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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/382,577	03/07/2003	Alex J. Severinsky	PAICE201.DIV	9389

7590 12/03/2004

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EXAMINER	
DUNN, DAVID R	

ART UNIT	PAPER NUMBER
3616	

DATE MAILED: 12/03/2004

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

Office Action Summary	Application No.	Applicant(s)
	10/382,577	SEVERINSKY ET AL.
	Examiner	Art Unit
	David Dunn	3616

-- 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) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 *07 March 2003*.

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) *1-142* 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4a) Of the above claim(s) _____ is/are withdrawn from consideration.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) *1-142* 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) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/28/04 and 3/7/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements filed 3/07/03 and 5/28/04 are acknowledged. See enclosed IDS forms.

NOTE: there are two claims numbered 71; claims have been renumbered starting with the second 71 becoming number 72, etc.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> 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.

3. Claims 1-142 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant's claims are unduly multiplied. See MPEP 2173.05(n).

On November 18, 2004, Michael de Angeli selected by telephone to have claims 82-123 (prior claims 81-122, see note above) examined.

Claim 82 is indefinite as the final paragraph is unclear. The phrase "to propel the vehicle or" before "to propel the vehicle and/or to drive either..." appears to be repetitive and unnecessary as the second phrase already has an and/or clause, such that "to propel the vehicle" could be used alone in the case of the "or".

Claim 84 is indefinite as it unclear what "RL" means in the claim. The examiner recommends reciting --road load-- before this abbreviation the first time it is used in a claim string.

Claim 96 recites the limitation "the battery bank". There is insufficient antecedent basis for this limitation in the claim.

Regarding claims 103 and 122, the phrase "e.g." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

4. 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 –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 82, 88-90, 95, 96, 99, 100, 102, and 103 are rejected under 35 U.S.C. 102(b) as being anticipated by Frank (6,054,844).

Frank discloses a hybrid vehicle comprising an internal combustion engine (10); a first electric motor (50); a second electric motor/generator (24); a battery (26); a controller (30); wherein the controller starts and operates the engine when the torque produced by the engine to propel the vehicle (column 5, lines 24-26) or drive either one or both of the electric motors to charge the battery (column 4, lines 61-66) is at least equal to a setpoint above which the engine torque is efficiently produced (the vehicle inherently has a point where the engine operates, a

"setpoint above which said engine torque is efficiently produced" is a broad phrase as neither the "setpoint" or "efficiently" is defined by the claim to provide any sort of limits). Regarding claim 88, the vehicle has the operating modes as recited (see column 9, line 55- column 10, line 13). Regarding claim 94, the controller inherently accepts operator input to control the engine to maintain a vehicle speed. Regarding claim 95, regenerative charging of the battery is performed when braking is initiated (see column 8, lines 5-20). Regarding claim 99, the vehicle includes a variable-ration transmission (18).

6. Claims 82, 88-90, 96, 104, 108, 109, and 117 are rejected under 35 U.S.C. 102(b) as being anticipated by Mayrhofer et al. ("A hybrid drive based on a structure variable arrangement"; cited in IDS).

Mayrhofer et al. discloses a hybrid vehicle comprising an IC engine two electric motors and a battery (see Figure 2) which operates by the electric drive in a first mode (see Table 1); employs the engine (in another mode), an employs the engine and motor in a further mode; and employs the engine to propel the vehicle and charge the battery (see mode 6; Table 1); see also page 191, final paragraph.

Claim Rejections - 35 USC § 103

7. 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 negatived by the manner in which the invention was made.

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