-entry shoe; a heel structure (10) disposed at a rear portion of the rapid-entry shoe and extending from the sole portion, the heel structure comprising: a first portion couple to the sole; a second portion extending upward from the first portion; and a third portion extending upward from the second portion and extending rearward to an extent greater than the second portion, the third portion allowing the heel structure to at least partially move downward or pivot about an axis of rotation proximal to the sole in response to a foot being inserted into the opening of the rapid-entry shoe (Fig. 8); wherein the flexible material transitions from a non-expanded state (Fig. 9) to an expanded state (Fig. 8) in response to the foot being inserted into the opening of the rapid-entry shoe (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10).

Regarding claim 19, Somerville discloses that the flexible material forms at least a portion of a topline of the rapid-entry shoe (Fig. 9, 10).

Regarding claim 22, Somerville discloses that the first portion and second portion form a single, continuous structure (Fig. 9, 10).

Regarding claim 23, Somerville discloses that the opening is positioned below the midportion and between the medial side of the rapid-entry shoe and the lateral side of the rapid-entry shoe (Fig. 9).

Regarding claim 24, Somerville discloses that the axis is proximal to a sole of the rapid entry shoe (Fig. 10).

Regarding claims 25, 27, and 29, Somerville discloses that the uppermost/upper/third portion of the heel structure prevents forward collapse of the heel structure when the downward force is applied to the uppermost portion rearmost edge (Fig. 8).

Regarding claims 26, 28, and 30, Somerville discloses that the downward force being applied to the uppermost/upper/third portion rearmost edge causes at least a portion of the heel structure to move down and back (Fig. 8).

Response to Arguments

10. Applicant's arguments filed 04/29/2024 have been fully considered but they are not persuasive.

Regarding the objection to the specification, objection to the drawings, and 35 USC 112(a) rejections, Applicant argues that the amendments to the claims overcome the objections and 35 USC 112 rejections. However, these elements are not described in the specification or labeled in the drawings, as discussed above.

Applicant argues that Somerville does not disclose “a lower portion coupled to the sole; a midportion integral with the lower portion and extending upward from the lower portion and having a midportion rearmost edge; and an uppermost portion extending upward from the midportion and having an uppermost portion rearmost edge”. However, inasmuch as Applicant has defined ‘a lower portion’, ‘a midportion’, or ‘an uppermost portion’ within the claims, Somerville does teach each of

these portions as recited (see annotated Fig. 9 above). It is noted that a portion is defined as 'a part of a whole,' and therefore any part of the heel strap 23 of Somerville may be a portion of the heel structure.

Applicant further argues that the rearmost edge of heel strap 23 does not extend rearward further than the heel cover 52 of Somerville. However, these are not the elements which define each of the portions as claimed, as seen in the 35 USC 102 rejection above, as well as annotated Fig. 9.

Conclusion

11. 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.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON M PRANGE whose telephone number is (571)270-5280. The examiner can normally be reached M-F 8:30-5 EST.

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, Khoa Huynh can be reached on (571) 272-4888. The faxphone 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.

/SHARON M PRANGE/
Primary Examiner, Art Unit 3732

S/N: 17/989,156

PATENT
Conf. No. 9468

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	Michael Pratt	Examiner:	Prange, Sharon
Serial No.:	17/989,156	Group Art Unit:	3732
Filed:	November 17, 2022	Docket No.:	P-00294
Title:	Rapid-Entry Shoe		

AMENDMENT & RESPONSE TO NON-FINAL OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Non-Final Office Action mailed January 31, 2024, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Remarks/Arguments begin on page 7 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions and listings of claims in this application:

Listing of Claims:

1. (Currently Amended) A rapid-entry shoe, comprising:

- a sole;
- an upper coupled to the sole and at least partially comprising a flexible material; and
- a heel structure contained within a rear portion of the upper, the heel structure extending from the sole and forming a concave structure extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe and comprising:
 - ~~a lower portion coupled to the sole; base extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe;~~
 - a midportion integral with the lower portion and extending upward from the lower portion and having a midportion rearmost edge; and
 - an uppermost portion extending upward from the midportion and having an uppermost portion rearmost edge;
 - wherein the uppermost portion rearmost edge extends further rearward in a direction away from a front of the rapid-entry shoe than the midportion rearmost edge;
- and
- ~~a flare extending upward and rearward from a rear, top portion of the base between the medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe, wherein, at least a portion of the rapid-entry shoe at least partially pivots about an axis and causes the flexible material to expand in response to a downward force applied to the uppermost portion rearmost edge, the uppermost portion rearmost edge is lowered and the flexible material is expanded. flare.~~

2. (Previously Presented) The rapid-entry shoe of claim 1, further comprising a slit provided in the upper.

3. (Previously Presented) The rapid-entry shoe of claim 2, wherein the flexible material is provided in the slit.

4. (Canceled)

5. (Canceled)

6. (Canceled)

7. (Currently Amended) The rapid-entry shoe of claim 1, wherein the ~~[[base]]~~ lower portion and the flare midportion define an opening. ~~window.~~

8. (Canceled)

9. (Canceled)

10. (Currently Amended) A rapid-entry shoe, comprising:

an upper comprising a flexible material; and

a heel structure provided in a rear portion of the rapid-entry shoe, the heel structure comprising:

a lower portion coupled to a sole of the rapid-entry shoe;

a midportion integral with and extending from the lower portion; and

an upper portion extending from the midportion and a flare extending further rearward than the midportion from an upper portion of a base of the heel structure, the flare and the base forming a single structure, wherein the flare upper portion ~~[[:]]~~ directs a foot into an opening of the rapid-entry shoe;

wherein causes at least a portion of the rapid-entry shoe is lowered and is pivoted to pivot about an axis in response to the foot applying a pressure to the flare upper portion when the foot is inserted into the opening of the rapid-entry shoe; and

wherein causes the flexible material is expanded to expand in response to the foot applying the pressure to the upper portion when the foot is being inserted into the opening of the rapid-entry shoe.

11. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a slit provided in the upper, wherein the flexible material is provided in the slit.

12. (Canceled)

13. (Canceled)

14 (Canceled)

15. (Previously Presented) The rapid-entry shoe of claim 10, wherein the heel structure at least partially surrounds the rear portion of the rapid-entry shoe.

16. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a shoe cushioning component provided on at least a portion of the heel structure.

17. (Canceled)

18. (Currently Amended) A rapid-entry shoe, comprising:

a sole;

an upper comprising a flexible material and defining an opening of the rapid-entry shoe;

a heel structure disposed at a rear portion of the rapid-entry shoe and extending from the sole, the heel structure comprising:

a first portion coupled to the sole; base; and

a flare second portion extending upward from the first portion; and

a third portion extending upward from the second portion and extending rearward to an extent greater than the second portion, the third portion allowing-rearward and upward from a top portion of the base, the flare causing the heel structure to at least

partially move downward or pivot about an axis of rotation proximal to the sole in response to a foot being inserted into the opening of the rapid-entry shoe;
wherein the flexible material transitions ~~and causing the upper to transition~~ from a non-expanded first state to an expanded state in response to the foot being inserted into the opening of the rapid-entry shoe.

19. (Previously Presented) The rapid-entry shoe of claim 18, wherein the flexible material forms at least a portion of a topline of the rapid-entry shoe.

20. (Canceled)

21. (Canceled)

22. (Currently Amended) The rapid-entry shoe of claim 18, wherein the ~~base~~ first portion and ~~flare~~ second portion form a single, continuous structure.

23. (Currently Amended) The rapid-entry shoe of claim 7, wherein the opening window is positioned below the ~~flare~~ midportion and between the medial side of the rapid-entry shoe and ~~the~~ the lateral side of the rapid-entry shoe.

24. (Previously Presented) The rapid-entry shoe of claim 10, wherein the axis is proximal to a sole of the rapid entry shoe.

25. (New) The rapid-entry shoe of claim 1, wherein the uppermost portion of the heel structure prevents forward collapse of the heel structure when the downward force is applied to the uppermost portion rearmost edge.

26. (New) The rapid-entry shoe of claim 1, wherein the downward force being applied to the uppermost portion rearmost edge causes at least a portion of the heel structure to move down and back.

27. (New) The rapid-entry shoe of claim 10, wherein the upper portion of the heel structure prevents forward collapse of the heel structure when the pressure is applied to the upper portion.

28. (New) The rapid-entry shoe of claim 10, wherein the pressure being applied to the upper portion causes at least a portion of the heel structure to move down and back.

29. (New) The rapid-entry shoe of claim 18, wherein the third portion of the heel structure prevents forward collapse of the heel structure when a downward force is applied to the third portion.

30. (New) The rapid-entry shoe of claim 18, wherein a downward force being applied to the third portion causes at least a portion of the heel structure to move down and back.

REMARKS/ARGUMENTS

This Amendment and the following remarks are intended to fully respond to the Non-Final Office Action dated January 31, 2024, hereinafter the “Office Action.” In that Office Action, the specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter; the drawings were objected to for not including reference numbers for various claim elements; claims 1 and 23 were objected to for various informalities, claims 1-5, 7-9, 17 and 23 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement; claims 1-5, 7-11, 13-19 and 22-24 were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite; and claims 1-5, 7-11, 13-19 and 22-24 were also rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Publication No. 2011/0016751 to Somerville (hereinafter “Somerville”).

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. In this Amendment, claims 1, 7, 8, 10, 18, 22 and 23 have been amended. Claims 4, 5, 8, 9, 13, 14 and 17 have been cancelled without prejudice and new claims 25-30 have been added. No new matter has been added. Therefore, claims 1-3, 7, 10-11, 15-16, 18-19 and 21-30 are provided for examination.

Statement of Summary of Examiner Interview

Applicant thanks Examiner Prange for the telephonic interview held with Applicant’s representative, Greg Johnson, Reg. No. 59,027, on April 16, 2024. During that interview, the various rejections and objections were discussed. While no agreement was reached as to the allowability of the claims, the claims have been amended to include the various features discussed in the interview. Accordingly, Applicant submits that all outstanding rejections and objections should be withdrawn.

Objection to the Specification

The specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter.

As discussed in the Statement of Summary of Examiner Interview section, the claims have been amended to include features discussed in the interview of April 16, 2024. Applicant

submits that these amendments overcome the objections to the specification. Accordingly, Applicant respectfully requests the Examiner withdraw the objections to the specification.

Objection to the Drawings

The drawings were objected to for failing to include reference numbers for some claimed features.

As discussed in the Statement of Summary of Examiner Interview, the claims have been amended to include features discussed in the interview of April 16, 2024. Applicant submits that these amendments overcome the objections to the drawings. Accordingly, Applicant requests the Examiner withdraw the objections to the drawings.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-5, 7-9, 17 and 23 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement and claims 1-5, 7-11, 13-19 and 22-24 were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite.

In response to these rejections, the claims have been amended as set forth above. Applicant submits that these amendments overcome the current rejections and requests the Examiner withdraw the 35 U.S.C. § 112 first and second paragraph rejections of the claims.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-5, 7-11, 13-19 and 22-24 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Somerville.

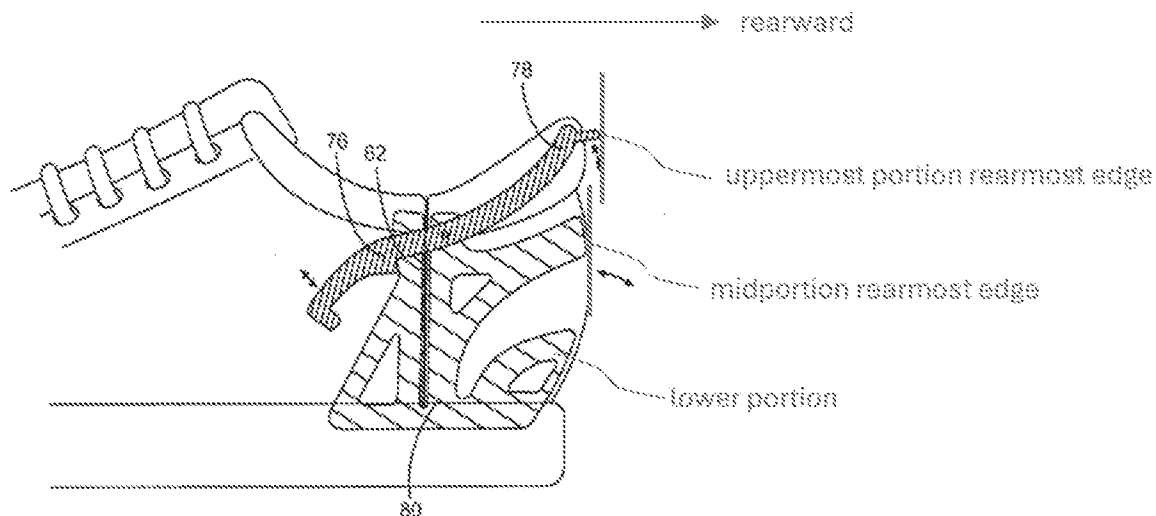
Preliminarily, claims 4, 5, 9, 13, 14 and 17 have been cancelled without prejudice. Therefore, the rejection of these claims is moot.

Claims 1-3, 7-8 and 23

Without acquiescing to the propriety of the rejection and solely for the purpose of advancing prosecution, claim 1 has been amended to recite, among other features, “a heel structure contained within a rear portion of the upper, the heel structure extending from the sole and forming a concave structure extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe and comprising: a lower portion coupled to the sole; a midportion integral with the lower portion and extending upward from the lower portion and

having a midportion rearmost edge; and an uppermost portion extending upward from the midportion and having an uppermost portion rearmost edge; wherein the uppermost portion rearmost edge extends further rearward in a direction away from a front of the rapid-entry shoe than the midportion rearmost edge.”

Sommerville does not disclose or suggest all of the above-recited features of claim 1. For example, assuming, *arguendo*, the Examiner were to compare Applicant’s heel structure to the combination of the heel strap 23 and the heel cover 52 in Figure 10 of Somerville, the rearmost edge of heel strap 23 of Somerville does not “extend[s] rearward further” than the rearmost edge of heel cover 52 of Somerville. See below, annotated Figure 29 of the present application and Figure 10 of Somerville.



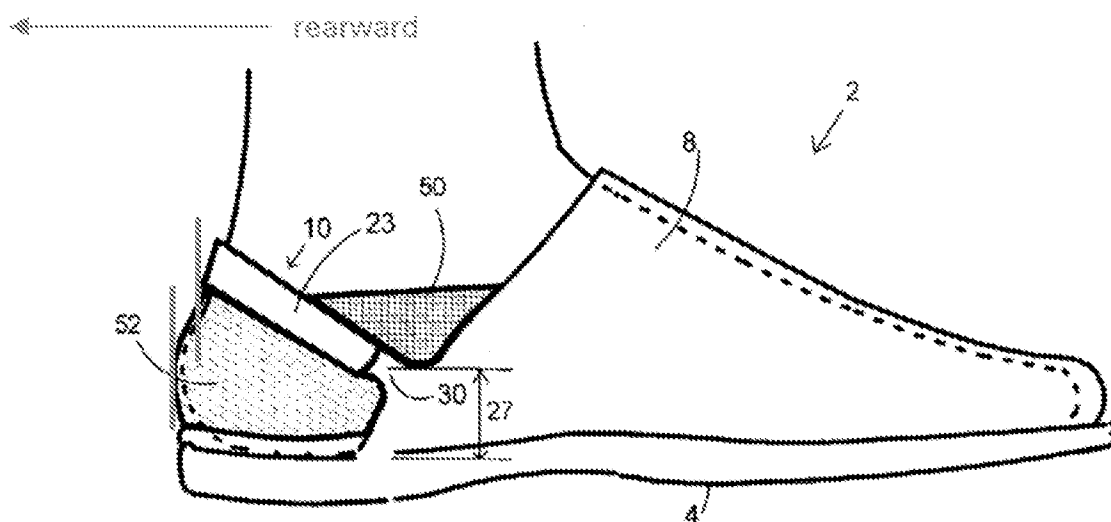


Figure 10

Accordingly, Applicant submits that claim 1, and dependent claims 2-5, 7-9 and 23 are patentable over Somerville and are in condition for allowance.

Claims 10-11, 15-16 and 24

Claim 10 includes similar features to those described above with respect to claim 1. For example, claim 10 recites in part, “a heel structure provided in a rear portion of the rapid-entry shoe, the heel structure comprising: a lower portion coupled to a sole of the rapid-entry shoe; a midportion integral with and extending from the lower portion; and an upper portion extending from the midportion and extending further rearward than the midportion.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 10, and dependent claims 11, 13-17 and 24 are patentable over Somerville and are in condition for allowance.

Claims 18-19 and 22

Claim 18 includes similar features to those described above with respect to claim 1. For example, claim 18 recites in part, “a heel structure disposed at a rear portion of the rapid-entry shoe and extending from the sole, the heel structure comprising: a first portion coupled to the sole; a second portion extending upward from the first portion; and a third portion extending

upward from the second portion and extending rearward to an extent greater than the second portion.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 18, and dependent claims 19 and 22, are patentable over Somerville and are in condition for allowance.

New Claims 25-30

Claims 25-30 are new and depend from claims 1, 10 and 18 respectively. As discussed above, Applicant submits that claims 1, 10 and 18 are patentable over Somerville. Accordingly, Applicant also submits that claims 25-30 are also patentable over Somerville at least for their dependency on claims 1, 10 and 18.

CONCLUSION

This Amendment fully responds to the Non-Final Office Action mailed January 31, 2024. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the references of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

In light of the above remarks and amendments, Applicant submits this application is in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

Dated: April 29, 2024

/Eric Nielsen/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/989,156	11/17/2022	MICHAEL PRATT	P-00294	9468
164668	7590	01/31/2024	EXAMINER	
FAST IP, LLC			PRANGE, SHARON M	
1172 West 700 North				
Suite 200				
Lindon, UT 84042				
			ART UNIT	PAPER NUMBER
			3732	
			NOTIFICATION DATE	DELIVERY MODE
			01/31/2024	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):

enielsen@kizik.com

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/12/2023 has been entered.

Claims 1, 7, 8, 10, 13, and 18 have been amended, claims 6, 12, and 21 have been canceled, claims 22-24 have been added, and claims 1-5, 7-11, 13-19, and 22-24 remain pending.

Priority

3. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, 365(c), or 386(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of 35 U.S.C. 112(a) or the first paragraph of pre-AIA 35 U.S.C. 112, except for the best mode requirement. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed applications, Application No. 17/883355, 17/211831, 16/582086, 15/693195, 13/509780, and PCT/US2010/056608, fails to provide adequate support or enablement in the manner provided by 35 U.S.C. 112(a) or pre-AIA 35 U.S.C. 112, first paragraph for one

Art Unit: 3732

or more claims of this application. The disclosure fails to provide support for: a flare, the flare causing the heel structure to at least partially rotate about an axis of rotation and cause the flexible material to expand in response to a downward force applied to the flare; and a base and a flare defining a window.

4. This application repeats a substantial portion of prior Application No. 17/883355, 17/211831, 16/582086, 15/693195, 13/509780, and PCT/US2010/056608, and adds disclosure not presented in the prior application. Because this application names the inventor or at least one joint inventor named in the prior application, it may constitute a continuation-in-part of the prior application. Should applicant desire to claim the benefit of the filing date of the prior application, attention is directed to 35 U.S.C. 120, 37 CFR 1.78, and MPEP § 211 *et seq.*

Specification

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Regarding claim 1, there is no antecedent basis for “a base” of the heel structure.

Regarding claims 1 and 10, there is no antecedent basis for “a flare” of the heel structure.

Regarding claim 1, there is no antecedent basis for “a heel structure *contained within* a rear portion.”

Regarding claim 1, there is no antecedent basis for the base “extending between a medial side and a lateral side of the rapid-entry shoe.”

Regarding claim 7, there is no antecedent basis for “the base and the flare define a window.”

Regarding claim 8, there is no antecedent basis for “at least a portion of the flare is covered by a cushioning component.”

Regarding claim 23, there is no antecedent basis for the window being “positioned below the flare and between the medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe.”

Applicant is reminded that no new matter may be added to the specification.

Drawings

6. The drawings are objected to because several claim limitations are not given reference numbers and specifically pointed out in the drawings, and it is not clear which elements in the drawings are referred to in the claim limitations:

a base (claim 1), a flare (claim 1), a window (claim 7), the heel structure being contained within a rear portion of the upper (claim 1), the base extending between a medial side and a lateral side of the rapid-entry shoe (claim 1), the window being positioned below the flare and between the medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe (claim 23).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

7. Claims 1 and 23 are objected to because of the following informalities:

Claim 1 recites the limitation “a lateral side of the rapid-entry shoe” in lines 9-10. However the lateral side has been previously recited in lines 6-7. It appears that the limitation should read --the lateral side of the rapid-entry shoe--.

Claim 23 recites the limitation “a lateral side of the rapid-entry shoe” in line 2. However the lateral side has been previously recited in claim 1. It appears that the limitation should read --the lateral side of the rapid-entry shoe--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph 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 the first paragraph of pre-AIA 35 U.S.C. 112:

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.

9. Claims 1-5, 7-9, 17, and 23 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for applications subject to pre-AIA 35 U.S.C. 112, the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 1, there is no support in the original specification for the heel structure being *contained within* a rear portion of the upper. There is no discussion in the specification regarding the

specific relationship between the heel structure and the upper, and the drawings do not clearly show how the two elements interact with each other.

Regarding claim 1, there is no support in the original specification for the base extending between a medial side and a lateral side of the rapid-entry shoe. This language is not in the original specification, and the drawings have only a side view of the heel structure which does not show it extending between two sides of the shoe.

Regarding claim 8, there is no support in the original specification for at least a portion of the flare being covered by a cushioning component. The cushioning component is not shown in the drawings, and the specification does not discuss the location of the cushioning component in relation to the flare (see paragraph 0056).

Regarding claim 23, there is no support in the original specification for the window being positioned below the flare and between the medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe. This language is not in the original specification, and the drawings have only a side view of the heel structure which does not show it extending between two sides of the shoe.

Claims 2-5, 7, 9, and 17 depend from rejected claim 1.

10. The following is a quotation of 35 U.S.C. 112(b):
(b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-5, 7-11, 13-19, and 22-24 are rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which the inventor or a joint inventor (or for applications subject to pre-AIA 35 U.S.C. 112, the applicant), regards as the invention.

Claims 1 and 10 recite the limitation “a flare” in lines 7 and 5, respectively. It is not clear what structure is encompassed by such language, as it has not been described in the specification or shown in the drawings. For purposes of examination it is interpreted as an element extending outward from a base.

Claims 2-9, 11-17, 19, and 21 depend from rejected claims 1, 10, and 18.

Claim Rejections - 35 USC § 102

12. 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 (i.e., changing from AIA to pre-AIA) 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.

13. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

14. Claim(s) 1-5, 7-11, 13-19, and 22-24 is/are rejected under pre-AIA 35 U.S.C. 102(e) as being anticipated by Somerville (US 2011/0016751).

Regarding claim 1, Somerville discloses a rapid-entry shoe comprising: a sole (4); an upper (8, 52) at least partially comprising a flexible material (50); and a heel structure (10) contained within a rear portion of the upper, the heel structure extending from the sole portion and comprising: a base (lower rear portion of vamp 8, as seen in annotated Fig. 10) extending between a medial side and a lateral side of the rapid-entry shoe; and a flare (23) extending upward and rearward from a rear, top portion of the base between the medial side of and the lateral side of the rapid-entry shoe, wherein at least a portion of the rapid-entry shoe at least partially pivots about an axis (18) and causes the flexible material to

expand in response to a downward force applied to the flare (as seen in Fig. 8) (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10).

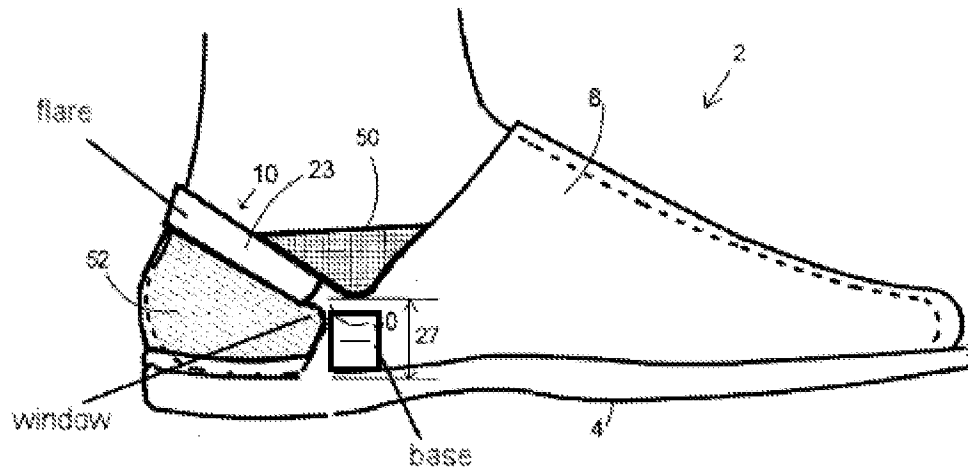


Figure 10

Regarding claim 2, Somerville discloses a slit provided in the upper (as seen in Fig. 9, 10).

Regarding claim 3, Somerville discloses that the flexible material is provided in the slit (Fig. 9, 10).

Regarding claim 4, Somerville discloses that the slit at least partially defines the axis (Fig. 9, 10).

Regarding claim 5, Somerville discloses that a location of the slit in the upper defines an amount of movement about the axis (Fig. 9, 10).

Regarding claim 7, Somerville discloses that the base and flare define a window (as seen in annotated Fig. 10).

Regarding claim 8, Somerville discloses that the heel structure is at least partially covered by a cushioning component (52; Fig. 10, wherein at least the bottom edge is covered by 52).

Regarding claim 9, Somerville discloses that the heel structure is comprised of a plastic, a metal, a composite or a combination thereof (paragraph 0060).

Regarding claim 10, Somerville discloses a rapid-entry shoe, comprising: an upper (8) comprising a flexible material (50); and a heel structure (10) provided in a rear portion of the rapid-entry shoe, the heel structure comprising a flare (23) extending rearward from an upper portion of a base (lower rear portion of vamp 8, as seen in annotated Fig. 10) of the heel structure, wherein the flare directs a foot into an opening of the rapid-entry shoe; causes at least a portion of the rapid-entry shoe to pivot about an axis in response to the foot applying pressure to the flare when the foot is inserted into the opening of the rapid-entry shoe (Fig. 8); and causes the flexible material to expand in response to the foot being inserted into the opening of the rapid-entry shoe (Fig. 8) (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10).

Regarding claims 11 and 13, Somerville discloses a slit provided in the upper, wherein the flexible material is provided in the slit (Fig. 9, 10).

Regarding claim 13, Somerville discloses that the slit at least partially defines the axis of rotation (Fig. 9).

Regarding claim 14, Somerville discloses that a location of the slit in the upper defines an amount of movement about the axis (Fig. 9, 10).

Regarding claim 15, Somerville discloses that the heel structure at least partially surrounds the rear portion of the rapid-entry shoe (Fig. 9, 10).

Regarding claim 16, Somerville discloses a shoe cushioning component (52) provided on at least a portion of the heel structure (Fig. 10).

Regarding claim 17, Somerville discloses that the heel structure is comprised of a plastic, a metal, a composite or a combination thereof (paragraph 0060).

Regarding claim 18, Somerville discloses a rapid-entry shoe comprising: a sole (4); an upper (8) comprising a flexible material (50) and defining an opening of the rapid-entry shoe; a heel structure (10) disposed at a rear portion of the rapid-entry shoe and extending from the sole portion, the heel

structure comprising: a base (lower rear portion of vamp 8, as seen in annotated Fig. 10); and a flare (23) extending rearward and upward from a top portion of the base, the flare causing the heel structure to at least partially pivot about an axis of rotation proximal to the sole in response to a foot being inserted into the opening of the rapid-entry shoe (Fig. 8) and causing the upper transition from a first state to an expanded state (Fig. 8) is response to the foot being inserted into the opening of the rapid-entry shoe (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10).

Regarding claim 19, Somerville discloses that the flexible material forms at least a portion of a topline of the rapid-entry shoe (Fig. 9, 10).

Regarding claim 22, Somerville discloses that the base and flare form a single, continuous structure (Fig. 10).

Regarding claim 23, Somerville discloses that the window is positioned below the flare and between the medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe (Fig. 10).

Regarding claim 24, Somerville discloses that the axis is proximal to a sole of the rapid entry shoe (Fig. 10).

Response to Arguments

15. Applicant's arguments filed 10/12/2023 have been fully considered but they are not persuasive.

Regarding the objection the specification, objection to the drawings, and 35 USC 112(b) rejections, Applicant argues that the amendments to the claims overcome the objections and 35 USC 112 rejections. However, these elements are not described in the specification or labeled in the drawings. For example, it is not clear which elements in the drawings the flare, window, or base are, as this terminology is not used in the specification and the elements are not pointed to in the drawings. Further, it is not clear from the drawings or specification what structure is encompassed by the term "flare.

Applicant argues that the heel restraint of Somerville extends from the vamp, and is not contained within a rear portion of the upper. However, the upper of Somerville includes both the vamp 8, fabric portion 50, and the heel cover 52 (as seen in Fig. 10 and discussed above). Inasmuch as Applicant has defined “contained within” in the claims, the heel structure of Somerville is contained within these three elements, as clearly seen in Fig. 10.

Applicant argues that Somerville fails to disclose “a base extending between a medial side and a lateral side of the rapid-entry shoe; and a flare extending upward and rearward from a rear, top portion of the base between the medial side of and the lateral side of the rapid-entry shoe.” However, these elements are clearly shown in Fig. 10, as annotated above.

Applicant argues that Somerville fails to disclose that “at least a portion of the rapid-entry shoe at least partially pivots about an axis and causes the flexible material to expand in response to a downward force applied to the flare.” However, Somerville clearly shows this in Fig. 8.

Applicant argues that the heel strap 23 is not a flare. However, inasmuch as Applicant has defined a flare within the claims, and as the term ‘flare’ is best understood, the heel strap 23 of Somerville is a flare, and is an element extending outward from a base. Applicant further argues that the heel strap 23 extends from the vamp 8 of Somerville, and the vamp is not equivalent to a heel structure. However, as seen in annotated Fig. 10 above, the heel strap extends from a rear, top portion of a base within the heel portion of the shoe.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON M PRANGE whose telephone number is (571)270-5280. The examiner can normally be reached M-F 8:30-5 EST.

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, Khoa Huynh can be reached on (571) 272-4888. 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.

/SHARON M PRANGE/
Primary Examiner, Art Unit 3732

S/N: 17/989,156

PATENT
Conf. No. 9468

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	Michael Pratt	Examiner:	Prange, Sharon
Serial No.:	17/989,156	Group Art Unit:	3732
Filed:	November 17, 2022	Docket No.:	P-00294
Title:	Rapid-Entry Shoe		

AMENDMENT & RESPONSE TO FINAL OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Final Office Action mailed August 2, 2023, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Remarks/Arguments begin on page 6 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions and listings of claims in this application:

Listing of Claims:

1. (Currently Amended) A rapid-entry shoe, comprising:
 - a sole; ~~portion;~~
 - an upper at least partially comprising a flexible material; and
 - a heel structure ~~provided~~ contained within a rear portion of the upper, the heel structure extending from the sole ~~portion~~ and comprising:
 - a base extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe; ~~body portion;~~ and
 - a flare extending upward and rearward ~~[[back]]~~ from a rear, top portion of the ~~body portion~~ base between the medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe, wherein at least a portion of the rapid-entry shoe at least partially pivots about an axis and causes the flexible material to expand in response to a downward force applied to the flare.
2. (Previously Presented) The rapid-entry shoe of claim 1, further comprising a slit provided in the upper.
3. (Previously Presented) The rapid-entry shoe of claim 2, wherein the flexible material is provided in the slit.
4. (Previously Presented) The rapid-entry shoe of claim 2, wherein the slit at least partially defines the axis.
5. (Previously Presented) The rapid-entry shoe of claim 2, wherein a location of the slit in the upper defines an amount of movement about the axis.
6. (Canceled)

7. (Currently Amended) The rapid-entry shoe of claim 1, wherein the base and the flare define body portion defines a window.
8. (Currently Amended) The rapid-entry shoe of claim 1, wherein at least a portion of the flare is the heel structure is at least partially covered by a cushioning component.
9. (Previously Presented) The rapid-entry shoe of claim 1, wherein the heel structure is comprised of a plastic, a metal, a composite or a combination thereof.
10. (Currently Amended) A rapid-entry shoe, comprising:
an upper comprising a flexible material; and
a heel structure provided in a rear portion of the rapid-entry shoe, the heel structure comprising:
a ~~rearward extending~~ flare extending rearward from an upper portion of a base of the heel structure, the flare and the base forming a single structure, wherein the flare:
directs that directs a foot into an opening of the rapid-entry shoe;
causes at least a portion of the rapid-entry shoe to pivot about an axis in response to the foot applying pressure to the flare when the foot is inserted into the opening of the rapid-entry shoe; and
causes , and wherein: the flexible material to expand expands in response to the foot being inserted into the opening of the rapid-entry shoe; ~~and~~
~~the heel structure prevents the rear portion of the rapid-entry shoe from collapsing in response to the foot being inserted into the opening of the rapid-entry shoe.~~
11. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a slit provided in the upper, wherein the flexible material is provided in the slit.
12. (Canceled)
13. (Currently Amended) The rapid-entry shoe of claim 10, further comprising a slit provided in the upper, [[and]] wherein the slit at least partially defines the axis.

14. (Previously Presented) The rapid-entry shoe of claim 13, wherein a location of the slit in the upper defines an amount of movement about the axis.

15. (Previously Presented) The rapid-entry shoe of claim 10, wherein the heel structure at least partially surrounds the rear portion of the rapid-entry shoe.

16. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a shoe cushioning component provided on at least a portion of the heel structure.

17. (Previously Presented) The rapid-entry shoe of claim 7, wherein the heel structure is comprised of a plastic, a metal, a composite or a combination thereof.

18. (Currently Amended) A rapid-entry shoe, comprising:

a sole;

an upper comprising a flexible material and defining an opening of the rapid-entry shoe;

a heel structure disposed at a rear portion of the rapid-entry shoe and extending from the sole, the heel structure comprising:

a base; and

a flare extending rearward and upward from a top portion of the base, the flare causing the heel structure to at least partially pivot about an axis of rotation proximal to the sole in response to a foot being inserted into the opening of the rapid-entry shoe and preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe and wherein the causing the upper to transition transitions from a first state to an expanded state in response to the foot being inserted into when the foot is placed in the opening of the rapid-entry shoe.

19. (Previously Presented) The rapid-entry shoe of claim 18, wherein the flexible material forms at least a portion of a topline of the rapid-entry shoe.

20. (Canceled)

21. (Canceled)

22. (New) The rapid-entry shoe of claim 18, wherein the base and flare form a single, continuous structure.

23. (New) The rapid-entry shoe of claim 7, wherein the window is positioned below the flare and between the medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe.

24. (New) The rapid-entry shoe of claim 10, wherein the axis is proximal to a sole of the rapid entry shoe.

REMARKS/ARGUMENTS

This Amendment and the following remarks are intended to fully respond to the Final Office Action dated August 2, 2023, hereinafter the “Office Action.” In that Office Action, the specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter; the drawings were objected to for not including reference numbers for various claim elements; claims 1-19 and 21 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement; claims 1-19 and 21 were also rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite; claims 1-19 and were also rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Publication No. 2011/0016751 to Somerville (hereinafter “Somerville”).

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. In this Amendment, claims 1, 7, 8, 10, 13 and 18 have been amended, claims 6, 12, and 21 have been canceled without prejudice and new claims 22-24 have been added. Therefore, claims 1-5, 7-11, 13-19 and 22-24 remain for examination. Applicant further submits that no new matter has been added in this Amendment.

Statement of Summary of Examiner Interview

Applicant thanks Examiner Prange for the telephonic interview held with Applicant’s representative, Greg Johnson, Reg. No. 59,027, on October 11, 2023. During that interview, the objections to the specification, the objections to the drawings and the various claim rejections were discussed. Potential claim amendments to overcome the objections and rejections were also discussed. While no agreement was reached as to the allowability of the claims, the claims have been amended to includes the various features discussed in the interview. Accordingly, Applicant submits that all outstanding objections and rejections should be withdrawn.

Objection to the Specification

The specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter.

As discussed in the Statement of Summary of Examiner Interview section, the claims have been amended to include features discussed in the interview of October 11, 2023. Applicant

submits that these amendments overcome the objections to the specification. Accordingly, Applicant respectfully requests the Examiner withdraw the objections to the specification.

Objection to the Drawings

The drawings were objected to for failing to include reference numbers for some claimed features.

As discussed in the Statement of Summary of Examiner Interview, the claims have been amended to include features discussed in the interview of October 11, 2023 interview. Applicant submits that these amendments overcome the objections to the drawings. Accordingly, Applicant requests the Examiner withdraw the objections to the drawings.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-19 and 21 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement and were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite.

In response to these rejections, the claims have been amended to include features that were discussed in the interview of October 11, 2023. Applicant submits that these amendments address, and overcome, the 35 U.S.C. § 112, first paragraph and second paragraph rejections.

Accordingly, Applicant requests the Examiner withdraw the 35 U.S.C. § 112 first and second paragraph rejections of the claims.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-19 and 21 were rejected under 35 U.S.C. §102 (e)as allegedly being anticipated by Somerville.

Preliminarily, claims 6, 12 and 21 have been canceled without prejudice. Accordingly, the rejection of these claims is moot.

Claims 1-5 and 7-9

Without acquiescing to the propriety of the rejection and solely for the purpose of advancing prosecution, claim 1 has been amended to recite, among other features, “a heel structure contained within a rear portion of the upper.” Applicant submits that Somerville does not disclose or suggest a heel structure contained within a rear portion of an upper as claimed.

Somerville describes “a sandal [that] includes a rubber sole...and a leather vamp...” (Somerville, para. [0042]). According to Somerville, the “sandal further includes a pivotal heel restraint which extends from either side of the vamp and around the upper heel of the foot.” (Somerville, para. [0042]). Somerville also discloses that the “heel restraint includes the arcuate heel strap which is made from leather...[and] further includes a plastic stiffener mounted to the outside of the heel strap.” (Somerville, para. [0044]).

However, contrary to the heel structure of claim 1, the heel restraint is not contained within a rear portion of an upper of the sandal of Somerville. Rather, the heel restraint “extends from the vamp.” (Somerville, para. [0045]). There is no disclosure in Somerville that discloses or suggests that the heel restraint is contained, or can be contained, within the vamp.

Based on the above, Applicant submits that claim 1, and dependent claims 2-5 and 7-9 are patentable over Somerville and are in condition for allowance.

Claim 1 also recites that the heel structure includes “a base extending between a medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe; and a flare extending upward and rearward from a rear, top portion of the base between the medial side of the rapid-entry shoe and a lateral side of the rapid-entry shoe.” Claim 1 further recites that “at least a portion of the rapid-entry shoe at least partially pivots about an axis and causes the flexible material to expand in response to a downward force applied to the flare.” Applicant submits that Somerville also fails to disclose or suggest these features.

In the Office Action, the Examiner appears to equate the heel restraint of Somerville to the flare recited in claim 1. Applicant respectfully disagrees and submits that even if the heel restraint of Somerville is equivalent to the claimed flare, as previously described, the heel restraint extends from the vamp of Somerville’s sandal. The vamp described in Somerville is not equivalent to a heel structure nor does the heel restraint extend upward and rearward from a top, rear portion of the vamp.

Accordingly, Applicant submits that claim 1, and dependent claims 2-5 and 7-9 are patentable over Somerville and are in condition for allowance.

Claims 10-11 and 13-17

Claim 10 includes similar features to those described above with respect to claim 1. For example, claim 10 recites in part, “a flare extending rearward from an upper portion of a base of the heel structure, the flare and the base forming a single structure, wherein the flare: directs a

foot into an opening of the rapid-entry shoe; causes at least a portion of the rapid-entry shoe to pivot about an axis in response to the foot applying pressure to the flare when the foot is inserted into the opening of the rapid-entry shoe; and causes the flexible material to expand in response to the foot being inserted into the opening of the rapid-entry shoe.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 10, and dependent claims 11 and 13-17, are patentable over Somerville and are in condition for allowance for at least similar reasons.

Claims 18-19

Claim 18 includes similar features to those described above with respect to claim 1. For example, claim 18 recites in part, “a base; and a flare extending rearward and upward from a top portion of the base, the flare causing the heel structure to at least partially pivot about an axis of rotation proximal to the sole in response to a foot being inserted into the opening of the rapid-entry shoe and causing the upper to transition from a first state to an expanded state in response to the foot being inserted into the opening of the rapid-entry shoe.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 18, and dependent claim 19, are patentable over Somerville and are in condition for allowance for at least similar reasons.

New Claims 22-24

Claims 22-24 are new and depend from claims 1, 10 and 18 respectively. As discussed above, claims 1, 10 and 18 are patentable over Somerville. Accordingly, Applicant submits that claims 22-24 are also patentable over Somerville at least for their dependencies on claims 1, 10 and 18.

CONCLUSION

This Amendment fully responds to the Office Action mailed August 2, 2023. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the references of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

The response is filed concurrently with a Request for Continued Examination (RCE), along with the requisite fee. It is believed that no additional fees are due with this response.

In light of the above remarks and amendments, Applicant submits this application is in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

Dated: 10/12/23_____

/Eric Nielsen/

Eric Nielsen
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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL (Submitted Only via EFS-Web)

Application Number	17/989,156	Filing Date	2022-11-17	Docket Number (if applicable)	P-00294	Art Unit	3732
First Named Inventor	MICHAEL PRATT			Examiner Name	PRANGE, SHARON M		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

☐ Other _____

☒ Enclosed

☒ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☐ Other _____

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

☐ The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No _____

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Signature of Registered U.S. Patent Practitioner

Signature	/Eric Nielsen/	Date (YYYY-MM-DD)	2023-10-12
Name	Eric Nielsen	Registration Number	60,183

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/989,156	11/17/2022	MICHAEL PRATT	P-00294	9468
164668	7590	08/02/2023	EXAMINER	
FAST IP, LLC 1172 West 700 North Suite 200 Lindon, UT 84042			PRANGE, SHARON M	
			ART UNIT	PAPER NUMBER
			3732	
			NOTIFICATION DATE	DELIVERY MODE
			08/02/2023	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):

enielsen@kizik.com

Office Action Summary

Application No.

17/989,156

Applicant(s)

PRATT, MICHAEL

Examiner

SHARON M PRANGE

Art Unit

3732

AIA (FITF) 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 21 June 2023.
☐ 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) 1-19 and 21 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) 1-19 and 21 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 17 November 2022 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: ____.

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

This is in response to Applicant's amendment in which claims 1, 4, 5, 10, 12-15, and 18 have been amended, claims 20 has been canceled, claims 21 has been added, and claims 1-19 and 21 remain pending.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Regarding claim 1, there is no antecedent basis for "a body portion" of the heel structure.

Regarding claims 1 and 10, there is no antecedent basis for "a flare" of the heel structure.

Regarding claim 7, there is no antecedent basis for "a window."

Regarding claim 10, there is no antecedent basis for "the heel structure prevents the rear portion of the rapid-entry shoe from collapsing in response to the foot being inserted into the opening of the rapid-entry shoe."

Regarding claim 18, there is no antecedent basis for "preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe."

Drawings

3. The drawings are objected to because several claim limitations are not given reference numbers and specifically pointed out in the drawings, and it is not clear which elements in the drawings are referred to in the claim limitations: a body portion (claim 1), a flare (claim 1), a window (claim 7). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being

amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph 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 the first paragraph of pre-AIA 35 U.S.C. 112:

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.

5. Claims 1-19 and 21 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for applications subject to pre-AIA 35 U.S.C. 112, the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1 and 10, there is no support in the original specification for a flare extending from the body portion. A flare is not described in the specification or labeled in the drawings.

Regarding claim 10, there is no support in the original specification for the heel structure prevents the rear portion of the rapid-entry shoe from collapsing in response to the foot being inserted into the opening of the rapid-entry shoe. There is no discussion in the specification regarding preventing the rear portion of the shoe from collapsing, and it is further not shown in the drawings.

Regarding claim 18, there is no support in the original specification for preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe. There is no discussion in the specification regarding preventing the rear portion of the upper from collapsing, and it is further not shown in the drawings.

Claims 2-9, 11-17, 19, and 21 depend from rejected claims 1, 10, and 18.

6. The following is a quotation of 35 U.S.C. 112(b):
(b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-19 and 21 are rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor (or for applications subject to pre-AIA 35 U.S.C. 112, the applicant), regards as the invention.

Claims 1 and 10 recite the limitation “a flare” in lines 7 and 5, respectively. It is not clear what structure is encompassed by such language, as it has not been described in the specification or shown in

the drawings. For purposes of examination it is interpreted as an element extending outward from a body portion.

Claim 10 recites the limitation “the heel structure prevents the rear portion of the rapid-entry shoe from collapsing in response to the foot being inserted into the opening of the rapid-entry shoe” in lines 9-11. It is not clear what structure is encompassed by such language, as it has not been described in the specification or shown in the drawings.

Claim 18 recites the limitation “preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe” in lines 6-7. It is not clear what structure is encompassed by such language, as it has not been described in the specification or shown in the drawings.

Claims 2-9, 11-17, 19, and 21 depend from rejected claims 1, 10, and 18.

Claim Rejections - 35 USC § 102

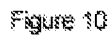
8. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis (i.e., changing from AIA to pre-AIA) for the rejection will not be considered a new ground of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

9. 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 –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Regarding claim 1, Somerville discloses a rapid-entry shoe comprising: a sole portion (4); an upper (8) at least partially comprising a flexible material (50); and a heel structure (10) provided in a rear portion of the upper, the heel structure extending from the sole portion and comprising: a body portion (as seen in annotated Fig. 10); and a flare (23) extending upward and back from the body portion, wherein at least a portion of the rapid-entry shoe at least partially pivots about an axis (18) and causes the flexible material to expand in response to a downward force applied to the flare (as seen in Fig. 8) (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10).



Regarding claim 3, Somerville discloses that the flexible material is provided in the slit (Fig. 9,

Regarding claim 5, Somerville discloses that a location of the slit in the upper defines an amount of movement about the axis (Fig. 9, 10).

Regarding claim 6, Somerville discloses that the heel structure at least partially surrounds the rear portion (Fig. 9, 10).

Regarding claim 7, Somerville discloses that the body portion defines a window (as seen in annotated Fig. 10).

Regarding claim 8, Somerville discloses that the heel structure is at least partially covered by a cushioning component (52; Fig. 10).

Regarding claim 9, Somerville discloses that the heel structure is comprised of a plastic, a metal, a composite or a combination thereof (paragraph 0060).

Regarding claim 10, Somerville discloses a rapid-entry shoe, comprising: an upper (8) comprising a flexible material (50); and a heel structure (10) provided in a rear portion of the rapid-entry shoe, the heel structure comprising a rearward extending flare (23) that directs a foot into an opening of the rapid-entry shoe; and wherein the flexible material expands in response to the foot being inserted into the opening of the rapid-entry shoe (Fig. 8); and the heel structure prevents the rear portion of the rapid entry shoe from collapsing in response to the foot being inserted into the opening of the rapid-entry shoe (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10).

Regarding claims 11 and 13, Somerville discloses a slit provided in the upper, wherein the flexible material is provided in the slit (Fig. 9, 10).

Regarding claim 12, Somerville discloses that at least a portion of the rapid-entry shoe at least partially pivots about an axis (18) in response to the foot being inserted into the opening of the rapid-entry shoe (Fig. 8).

Regarding claim 13, Somerville discloses that the slit at least partially defines the axis of rotation (Fig. 9).

Regarding claim 14, Somerville discloses that a location of the slit in the upper defines an amount of movement about the axis (Fig. 9, 10).

Regarding claim 15, Somerville discloses that the heel structure at least partially surrounds the rear portion of the rapid-entry shoe (Fig. 9, 10).

Regarding claim 16, Somerville discloses a shoe cushioning component (52) provided on at least a portion of the heel structure (Fig. 10).

Regarding claim 17, Somerville discloses that the heel structure is comprised of a plastic, a metal, a composite or a combination thereof (paragraph 0060).

Regarding claim 18, Somerville discloses a rapid-entry shoe comprising: a sole portion (4); an upper (8) comprising a flexible material (50) and defining an opening of the rapid-entry shoe; a heel structure (10) disposed at a rear portion of the rapid-entry shoe and extending from the sole portion, the heel structure preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe and wherein the upper transitions from a first state to an expanded state (Fig. 8) when the foot is placed in the opening of the rapid-entry shoe (paragraphs 0042, 0044, 0047, 0049, 0051, 0056-0057; Fig. 8-10).

Regarding claim 19, Somerville discloses that the flexible material forms at least a portion of a topline of the rapid-entry shoe (Fig. 9, 10).

Regarding claim 21, Somerville discloses a flare (23) extending upward and back from a top portion of the heel structure (Fig. 9, 10).

Response to Arguments

11. Applicant's arguments filed 06/21/2023 have been fully considered but they are not persuasive. Regarding the objection the specification, objection to the drawings, and 35 USC 112 rejections, Applicant argues that the claimed subject matter is clearly shown and/or described in Fig. 29-32 and paragraph [0059]. However, these elements are not described in the specification or labeled in the drawings. For example, it is not clear which elements in the drawings the flare, window, or body portion are, as this terminology is not used in the specification and the elements are not pointed to in the

drawings. Further, there is no support in the specification for the heel structure preventing the rear portion from collapsing, and these limitation cannot be supported by the drawings alone. Applicant's broad declaration of support in Fig. 29-32 and paragraph [0059] does not clarify any of the elements as objected to/rejected above, and does not point to any specific support for these elements.

Applicant's further arguments with respect to claim(s) 1-19 and 21 have been considered but are moot because the new ground of rejection does not rely on any reference applied in the prior rejection of record for any teaching or matter specifically challenged in the argument.

Conclusion

12. 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.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON M PRANGE whose telephone number is (571)270-5280. The examiner can normally be reached M-F 8:30-5 EST.

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, Khoa Huynh can be reached on (571) 272-4888. 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.

/SHARON M PRANGE/
Primary Examiner, Art Unit 3732

S/N: 17/687,890

PATENT
Conf. No. 9468

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	Michael Pratt	Examiner:	Prange, Sharon
Serial No.:	17/989,156	Group Art Unit:	3732
Filed:	November 17, 2022	Docket No.:	P-00294
Title:	Rapid-Entry Shoe		

AMENDMENT & RESPONSE TO NON-FINAL OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Non-Final Office Action mailed March 23, 2023, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions and listings of claims in this application:

Listing of Claims:

1. (Currently Amended) A rapid-entry shoe, comprising:
 - a sole portion;
 - an upper at least partially comprising a flexible material; and
 - a heel structure provided in a rear portion of the upper, the heel structure extending from the sole portion and comprising:
 - a body portion; and
 - a flare extending upward and back from the body portion, wherein at least a portion of the rapid-entry shoe ~~the flare causing the heel structure to~~ at least partially ~~rotate~~ pivots about an axis ~~of rotation~~ and causes the flexible material to expand in response to a downward force applied ~~[[on]]~~ to the flare.
2. (Previously Presented) The rapid-entry shoe of claim 1, further comprising a slit provided in the upper.
3. (Previously Presented) The rapid-entry shoe of claim 2, wherein the flexible material is provided in the slit.
4. (Currently Amended) The rapid-entry shoe of claim 2, wherein the slit at least partially defines the axis ~~of rotation~~.
5. (Currently Amended) The rapid-entry shoe of claim 2, wherein a location of the slit in the upper defines an maximum amount of movement about the axis ~~of rotation~~.
6. (Previously Presented) The rapid-entry shoe of claim 1, wherein the heel structure at least partially surrounds the rear portion.

7. (Previously Presented) The rapid-entry shoe of claim 1, wherein the body portion defines a window.
8. (Previously Presented) The rapid-entry shoe of claim 1, wherein the heel structure is at least partially covered by a cushioning component.
9. (Previously Presented) The rapid-entry shoe of claim 1, wherein the heel structure is comprised of a plastic, a metal, a composite or a combination thereof.
10. (Currently Amended) A rapid-entry shoe, comprising:
a sole portion;
an upper comprising a flexible material; and
a heel structure provided in a rear portion of the rapid-entry shoe, the heel structure ~~[[;]]~~ comprising a rearward extending flare ~~extending rearward from the heel structure to that~~ directs a foot into an ~~an~~ [[foot]] opening of the rapid-entry shoe, ~~[[;]]~~ and wherein:
the flexible material expands in response to the foot being inserted into the opening of the rapid-entry shoe; and
the heel structure prevents preventing the rear portion of the rapid-entry rapid-entry shoe from collapsing ~~while the flexible material expands in response to insertion of the foot being~~ inserted into the ~~[[foot]]~~ opening of the rapid-entry shoe.
11. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a slit provided in the upper, wherein the flexible material is provided in the slit.
12. (Currently Amended) The rapid-entry shoe of claim 10, wherein at least a portion of the rapid-entry shoe ~~the heel structure~~ at least partially ~~rotates pivots~~ about an axis ~~of rotation~~ in response to ~~the insertion of the foot~~ being inserted into the opening of the rapid-entry shoe.
13. (Currently Amended) The rapid-entry shoe of claim 12, further comprising a slit provided in the upper and wherein the slit at least partially defines the axis ~~of rotation~~.

14. (Currently Amended) The rapid-entry shoe of claim 13, wherein a location of the slit in the upper defines an maximum amount of movement about the axis ~~of rotation~~.

15. (Currently Amended) The rapid-entry shoe of claim 10, wherein the heel structure at least partially surrounds the rear portion of the rapid-entry shoe.

16. (Previously Presented) The rapid-entry shoe of claim 10, further comprising a shoe cushioning component provided on at least a portion of the heel structure.

17. (Previously Presented) The rapid-entry shoe of claim 7, wherein the heel structure is comprised of a plastic, a metal, a composite or a combination thereof.

18. (Currently Amended) A rapid-entry shoe, comprising:

a sole; ~~portion~~;

an upper comprising a flexible material and defining an opening ~~[[for]]~~ of the rapid-entry shoe;

a heel structure disposed at a rear portion of the rapid-entry shoe and extending from the sole, ~~portion~~; the heel structure preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe and wherein the upper transitions from a first state to an expanded ~~second~~ state when the foot is placed in the opening of the rapid-entry shoe.

19. (Previously Presented) The rapid-entry shoe of claim 18, wherein the flexible material forms at least a portion of a topline of the rapid-entry shoe.

20. (Canceled)

21. (New) The rapid-entry shoe of claim 18, further comprising a flare extending upward and back from a top portion of the heel structure.

REMARKS/ARGUMENTS

This Amendment and the following remarks are intended to fully respond to the Non-Final Office Action dated March 23, 2023, hereinafter the “Office Action.” In that Office Action, claims 1-20 were examined and all claims were rejected. Specifically, claims 1-20 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement; were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite; and were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 3,146,535 to Owings (hereinafter “Owings”). In the Office Action, the drawings and specification were also object to.

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. In this Amendment, claims 1, 4-5, 10, 12-15 and 18 have been amended; claim 20 has been canceled without prejudice and new claim 21 has been added. No new matter has been added. Therefore, claims 1-19 and 21 remain for examination.

Statement of Summary of Examiner Interview

Applicant thanks Examiner Prange for the telephonic interview held with Applicant’s representative, Greg Johnson, on Friday, June 16, 2023. During that interview, the claims were discussed in view of the cited references. Potential claim amendments were also discussed. No agreement was reached as to the allowability of the claims.

Objection to the Specification

The specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter.

In response, Applicant directs the Examiner’s attention to at least Figures 29-32 of the application as originally filed along with at least paragraph [0059] of the published application. Applicant submits that the claimed subject matter in question is clearly shown and/or described in the figures and corresponding paragraph.

Accordingly, Applicant respectfully requests the Examiner withdraw the objection to the specification.

Objection to the Drawings

The drawings were objected to for failing to include reference numbers for some claimed features.

Without acquiescing to the propriety of the objection and in the interest of further prosecution, Applicant will add reference numbers, if required, when the application has otherwise been deemed allowable.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-20 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement and were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite.

In response to these rejections, Applicant directs the Examiner's attention to at least Figures 29-32 of the application as originally filed along with at least paragraph [0059] of the published application. Applicant submits that these figures, along with at least paragraph [0059] of the application, satisfy the written description requirement and indicate the subject matter of the claims.

Accordingly, Applicant requests the Examiner withdraw the 35 U.S.C. § 112 first and second paragraph rejections of the claims.

Claim Rejections Under 35 U.S.C. § 102

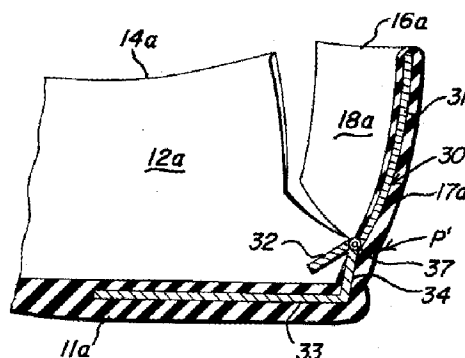
Claims 1-20 were rejected under 35 U.S.C. § 102 (b) as allegedly being anticipated by Owings.

Preliminarily, claim 20 has been canceled without prejudice. Accordingly, the rejection of claim 20 is moot.

Claims 1-9

Without acquiescing to the propriety of the rejection and solely for the purpose of advancing prosecution, claim 1 has been amended to recite, among other features, "a flare extending upward and back from the body portion, wherein at least a portion of the rapid-entry shoe at least partially pivots about an axis and causes the flexible material to expand in response to a downward force applied to the flare." Applicant submits that Owings does not disclose or suggest at least the above-recited features of claim 1.

In the Office Action, the Examiner points to the rigid bracket 30 of FIG. 6 (included below for the Examiner's convenience) as being equivalent to the claimed flare. Applicant respectfully disagrees.



As shown in FIG. 6 of Owings, the rigid bracket 30 does not extend “upward and back” from a body portion of a heel structure as required in the claim. Additionally, Applicant submits that Owings does not disclose or suggest that a downward force can be applied to the rigid bracket, let alone that the downward force would cause “at least a portion of the rapid-entry shoe [to] at least partially [pivot] about an axis” as required by the claim. Further, Applicant submits that the rigid bracket 30 does not cause a “flexible material to expand” as is also required by the claim.

Indeed, according to Owings, the overshoe shown in FIG. 6 does not expand at all. For example, Owings states “By providing a hinged section which *is normally biased to an open position*, the opening through which a shoe must be inserted is *sufficiently enlarged to eliminate any stretching of the wall*. Thus, the wearer does not reach down to grasp the overshoe wall, but merely steps into the overshoe. When the heel of the shoe reaches the surface of the heel portion of the sole, *the heel section will be pivoted to the closed position* by the lever means to provide the necessary clamping force for maintaining the overshoe in the proper position.” (Owings, col. 6, liens 6-16, emphasis added).

In accordance with the above, Applicant submits that claim 1, and dependent claims 2-9, are patentable over Owings and are in condition for allowance.

Claims 10-17

Claim 10 includes similar features to those described above with respect to claim 1. For example, claim 10 recites in part, “the heel structure comprising a rearward extending flare that

directs a foot into an opening of the rapid-entry shoe, and wherein: the flexible material expands in response to the foot being inserted into the opening of the rapid-entry shoe; and the heel structure prevents the rear portion of the rapid-entry shoe from collapsing in response to the foot being inserted into the opening of the rapid-entry shoe.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 10, and dependent claims 11-17, are patentable over Owings and are in condition for allowance for at least similar reasons.

Claims 18-19

Claim 18 includes similar features to those described above with respect to claim 1. For example, claim 18 recites in part, “a heel structure disposed at a rear portion of the rapid-entry shoe and extending from the sole, the heel structure preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe and wherein the upper transitions from a first state to an expanded state when the foot is placed in the opening of the rapid-entry shoe.”

Applicant reiterates the arguments made above with respect to claim 1 and submits that claim 18, and dependent claim 19, are patentable over Owings and are in condition for allowance for at least similar reasons.

New Claim 21

Claim 21 is new and depends from claim 18. As discussed above, claim 18 is patentable over Owings. Accordingly, Applicant submits that claim 21 is also patentable over Owings at least for its dependency on claim 18.

CONCLUSION

This Amendment fully responds to the Office Action mailed March 23, 2023. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the references of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

It is believed that no fees are due with this Response.

In light of the above remarks and amendments, it is believed this application is in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

Dated: June 21, 2023

/Eric Nielsen/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/989,156	11/17/2022	MICHAEL PRATT	P-00294	9468
164668	7590	03/23/2023	EXAMINER	
FAST IP, LLC 1172 West 700 North Suite 200 Lindon, UT 84042			PRANGE, SHARON M	
			ART UNIT	PAPER NUMBER
			3732	
			NOTIFICATION DATE	DELIVERY MODE
			03/23/2023	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):

enielsen@kizik.com

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Information Disclosure Statement

2. Since this application is a continuation of US Application 17/883355, the Examiner has considered the information provided in the parent application (per MPEP 609.02). Should Applicant desire the information to be printed in any patent issuing from this application, a new listing of the information must be separately submitted.

Election/Restrictions

3. Applicant's election without traverse of Species 10 (Fig. 29-32) in the reply filed on 02/27/2023 is acknowledged.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Regarding claim 1, there is no antecedent basis for "a body portion" of the heel structure.

Regarding claims 1 and 10, there is no antecedent basis for "a flare" of the heel structure.

Regarding claims 5 and 14, there is no antecedent basis for "the upper defines a maximum amount of movement about the axis of rotation."

Regarding claim 7, there is no antecedent basis for "a window."

Regarding claim 10, there is no antecedent basis for "preventing the rear portion of the rapid entry shoe from collapsing while the flexible material expands in response to insertion of the foot into the foot opening of the rapid-entry shoe."

Regarding claim 18, there is no antecedent basis for "preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe."

Drawings

5. The drawings are objected to because several claim limitations are not given reference numbers and specifically pointed out in the drawings, and it is not clear which elements in the drawings are referred to in the claim limitations: a body portion (claim 1), a flare (claim 1), a window (claim 7). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph 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 the first paragraph of pre-AIA 35 U.S.C. 112:

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.

7. Claims 1-20 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for applications subject to pre-AIA 35 U.S.C. 112, the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1 and 10, there is no support in the original specification for a flare extending from the body portion. A flare is not described in the specification or labeled in the drawings.

Regarding claims 5 and 14, there is no support in the original specification for a location of the slit in the upper defining a maximum amount of movement about the axis of rotation. There is no discussion in the specification regarding the slit and the maximum amount of movement, and it is further not shown in the drawings.

Regarding claim 10, there is no support in the original specification for preventing the rear portion of the rapid entry shoe from collapsing while the flexible material expands in response to insertion of the foot into the foot opening of the rapid-entry shoe. There is no discussion in the specification regarding preventing the rear portion of the shoe from collapsing, and it is further not shown in the drawings.

Regarding claim 18, there is no support in the original specification for preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe. There is no discussion in the specification regarding preventing the rear portion of the upper from collapsing, and it is further not shown in the drawings.

Claims 2-4, 6-9, 11-13, 15-17, and 19-20 depend from rejected claims 1, 10, and 18.

Art Unit: 3732

8. The following is a quotation of 35 U.S.C. 112(b):

(b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-20 are rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor (or for applications subject to pre-AIA 35 U.S.C. 112, the applicant), regards as the invention.

Claims 1 and 10 recite the limitation “a flare” in lines 7 and 5, respectively. It is not clear what structure is encompassed by such language, as it has not been described in the specification or shown in the drawings. For purposes of examination it is interpreted as an element extending outward from a body portion.

Claims 5 and 14 recite the limitation “a location of the slit in the upper defines a maximum amount of movement about the axis of rotation” in lines 1-2. It is not clear what structure is encompassed by such language, as it has not been described in the specification or shown in the drawings.

Claim 10 recites the limitation “preventing the rear portion of the rapid entry shoe from collapsing while the flexible material expands in response to insertion of the foot into the foot opening of the rapid-entry shoe” in lines 7-9. It is not clear what structure is encompassed by such language, as it has not been described in the specification or shown in the drawings.

Claim 18 recites the limitation “preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe” in lines 5-6. It is not clear what structure is

encompassed by such language, as it has not been described in the specification or shown in the drawings.

Claims 2-4, 6-9, 11-13, 15-17, and 19-20 depend from rejected claims 1, 10, and 18.

Claim Rejections - 35 USC § 102

10. 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.

11. 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.

12. Claim(s) 1-20 is/are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Owings (US 3,146,535).

Regarding claim 1, Owings discloses a rapid-entry shoe comprising: a sole portion (10); an upper (12, 13) at least partially comprising a flexible material (38); and a heel structure provided in a rear portion of the upper, the heel structure extending from the sole portion and comprising: a body portion (33); and a flare (30) extending from the body portion, the flare causing the heel structure to at least partially rotate about an axis of rotation (at hinge) and cause the flexible material to expand in response to a downward force applied on the flare (wherein a downward force on the top end of the bracket 30 would cause the flexible material to expand) (column 2, lines 36-69; column 4, line 71-column 6, line 3; Fig. 1, 5-10).

Regarding claim 2, Owings discloses a slit (slot between edges 39, 40) provided in the upper (column 5, lines 51-66; Fig. 9).

Regarding claim 3, Owings discloses that the flexible material is provided in the slit (Fig. 9).

Regarding claim 4, Owings discloses that the slit at least partially defines the axis of rotation (Fig. 6, 9).

Regarding claim 5, Owings discloses that a location of the slit in the upper defines a maximum amount of movement about the axis of rotation (Fig. 9, 10).

Regarding claim 6, Owings discloses that the heel structure at least partially surrounds the rear portion (Fig. 8, 9).

Regarding claim 7, Owings discloses that the body portion defines a window (hinge pin bracket 35, which includes an opening for hinge pin 37; Fig. 8).

Regarding claim 8, Owings discloses that the heel structure is at least partially covered by a cushioning component (17; Fig. 2, 9).

Regarding claim 9, Owings discloses that the heel structure is comprised of a plastic, a metal, a composite or a combination thereof (such as a metal; column 3, lines 45-46).

Regarding claim 10, Owings discloses a rapid-entry shoe, comprising: a sole portion (10); an upper (12, 13) comprising a flexible material (38); and a heel structure provided in a rear portion of the rapid-entry shoe, the heel structure: comprising a flare (30) extending rearward from the heel structure to direct a foot into a foot opening of the rapid-entry shoe; and preventing the rear portion of the rapid entry shoe from collapsing while the flexible material expands (due to its rigidity) in response to insertion of the foot into the foot opening of the rapid-entry shoe (column 2, lines 36-69; column 4, line 71-column 6, line 3; Fig. 1, 5-10).

Regarding claims 11 and 13, Owings discloses a slit (slot between edges 39, 40) provided in the upper, wherein the flexible material is provided in the slit (column 5, lines 51-66; Fig. 9, 10).

Regarding claim 12, Owings discloses that the heel structure at least partially rotates about an axis of rotation (at hinge) in response to the insertion of the foot into the opening of the rapid-entry shoe (Fig. 5, 6).

Regarding claim 13, Owings discloses that the slit at least partially defines the axis of rotation (Fig. 9).

Regarding claim 14, Owings discloses that a location of the slit in the upper defines a maximum amount of movement about the axis of rotation (Fig. 9, 10).

Regarding claim 15, Owings discloses that the heel structure at least partially surrounds the rear portion (Fig. 8, 9).

Regarding claim 16, Owings discloses a shoe cushioning component (17) provided on at least a portion of the heel structure (Fig. 2, 9).

Regarding claim 17, Owings discloses that the heel structure is comprised of a plastic, a metal, a composite or a combination thereof (such as a metal; column 3, lines 45-46).

Regarding claim 18, Owings discloses a rapid-entry shoe comprising: a sole portion (10); an upper (12, 13) comprising a flexible material (38) and defining an opening for the rapid-entry shoe; a heel structure (30, 33) disposed at a rear portion of the rapid-entry shoe and extending from the sole portion, the heel structure preventing the rear portion of the upper from collapsing when a foot is placed in the opening of the rapid-entry shoe (due to its rigidity) and wherein the upper transitions from a first state to a second state when the foot is placed in the opening of the rapid-entry shoe (column 2, lines 36-69; column 4, line 71-column 6, line 3; Fig. 1, 5-10).

Regarding claim 19, Owings discloses that the flexible material forms at least a portion of a topline of the rapid-entry shoe (Fig. 9).

Regarding claim 20, Owings discloses that the second state is an expanded state (wherein a downward force on the top end of the bracket 30 with the foot would cause the opening to expand).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON M PRANGE whose telephone number is (571)270-5280. The examiner can normally be reached M-F 8:30-5 EST.

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, Khoa Huynh can be reached on (571) 272-4888. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/SHARON M PRANGE/
Primary Examiner, Art Unit 3732