

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DOUGLAS R. BURDICK & ROBERT J. SZCZERBA

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Appeal 2008-0506  
Application 10/385,828  
Technology Center 2100

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Mailed: July 18, 2008

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Before DALE M. SHAW, *Chief Appeals Administrator*  
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on October 18, 2007. A docketing notice was mailed and Appeal No. 2008-0506 was assigned on November 8, 2007. A review of the application has revealed that the application was not ready for

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an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 8-13 of the instant application are set forth as method claims that may not fall with one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008 the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of “Processes” under 35 U.S.C. §101.” This memorandum further is used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. There is a question as to whether claims 8-13 meet the requirements of being patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 8-13 meet the requirements of being a patent eligible process under 35 U.S.C § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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