

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LARRY KIRN

Appeal 2008-0953
Application 10/649,218
Technology Center 2800

Mailed: June 20, 2008

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 November 16, 2007. A docketing notice was mailed and Appeal No. 2008-0953 was assigned on December 11, 2007. A review of the application has revealed that the application was not ready for an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

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Claims 1-3 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 USC § 101. On May 15, 2008 the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of ‘Processes’ under 35 USC §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 1-3 meet the requirements of being patent eligible process under 35 USC §101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 1-3 meet the requirements of being a patent eligible process under 35 USC §101.

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

tdl

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