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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,778	11/26/2003	Henry DaCosta	IMM174	4196
34300	7590	03/06/2008	EXAMINER	
PATENT DEPARTMENT (51851) KILPATRICK STOCKTON LLP 1001 WEST FOURTH STREET WINSTON-SALEM, NC 27101			LIANG, REGINA	
			ART UNIT	PAPER NUMBER
			2629	
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			03/06/2008	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.

PTOL-90A (Rev. 04/07)

Valve Corp. v. Immersion Corp.

Office Action Summary	Application No. 10/723,778	Applicant(s) DACOSTA ET AL.	
	Examiner Regina Liang	Art Unit 2629	

-- 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 16 January 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) 1-13, 16-23 and 26-32 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- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.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) 1-13, 16-23, 26-32 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 checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
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 type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/16/08 has been entered. Claims 1-13, 16-23, 26-32 are pending in the application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 6 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Fig. 3 and section [0050] of the specification discloses “If the speed is less than the speed threshold, the change in pseudo pressure is compared to a threshold value 322. If the change in pseudo pressure is less than or equal to the threshold, the processor (106) returns to step 302 in the process. If the change in pseudo pressure is greater than the threshold, the processor (106) determines whether the first interval has elapsed 324, if so, the processor (106) concludes that the user is pressing 326 and the processor (106) returns to step 302 in the process”. In step 322, the specification discloses the change in pseudo pressure is compared to **a threshold value**. Although the specification discloses in steps 302 and 306 of Fig. 3, comparing the pressure signal to an upper threshold and to a lower threshold, respectively, the specification does not disclose in step 322 that the change in pseudo pressure is compared to a first pressure threshold value and a second pressure threshold value, and outputting the signal if the pressure signal is greater than both first pressure threshold value and the second pressure threshold value. Therefore, the specification does not provide support for “comparing to a second pressure threshold value, and outputting the signal if the pressure signal is greater than both first pressure threshold value and the second pressure threshold value” as claimed in claims 6 and 20

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 19-23, 26-28, 30, 32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 19-23, 26-28, 30, 32 are rejected under 35 U.S.C. 101 as being non-statutory because claims although claim a computer-readable

medium on which is encoded programming code, however, page 8, [0024] of the specification discloses "Embodiments of computer-readable media include, but are not limited to, an electronic, optical, magnetic, or other storage or transmission device capable of providing a processor, Also, various other forms of computer-readable media may transmit or carry instructions to a computer, including a router, private or public network, or other transmission device or channel, both wired and wireless", in light of the definition in the specification, the medium as claimed is that of a signal. As set forth in the Interim Guidelines, page 55, "A claimed signal has no physical structure, does not itself perform any useful, concrete and tangible result and, thus, does not fit within the definition of a machine". Therefore, claims 19-23, 26-28, 30, 32 are nothing but a signal and signal is non-statutory.

Claim Rejections - 35 USC § 103

7. Claims 1-3, 5-13, 16, 17, 19-23, 26, 27, 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillespie et al (US 5,880,411 hereinafter Gillespie) in view of Astala et al (US 6,590,568 hereinafter Astala).

As to claims 1, 19, Gillespie discloses a method comprising: receiving a pressure signal (e.g. Z-value, Fig. 1) indicating a pressure from an input device (e.g. finger); determining a change in pressure based at least in part on the pressure signal (col. 23, lines 25-32, col. 24, lines 44-60 for example); determining a velocity associated with the pressure signal; and outputting a press signal if the velocity is less than the velocity threshold (col. 36, lines 26-47, which states "There are several ways to distinguish between a true drag and a press. **A true drag can be identified if the finger's speed of motion prior to lift-off is above a small threshold.** A press

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