

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JURGEN STABEL and MINGMIN REN

Appeal No. 2006-1556
Application No. 10/460,812

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 30, 2006 . A review of the application has revealed that the application is not ready for review and consideration. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

On July 15, 2005, an Examiner's Answer was mailed in response to the Appeal Brief received April 1, 2005. The rejections listed in the Examiner's Answer included:

- 1) claims 1-2 under 35 U.S.C. §102(b) over the admitted prior art, and

introduced three (3) new grounds of rejection, which included:

- 2) claims 1-2 under 35 U.S.C. § 112 1st paragraph;
- 3) claims 1-2 under 35 U.S.C. § 112 2nd paragraph; and
- 4) claims 1-2 under 35 U.S.C. § 103(a) in view of

the admitted prior art further in view of JP63-223590 and either Sankovich (3,235,463) or Straub (5,008,068).

Any new ground of rejection made by an examiner in an Examiner's Answer must be approved by a Technology Center (TC) Director or designee (see MPEP 1207.05). The new grounds of rejection introduced in the above-identified Examiner's Answer, was not authorized by the Technology Center (TC) Director or his designee.

SUPPLEMENTAL EXAMINER'S ANSWER

In response to the Reply Brief dated August 30, 2005, the Examiner mailed a Supplemental Examiner's Answer on October 26, 2005. The Supplemental Examiner's Answer included the following rejections:

- 1) claims 1-2 under 35 U.S.C. § 102(b) over the admitted prior art,
- 2) claims 1-2 under 35 U.S.C. § 112 1st paragraph,
- 3) claims 1-2 under 35 U.S.C. § 112 2st paragraph, and

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4) claims 1-2 under 35 U.S.C. § 103(a) in view of
the admitted prior art further in view of JP65-223590,
Sankovich (3,235,463) or
Straub (5,008,068)

In accordance with MPEP 1207.05:

Every supplemental examiner's answer must be approved by a Technology Center (TC) Director or designee.

CONCLUSION

A review of the Supplemental Examiner's Answer mailed October 26, 2005, reveals that the examiner did not provide or obtain proper approval by the Technology Center (TC) Group Director.

Accordingly, it is

Ordered that the application is remanded to the Examiner to

- 1) vacate the Examiner's Examiner mailed July 15, 2005;
- 2) vacate the Supplemental Examiner's Answer mailed October 26, 2005;
- 3) prepare a corrected Examiner's Answer to include approval and signature

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by the Technology Center Group Director or his designee;

4) for such further action as may be deemed appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e. abandonment, issue, reopening prosecution).

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