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NOTICE OF ALLOWANCE AND FEE(S) DUE

104326 7590 12/17/2021
Schwegman Lundberg & Woessner / Zimmer
P.O. Box 2938
Minneapolis, MN 55402

EXAMINER

ULSH, GEORGE J

ART UNIT

PAPER NUMBER

3771

DATE MAILED: 12/17/2021

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/539,473	08/13/2019	LON S. WEINER	4394.Q84US2	9049

TITLE OF INVENTION: STAPLES AND STAPLE DELIVERY AND DRILL GUIDES

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$600	\$0.00	\$0.00	\$600	03/17/2022

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 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity 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 EFS-Web.

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 including the Patent, advance orders and notification of maintenance fees 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.

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.

104326 7590 12/17/2021
Schwegman Lundberg & Woessner / Zimmer
P.O. Box 2938
Minneapolis, MN 55402

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 EFS-Web 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.
16/539,473	08/13/2019	LON S. WEINER	4394.Q84US2	9049

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nonprovisional	SMALL	\$600	\$0.00	\$0.00	\$600	03/17/2022

EXAMINER	ART UNIT	CLASS-SUBCLASS
ULSH, GEORGE J	3771	606-151000

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) ☐ Advance Order - # of Copies _____

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

☐ Electronic Payment via EFS-Web ☐ 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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P.O. Box 2938			ART UNIT	
Minneapolis, MN 55402			PAPER NUMBER	
			3771	
DATE MAILED: 12/17/2021				

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. 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 disclosure of these records is required by the Freedom of Information Act.
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 inspection 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.

Notice of Allowability	Application No. 16/539,473	Applicant(s) WEINER et al.	
	Examiner GEORGE J ULSH	Art Unit 3771	AIA (FITF) Status Yes

-- 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 the response of 11/24/2021.
☐ 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 1-2,4-9 and 17. 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) 2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date ____. 3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material ____. 4. ☐ Interview Summary (PTO-413), Paper No./Mail Date ____.	5. ☐ Examiner's Amendment/Comment 6. ☒ Examiner's Statement of Reasons for Allowance 7. ☐ Other ____.
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DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Allowable Subject Matter

Claims 1-2, 4-9, and 17 are allowed.

The following is an examiner's statement of reasons for allowance: there is no prior art alone or in combination that teaches a method of compressing biological elements that includes the combination of recited limitations in claims 1 and 17. The art alone or in combination did not teach wherein **(Claim 1)** the forming the first pair of apertures comprises forming the first pair of apertures within the pair of biological elements via a pair of openings in a drill guide portion of a guide; elastically deforming a substantially horseshoe shaped bridge portion of a staple from a first state to a second state to increase a separation distance between a pair of tines of the staple from a first distance in the first state to a second distance in the second state, wherein the pair of openings in the drill guide portion of the guide are spaced the second distance; **(Claim 17)** wherein the curved portion is angled downwardly toward the free end relative to a longitudinal dimension of a tine of the pair of tines. The closest prior art of record Allen (U.S. Patent Publication No. 2014/0018809 A1) fails to disclose the above limitations and would not be obvious to modify because of its divergent staple structure. Additionally, no other references, or reasonable combination thereof, could be found which disclose or suggest these features in combination with other limitations in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE J ULSH whose telephone number is (571)270-1433. The examiner can normally be reached Mon-Fri 9:00am-6:00pm.

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, Jackie Ho can be reached on (571) 272-4696. 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.

/GEORGE J ULSH/
Primary Examiner, Art Unit 3771

A/N 16/539,473

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Lon Weiner et al.

Examiner: GEORGE J. ULSH

Application No.: 16/539,473

Group Art Unit: 3771

Filed: August 13, 2019

Docket No.: 4394.Q84US2

Confirmation No.: 9049

Title: STAPLES AND STAPLE DELIVERY DRILL GUIDES

AMENDMENT & RESPONSE UNDER 37 C.F.R. § 1.111

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

Applicant has received the Office Action with Restriction Requirement dated August 31, 2021. Please enter the following.

This response is being filed within the 3-month period for responding to the Non-Final Office Action, without requiring any extension of time fees.

IN THE CLAIMS

Please amend the claims as follows:

1. (Currently Amended) A method of compressing [[two]]biological elements, comprising:
forming a first pair of apertures within a pair of biological elements, wherein the forming the first pair of apertures comprises forming the first pair of apertures within the pair of biological elements via a pair of openings in a drill guide portion of a guide;
elastically deforming a substantially horseshoe shaped bridge portion of a staple from a first state to a second state to increase a separation distance between a pair of tines of the staple from a first distance in the first state to a second distance in the second state, wherein the pair of openings in the drill guide portion of the guide are spaced the second distance;
the bridge portion connecting the pair of tines and comprising a curved portion and opposite leg portions, the curved portion having an arched inner surface and an arched outer surface, the inner surface and the leg portions bounding an open space;
the pair of tines extending from the bridge portion and including free ends configured to be implanted into the biological elements;
each tine of the tines extending along a first direction defined between the bridge portion and a free end of the free ends thereof;
maintaining the second state of the bridge portion;
implanting the pair of tines of the staple into the pair of apertures formed in the pair of biological elements to allow engagement of a plurality of engagement mechanisms of the pair of tines with the biological elements, the plurality of engagement mechanisms positioned on portions of the tines that substantially face the other tine of the pair of tines along the first direction;
releasing the potential energy of the elastic deformation of the second state of the bridge portion to apply a compressive force to the pair of biological elements via the tines and to engage the plurality of engagement mechanisms with the biological elements.
2. (Original) The method of claim 1 wherein the applying the compressive force to the pair of biological elements via the tines comprises the compressive force closing a space between the biological elements.

3. (Canceled)
4. (Original) The method of claim 1, wherein maintaining the second state of the bridge portion comprises engaging the staple with a staple engagement portion of a guide.
5. (Original) The method of claim 4, wherein releasing the energy of the elastic deformation of the second state of the bridge portion comprises disengaging the staple from the staple engagement portion of the guide.
6. (Original) The method of claim 1, wherein the bridge and the pair of tines comprise substantially rectangular cross-sections.
7. (Original) The method of claim 1 wherein the leg portions comprise linear portions extending opposite the open space relative to each other.
8. (Original) The method of claim 1 wherein the curved portion is angled downwardly toward the free end relative to a longitudinal dimension of a tine of the pair of tines.
9. (Original) The method of claim 1, wherein the pair of tines extend from opposing ends of the bridge portion, the ends having inner surfaces opposite each other about the open space.
- 10-16. (Canceled)
17. (New) A method of compressing biological elements, comprising:
 - forming a first pair of apertures within a pair of biological elements;
 - elastically deforming a substantially horseshoe shaped bridge portion of a staple from a first state to a second state to increase a separation distance between a pair of tines of the staple from a first distance in the first state to a second distance in the second state;
 - the bridge portion connecting the pair of tines and comprising a curved portion and opposite leg portions, the curved portion having an arched inner surface and an arched outer surface,

the inner surface and the leg portions bounding an open space;

the pair of tines extending from the bridge portion and including free ends configured to be implanted into the biological elements;

each tine of the tines extending along a first direction defined between the bridge portion and a free end of the free ends thereof;

the curved portion being angled downwardly toward the free end relative to a longitudinal dimension of a tine of the pair of tines;

maintaining the second state of the bridge portion;

implanting the pair of tines of the staple into the pair of apertures formed in the pair of biological elements to allow engagement of a plurality of engagement mechanisms of the pair of tines with the biological elements, the plurality of engagement mechanisms positioned on portions of the tines that substantially face the other tine of the pair of tines along the first direction;

releasing the potential energy of the elastic deformation of the second state of the bridge portion to apply a compressive force to the pair of biological elements via the tines and to engage the plurality of engagement mechanisms with the biological elements.

REMARKS

This responds to the Office Action with Restriction Requirement dated August 31, 2021 ("Office Action").

Claim 1 is presently amended. Claims 3 and 10-16 are presently canceled without prejudice or disclaimer, and no claims were canceled previously. New claim 17 is presently added. As a result, claims 1, 2, and 4-17 are now pending in this application.

Applicant hereby respectfully requests reconsideration of this application in view of the following remarks.

Formal Request for Telephonic Interview

1. Should the Examiner have any questions regarding this Response, the undersigned formally requests that a telephonic interview be held between the Examiner and patent attorney Adam Kiedrowski to help expedite examination. The Examiner is requested to phone Mr. Kiedrowski at (612) 349-9585 to arrange a time for such telephonic interview.

Affirmation of Election

2. Restriction to one of the following claims was required: Restriction to one of the following inventions was required under 35 U.S.C. § 121:

I. Claims 1-9, drawn to a method of compressing two biological elements classified in A61B17/0644.

II. Claims 10-16, drawn to a staple, classified in Y10S411/92.

As provisionally elected by Applicant's representative, Adam P. Kiedrowski, on August 24, 2021, Applicant elects to prosecute the invention of Group I, claims 1-9. However, Applicant reserves the right to later file continuations or divisions having claims directed to the non-elected inventions.

The Rejection of Claims Under § 112

3. The claims in this application were given their broadest reasonable interpretation using the plain meaning of the claim language in light of the specification as it would be understood by one of ordinary skill in the art.

Claims 1-9 were rejected under 35 U.S.C. § 112(b) or 35 U.S.C. § 112 (pre-AIA), second paragraph, as allegedly 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. Specifically, the Office Action alleges the following on page 6:

Regarding claim 1, the phrase "a pair of biological elements" renders the claim indefinite because it is unclear. It is unclear whether this is a different pair of biological elements or the aforementioned two biological elements. For the sake of compact prosecution, Examiner is interpreting the phrase as the latter.

In response, independent claim 1 has been amended to delete the term "two" from the preamble. In view of the foregoing amendment Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 112.

Allowable Subject Matter

4. Claims 3 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112(b) or 35 U.S.C. § 112 (pre-AIA), 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Applicant respectfully thanks the Office for the indication of allowable subject matter.

With this response dependent claim 3 has been incorporated into independent claim 1 and dependent claim 8 has been rewritten in independent form as new independent claim 17. Applicant respectfully submits that independent claims 1 and 17 are in condition for allowance.

The Rejection of Claims Under § 102

5. Claims 1, 2, 4-7, and 9 were rejected under 35 U.S.C. § 102(a) over Allen, U.S. Patent Pub. No. 2014/0018809 (“Allen”).

According to the Federal Circuit, “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W.L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 200 USPQ 303, 313 (Fed. Cir. 1983) (emphasis added). In addition, the Federal Circuit has held that a claimed combination cannot be anticipated by a reference if the allegedly anticipatory disclosure cited is not enabled. *Elan Pharms. Inc. v. Mayo Found. for Med. Educ. & Research*, 346 F.3d 1051, 68 USPQ 1373, 1375-76 (Fed. Cir. 2003). Allen does not meet these standards.

Applicant does not agree with the Office’s characterizations of Allen and its alleged applicability to the pending claims. However, without acquiescing to the merits of the rejection and solely in an effort to advance prosecution, independent claim 1 has been amended herein.

As discussed above, independent claim 1 has been amended to include the limitations of allowable dependent claim 3. In view of these amendments Applicant respectfully submits that independent claim 1 is in condition for allowance.

Claims 2, 4-7, and 9 are dependent on independent claim 1. The undersigned believes these dependent claims are patentable over the cited prior art for the reasons noted above in response to the rejection of independent claim 1, in addition to the elements recited in the claims.

Reconsideration and allowance of claims 1, 2, 4-7, and 9 are respectfully requested.

Reservation of Rights

6. In the interest of clarity and brevity, every assertion made in the Office Action may not have been equally addressed. Silence regarding any such assertion does not constitute any admission or acquiescence. All rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference, are reserved. It is not admitted that any of the cited references or any other references of record are relevant to the present claims, or that they

constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, timely objection to such reliance on Official Notice is made, and all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03, are reserved. All rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04, are likewise reserved.

CONCLUSION

It is respectfully submitted that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (612) 349-9585 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402-0938
(612) 349-9585

Date November 24, 2021

By / Adam P. Kiedrowski /

Adam P. Kiedrowski
Reg. No. 60,296



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/539,473	08/13/2019	LON S. WEINER	4394.Q84US2	9049
104326	7590	08/31/2021	EXAMINER	
Schwegman Lundberg & Woessner / Zimmer			ULSH, GEORGE J	
P.O. Box 2938				
Minneapolis, MN 55402				
			ART UNIT	PAPER NUMBER
			3771	
			NOTIFICATION DATE	DELIVERY MODE
			08/31/2021	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):

SLW@blackhillsip.com
USPTO@slwip.com

Office Action Summary

Application No.

16/539,473

Applicant(s)

WEINER et al.

Examiner

GEORGE J ULSH

Art Unit

3771

AIA (FITF) Status

Yes

-- 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 08/13/2019.

☐ 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) 1-16 is/are pending in the application.

5a) Of the above claim(s) 10-16 is/are withdrawn from consideration.

6) ☐ Claim(s) ____ is/are allowed.

7) ☒ Claim(s) 1-9 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 08/13/2019 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)

3) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date ____.

2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)

4) ☐ Other: ____.

Paper No(s)/Mail Date ____.

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-9, drawn to a method of compressing two biological elements classified in A61B17/0644.

II. Claims 10-16, drawn to a staple, classified in Y10S411/92.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the staple can be used in a non-biological substrate.

Restriction for examination purposes as indicated is proper because all the inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and/or examination burden if restriction were not required because one or more of the following reasons apply:

- a) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- b) the prior art applicable to one invention would not likely be applicable to another invention; and
- c) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

During a telephone conversation with Adam Kiedrowski on 08/24/2021 a provisional election was made without traverse to prosecute the invention of group I, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-16 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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

Applicant is advised that the reply to this requirement to be complete must include (i) an election of an invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner

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finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103 or pre-AIA 35 U.S.C. 103(a) of the other invention.

In the event of rejoinder, the requirement for restriction between the product/apparatus claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product/apparatus are found allowable, an otherwise proper restriction requirement between product/apparatus claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product/apparatus claim will not be rejoined. See MPEP § 821.04. Additionally, in order for rejoinder to occur, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product/apparatus claims. **Failure to do so may result in no rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Claim Interpretation

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

(f) Element in Claim for a Combination. – An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

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

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

The claims in this application are given their broadest reasonable interpretation using the plain meaning of the claim language in light of the specification as it would be understood by one of ordinary skill in the art. The broadest reasonable interpretation of a claim element (also commonly referred to as a claim limitation) is limited by the description in the specification when 35 U.S.C. 112(f) or pre-AIA 35 U.S.C. 112, sixth paragraph, is invoked.

As explained in MPEP § 2181, subsection I, claim limitations that meet the following three-prong test will be interpreted under 35 U.S.C. 112(f) or pre-AIA 35 U.S.C. 112, sixth paragraph:

- (A) the claim limitation uses the term “means” or “step” or a term used as a substitute for “means” that is a generic placeholder (also called a nonce term or a non-structural term having no specific structural meaning) for performing the claimed function;
- (B) the term “means” or “step” or the generic placeholder is modified by functional language, typically, but not always linked by the transition word “for” (e.g., “means for”) or another linking word or phrase, such as “configured to” or “so that”; and
- (C) the term “means” or “step” or the generic placeholder is not modified by sufficient structure, material, or acts for performing the claimed function.

Use of the word “means” (or “step”) in a claim with functional language creates a rebuttable presumption that the claim limitation is to be treated in accordance with 35 U.S.C. 112(f) or pre-AIA 35 U.S.C. 112, sixth paragraph. The presumption that the claim limitation is interpreted under 35 U.S.C. 112(f) or pre-AIA 35 U.S.C. 112, sixth paragraph, is rebutted when the claim limitation recites sufficient structure, material, or acts to entirely perform the recited function.

Absence of the word “means” (or “step”) in a claim creates a rebuttable presumption that the claim limitation is not to be treated in accordance with 35 U.S.C. 112(f) or pre-AIA 35 U.S.C. 112, sixth paragraph. The presumption that the claim limitation is not interpreted under 35 U.S.C. 112(f) or pre-

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AIA 35 U.S.C. 112, sixth paragraph, is rebutted when the claim limitation recites function without reciting sufficient structure, material or acts to entirely perform the recited function.

Claim limitations in this application that use the word “means” (or “step”) are being interpreted under 35 U.S.C. 112(f) or pre-AIA 35 U.S.C. 112, sixth paragraph, except as otherwise indicated in an Office action. Conversely, claim limitations in this application that do not use the word “means” (or “step”) are not being interpreted under 35 U.S.C. 112(f) or pre-AIA 35 U.S.C. 112, sixth paragraph, except as otherwise indicated in an Office action.

Claim Rejections - 35 USC § 112

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.

Claims 1-9 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.

Regarding claim 1, the phrase "a pair of biological elements" renders the claim indefinite because it is unclear. It is unclear whether this is a different pair of biological elements or the aforementioned two biological elements. For the sake of compact prosecution, Examiner is interpreting the phrase as the latter.

Claim Rejections - 35 USC § 102

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

The following is a quotation of the appropriate paragraphs of 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)(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention.

Claim(s) 1-2, 4-7, and 9 is/are rejected under 35 U.S.C. 102(a)(1) as being anticipated by Allen (U.S. Patent Publication No. 2014/0018809 A1). Allen is cited in the IDS as “Dallen”.

Regarding claim 1, Allen discloses a method of compressing two biological elements (bone, Abstract), comprising: forming a first pair of apertures (holes, Paragraph 0128) within a pair of biological elements (bone, Abstract); elastically deforming (Abstract, Paragraph 0126) a substantially horseshoe (Fig. 3) shaped bridge portion (302) of a staple (staple, Fig. 3, Paragraph 0058) from a first state (pre-delivery state) to a second state (delivery state) to increase a separation distance (d2, Paragraph 0096) between a pair of tines (300a and 300b) of the staple (staple, Fig. 3, Paragraph 0058) from a first distance (d1, Paragraph 0096) in the first state (pre-delivery state) to a second distance (d2, Paragraph 0096) in the second state (delivery state); the bridge portion (302) connecting (Fig. 3) the pair of tines (300a and 300b) and comprising a curved portion (320) and opposite leg portions (326a and 326b), the curved portion (320) having an arched inner surface (inner surface of 320, Fig. 3) and an arched outer surface (outer surface of 320, Fig. 3), the inner surface (inner surface of 320, Fig. 3) and the leg portions (326a and 326b) bounding an open space (Fig. 3); the pair of tines (300a and 300b) extending from (Fig. 3) the bridge portion (302) and including free ends (free ends of 300a and 300b, Fig. 3) configured to be

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implanted into (Abstract, Paragraph 0072) the biological elements (bone, Abstract); each tine (300a and 300b) of the tines (300a and 300b) extending along a first direction (Fig. 3) defined between the bridge portion (302) and a free end (free ends of 300a and 300b) of the free ends (free ends of 300a and 300b) thereof, maintaining the second state (delivery state) of the bridge portion (302); implanting (Abstract, Paragraphs 0065 and 0128) the pair of tines (300a and 300b) of the staple (staple, Fig. 3, Paragraph 0058) into the pair of apertures (holes, Paragraph 0128) formed in (Paragraph 0128) the pair of biological elements (bone, Abstract) to allow engagement (Paragraph 0068) of a plurality of engagement mechanisms (316a and 316b) of the pair of tines (300a and 300b) with the biological elements (bone, Abstract), the plurality of engagement mechanisms (316a and 316b) positioned on (Fig. 3) portions of the tines (300a and 300b) that substantially face (Fig. 3) the other tine (300a or 300b) of the pair of tines (300a and 300b) along the first direction (Fig. 3); releasing the potential energy (Paragraph 0065 and 0096) of the elastic deformation (Abstract, Paragraph 0126) of the second state (delivery state) of the bridge portion (302) to apply a compressive force (Abstract, Paragraph 0065 and 0096) to the pair of biological elements (bone, Abstract) via the tines (300a and 300b) and to engage (Paragraph 0068) the plurality of engagement mechanisms (316a and 316b) with the biological elements (bone, Abstract). (Abstract, Fig. 3, Paragraphs 0058, 0065-0068, 0096, and 0126-0128).

Regarding claim 2, Allen discloses the method of claim 1 wherein the applying the compressive force (Abstract, Paragraph 0065 and 0096) to the pair of biological elements (bone, Abstract) via the tines (300a and 300b) comprises the compressive force (Abstract, Paragraph 0065 and 0096) closing a space between (Abstract, Paragraph 0065 and 0096) the biological elements (bone, Abstract).

Regarding claim 4, Allen discloses the method of claim 1, wherein maintaining the second state (delivery state) of the bridge portion (302) comprises engaging the staple (staple, Fig. 3, Paragraph 0058) with a staple engagement portion (staple feeding ramp, Paragraph 0065) of a guide (guide, Paragraph 0065). (Fig. 3, Paragraph 0058 and 0065).

Regarding claim 5, Allen discloses the method of claim 4, wherein releasing the energy of the elastic deformation (Abstract, Paragraph 0126) of the second state (delivery state) of the bridge portion (302) comprises disengaging (Paragraph 0065) the staple (staple, Fig. 3, Paragraph 0058) with the staple engagement portion (staple feeding ramp, Paragraph 0065) of the guide (guide, Paragraph 0065). (Fig. 3, Paragraph 0058 and 0065).

Regarding claim 6, Allen discloses the method of claim 1, wherein the bridge (320) and the pair of tines (300a and 300b) comprise substantially rectangular cross-sections (Paragraph 0067). (Paragraph 0067).

Regarding claim 7, Allen discloses the method of claim 1 wherein the leg portions (326a and 326b) comprise linear portions (descending linear portions of 326a and 326b respectfully, Fig. 3) extending opposite (Fig. 3) the open space relative to each other (Fig. 3, Paragraph 0065 and 0096). (Fig. 3, Abstract, Paragraph 0065 and 0096).

Regarding claim 9, Allen discloses the method of claim 1, wherein the pair of tines (300a and 300b) extend from opposing ends (Fig. 3) of the bridge portion (320), the ends having inner surfaces (inner surfaces of 316a and 316b) opposite each other about the open space (Fig. 3).

Allowable Subject Matter

Claims 3 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE J ULSH whose telephone number is (571)270-1433. The examiner can normally be reached on Mon-Fri 9:00am-6:00pm.

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, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <https://ppair-my.uspto.gov/pair/PrivatePair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GEORGE J ULSH/
Primary Examiner, Art Unit 3771