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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,487	01/27/2004	Mario Boisvert	14-733C2D1	9537
28060	7590	07/23/2008	EXAMINER FLETCHER, MARLON T	
TAROLLI, SUNDHELM, COVELL & TUMMINO, LLP 1300 EAST NINTH STREET SUITE 1700 CLEVELAND, OH 44114			ART UNIT	PAPER NUMBER
			2837	
			MAIL DATE	DELIVERY MODE
			07/23/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/765,487	BOISVERT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marlon T. Fletcher	2837	

-- 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 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 18 June 2008.
- 2a)  This action is **FINAL**.                                  2b)  This action is non-final.
- 3)  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

- 4)  Claim(s) 1-8,10-32,36 and 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-8,10-32,36 and 37 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ 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).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### 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).
- a)  All   b)  Some \* c)  None of:
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) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/18/2008</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 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 of this title, 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.

2. Claims 1-8, 10-32 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okuyama et al. (4,608,637) in view of Bamford (EP 0 581 509).

As recited in claims 1 and 2, Okuyama et al. disclose an apparatus for controlling motion of a motor driven element over a range of motion and for altering said motion when undesirable resistance to the motion is encountered, said apparatus comprising: a sensor (6a, 6ab, 6d, 6da) for measuring a parameter of a motor coupled to the motor driven element that varies in response to a resistance to motion during all or part of a range of motion of the motor driven element (column 7, lines 49-62); a memory for storing a number of measurement values from the sensor based on measurements of said parameter over at least a portion of the range of motion (column 8, line 51-64); a controller (microcomputer 9) coupled to the memory for determining to de-activate the motor based on the measurement values stored in the memory as the motor driven element moves over its range of motion; and a controller interface coupled to the motor (Ma, Md, Mab, Mda) for altering motion of said motor driven element in response to a determination made by the controller (column 5, lines 9-60), wherein altering is also in response to a determination that the parameter is outside the parameter range.

As recited in claims 3 and 31, Okuyama et al. disclose the method, wherein the motor driven element is a window or panel and additionally comprising reverse actuating the window or panel prior to moving said window or panel in a direction to close the window or panel (column 6, lines 24-33).

As recited in claim 4, Okuyama et al. disclose the method, additionally comprising maintaining a position of the window or panel based on the sensed parameter and the reverse actuation is initiated if a leading edge of the window or panel is near a closed position (column 6, lines 24-33).

As recited in claims 5, 10, and 11, Okuyama et al. disclose the method, movement is first initiated toward a closed position when a leading edge of the window or panel is near the closed position and wherein the reverse actuation is performed upon a sensing of an obstacle that is based on determining the parameter is outside the parameter range (column 7, lines 49-62).

As recited in claims 6 and 33, Okuyama et al. disclose an apparatus for controlling activation of a motor coupled to a motor vehicle window or panel for moving said window or panel along a travel path and deactivating the motor if an obstacle is encountered by the window or panel, said apparatus comprising: a sensor for sensing movement of the window or panel and providing a sensor output signal related to a speed of movement of the window or panel (discussed above; column 7, lines 30-37), and a controller having an interface coupled to the sensor and the switch for controllably energizing the motor (figure 4a); said controller sensing a collision with an obstruction when power is applied to the controller by: monitoring movement of the window or



panel by monitoring a signal from the sensor related to the movement of the window or panel (column 7, lines 6-23; and column 8, lines 35-50), identifying a collision of the window or panel with an obstacle due to a change in the signal from the sensor that is related to a change in movement of the window or panel (Abstract; and column 8, lines 51-64); and outputting a control signal to said switch to deactivate said motor in response to a sensing of a collision between an obstacle and said window or panel (column 8, line 65 – column 9, line 7).

As recited in claims 7, 29, and 35, Okuyama et al. disclose the apparatus, wherein the controller comprises a programmable controller including a processing unit for executing a control program and including a memory for storing multiple window or panel speed values corresponding to a signal received from the sensor (column 6, lines 52-60).

As recited in claims 8 and 30, Okuyama et al. disclose the apparatus, additionally comprising one or more limit switches (11) for use by the controller to determine window or panel position for use in identifying a collision.

Okuyama et al. disclose the apparatus, wherein the control program adjusts an obstacle detection threshold in real time based on immediate past measures of the signal sensed by the sensor to adapt to varying conditions encountered during operation of the window or panel (column 8, lines 65 – column 9, line 7).

As recited in claims 12, 19, 20, and 28, Okuyama et al. disclose apparatus for controlling activation of a motor for moving an object along a travel path and deactivating the motor if an obstacle is encountered by the object comprising: a) a

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