

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JOHN PITTS, BRUCE SWAYBILL,  
PATRICIA A. DERWINSKI, and  
HUGH JAMES O'DONNELL

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Appeal 2007-4383  
Application 09/970,587  
Technology Center 3600

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Decided: March 26, 2008

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Before MURRIEL E. CRAWFORD, DAVID E. WALKER, and BIBHU R.  
MOHANTY, *Administrative Patent Judges*.

CRAWFORD, *Administrative Patent Judge*.

ORDER REMANDING TO THE EXAMINER

This appeal was taken pursuant to 35 U.S.C. § 134 from the Final  
Rejection of claims 15, 16, 19, 21 to 24, 26 and 27.

Our review of the application leads us to conclude that this appeal is not in condition for a decision at this time. Therefore, we REMAND this application to the Examiner to consider the following issues and to take appropriate action.

The Final Office action mailed on June 2, 2003, from which Appellants appeal, is not included in the image file wrapper (IFW).

In addition, the Examiner's Answer, mailed May 4, 2004 does not include an explanation of the rejection. Rather, the Examiner's Answer refers to the Final Rejection for a statement of the rejections. We note that 37 C.F.R. § 41.39(a)(1) (2007) states that the Examiner may file an answer that includes "such explanation of the invention claimed and of the references relied upon and grounds of rejection as may be necessary, supplying a copy to appellant."

Accordingly, we remand the application to the Examiner to complete the IFW so as to include the Final Rejection mailed June 2, 2003 and for the Examiner to include an explanation of each ground of rejection in the Answer.

This remand to the Examiner pursuant to 37 C.F.R. § 41.50(a)(1) (2007) is made for further consideration of a rejection. Accordingly, 37 C.F.R. § 41.50(a)(2) (2007) applies if a Supplemental Examiner's Answer is written in response to this Remand by the Board.

REMANDED

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