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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/244,376	04/03/2014	Lik Hon	111971.8012.US04	2981
34055 7590 09/04/2014 PERKINS COIE LLP - LOS General			EXAMINER	
POST OFFICE	BOX 1247		MAYES, DIONNE WALLS	
SEATTLE, WA 98111-1247			ART UNIT	PAPER NUMBER
			1747	
			NOTIFICATION DATE	DELIVERY MODE
			09/04/2014	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.

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PTOL-90A (Rev. 04/07)

	Application No. 14/244,376	Applicant(s) HON, LIK				
Office Action Summary	Examiner DIONNE WALLS MAYES	Art Unit 1747	AIA (First Inventor to File) 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 4/3/20	<u>014</u> .					
A declaration(s)/affidavit(s) under 37 CFR 1.1	30(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	•		g the interview on			
; the restriction requirement and election			a tha a casa alta da			
4) Since this application is in condition for allowan	·		o the merits is			
closed in accordance with the practice under E	x parte Quayle, 1955 G.D. 11, 45	3 O.G. 213.				
Disposition of Claims* 5) ☐ Claim(s) 1-15 is/are pending in the application. 5a) Of the above claim(s) is/are withdrawn from consideration. 6) ☐ Claim(s) is/are allowed. 7) ☐ Claim(s) 1-15 is/are rejected. 8) ☐ Claim(s) is/are objected to. 9) ☐ Claim(s) are subject to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). 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. 12/226,818. 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/SPaper No(s)/Mail Date	3) Interview Summary Paper No(s)/Mail Da 3B/08b) 4) Other:					

PTOL-326 (Rev. 11-13)

Office Action Summary

Part of Paper No./Mail Date 20140827-A



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DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

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).

Independent claims 1, 8 and 10 recite an atomizer assembly housing "plugged or threaded into" the battery assembly housing (or similar words to that effect); however, the specification does not appear to provide support for this recitation.

Correction/Amendment in the appropriate manner is requested.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory double patenting rejection is appropriate where the claims at issue are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*,



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686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the reference application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO internet Web site contains terminal disclaimer forms which may be used. Please visit http://www.uspto.gov/forms/. The filing date of the application will determine what form should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal Disclaimers, refer to http://www.uspto.gov/patents/process/file/efs/guidance/eTD-info-I.jsp.

- 4. Claims 1, 4-8 and 15 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-41 of Han (US. Pat. No. 8,156,944). Although the claims at issue are not identical, they are not patentably distinct from each other because the claims of Han fully encompass the above-referenced claims of the instant application.
- 5. Claims 1-15 are provisionally rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-15 of copending Application No.



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13/740,011. Although the claims at issue are not identical, they are not patentably distinct from each other because the claimed of copending Application No. 13/740,011 fully encompass those of the instant application.

This is a provisional nonstatutory double patenting rejection because the patentably indistinct claims have not in fact been patented.

Presence of Allowable Subject Matter

6. A reading of the claims indicates the presence of allowable subject matter. Independent claims 1, 8 and 10 each disclose subject matter which does not appear to be taught or suggested by the prior art of record. Namely, the Brooks (US. Pat. No. 4,947,874) and Counts et al (US. Pat. No. 5,144,962) references fail to teach or suggest an electronic cigarette having a battery assembly connected to/with an atomizer assembly, wherein said atomizer assembly includes a porous component having a through hole with a heating element in an airflow path in the through hole, and the porous component being in contact with a liquid storage component.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIONNE WALLS MAYES whose telephone number is (571)272-5836. The examiner can normally be reached on Monday thru Friday, 8:00A - 4:30P EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



DOCKET

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