



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/024,027	02/09/2011	Donald K. Smith	EGQ-005CP3	9849
42532	7590	12/12/2012	EXAMINER	
PROSKAUER ROSE LLP ONE INTERNATIONAL PLACE BOSTON, MA 02110			MCCORMACK, JASON L.	
			ART UNIT	PAPER NUMBER
			2881	
			NOTIFICATION DATE	DELIVERY MODE
			12/12/2012	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):

DocketingPatentBoston@proskauer.com
oandrews@proskauer.com

ASML 1011

Office Action Summary

Application No. 13/024,027	Applicant(s) SMITH ET AL.	
Examiner JASON MCCORMACK	Art Unit 2881	

-- 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 08 November 2012.
- 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) 1-55 is/are pending in the application.
5a) Of the above claim(s) 9-55 is/are withdrawn from consideration.
- 6) Claim(s) _____ is/are allowed.
- 7) Claim(s) 1-8 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 _____ 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).
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) Information Disclosure Statement(s) (PTO-892)
- 3) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 4) Other _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/8/2012 have been fully considered but they are not persuasive.

Regarding applicant's response to the §112 rejection of claim 1; applicant points to a portion of the specification which names examples of high brightness light sources. However, none of the cited portions of applicant's specification *define* a high brightness light source, but the cited portions make clear that there are other high brightness light sources but fails to disclose these sources. While applicant's specification mentions the high brightness light source in many contexts throughout the specification, there is no explicit definition of *how bright* is a high brightness light source.

Regarding applicant's response that Cheymol produces EUV light as opposed to high brightness light; applicant has failed to distinguish in either the claims, or in the specification (for the reasons stated above) that EUV is not a high brightness light source.

Regarding applicant's assertion that Cheymol does not disclose a gas; Cheymol discloses "a jet of individual droplets (e.g. of a liquefied rare gas such as xenon)" [0052] – a gas.

Regarding applicant's assertion that Cheymol does not excite a gas using an ignition source; Cheymol discloses that the lasers are used in "laser excitation" [0010] of the target ("liquefied rare gas such as xenon"). Applicant's response in the first full

Art Unit: 2881

paragraph of page 7 then states that applicant performs excitation using a laser on a xenon gas source. Cheymol discloses the same materials and apparatus as claimed in claim 1. It should be noted that claim 1 does not include any recitation of tuning the wavelength of the laser.

In response to applicant's assertion that Kusunose does not disclose high brightness light; see response to arguments, above.

In response to applicant's argument that Kusunose does not disclose an excitation source; as stated in the previous rejection, the source in Kusunose uses lasers to excite and ignite xenon gas. As stated above, Kusunose uses the same materials an apparatus as claimed in claim 1. Claim 1 contains no recitation of tuning the wavelength of the laser.

Regarding applicant's arguments of claims 6 and 7; please see response, above.

Claim Rejections - 35 USC § 112

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.

2. Claim 1 is 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. The term "high" in claim 1 is a relative term which renders the claim indefinite. The term "high" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

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.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cheymol et al. U.S. PGPUB No. 2006/039435.

Regarding claim 1, Cheymol discloses that in a chamber [0072] xenon gas may be injected [0052] and then irradiated by a laser [0053] which may be an infrared laser [0010].

Regarding claim 2, Cheymol discloses that xenon gas may be injected into the chamber [0052]. Xenon is a noble gas.

Regarding claim 3, Cheymol discloses that xenon gas may be injected into the chamber [0052].

Regarding claim 4, Cheymol discloses that in a chamber [0072] xenon gas may be injected [0052] and then irradiated by a laser [0053] which may be an infrared laser [0010].

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.