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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/465,037	03/21/2017	Luke Logan Wagner	13813.57.3.US.1U	4147
94740 7590 01/24/2018 Winthrop & Weinstine, P.A. Capella Tower, Suite 3500			EXAMINER WILLIAMS, LELA	
225 South Sixth Street Minneapolis, MINNESOTA 55402			ART UNIT	PAPER NUMBER
			NOTIFICATION DATE 01/24/2018	DELIVERY MODE ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@winthrop.com

	Application No.	Applicant(s)				
Office Action Summers	15/465,037	Wagner, Luke Logan				
Office Action Summary	Examiner	Art Unit	AIA Status			
	LELA S WILLIAMS	1792	Yes			
The MAILING DATE of this communication app Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period v - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	— 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from t, cause the application to become ABANDONE	nely filed I the mailing date of ED (35 U.S.C. § 133	this communication.			
Status						
1) \square Responsive to communication(s) filed on <u>3/21/</u>	2017					
A declaration(s)/affidavit(s) under 37 CFR 1.1	· · ·					
·— ·) This action is non-final.					
3) An election was made by the applicant in response to a restriction requirement set forth during the interview on; the restriction requirement and election have been incorporated into this action.						
4) Since this application is in condition for allowar closed in accordance with the practice under E			o the merits is			
Disposition of Claims*						
5) 🗹 Claim(s) <u>1-18</u> is/are pending in the applic	ation.					
5a) Of the above claim(s) is/are withdrawn from consideration.						
6) 🔲 Claim(s) is/are allowed.						
7) 🗹 Claim(s) 1-18 is/are rejected.						
8) Claim(s) is/are objected to.						
9) Claim(s) are subject to restriction and	l/or election requirement					
* If any claims have been determined <u>allowable</u> , you may be eli	•	secution High	way program at a			
participating intellectual property office for the corresponding an		_				
http://www.uspto.gov/patents/init_events/pph/index.jsp or send	an inquiry to PPHfeedback@uspto	. <u>gov.</u>				
Application Papers						
10) The specification is objected to by the Examine	er.					
11) 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						
	· ····3(-7 ·)-		· · ·			
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).				
Certified copies: a)□ All b)□ Some** c)□ None of th	Δ.					
1. Certified copies of the priority docum						
		antion NI-				
2. Certified copies of the priority docum	••					
 Copies of the certified copies of the p application from the International Bur 		eived in this N	lational Stage			
** See the attached detailed Office action for a list of the certifi	ed copies not received.					
Attachment(s)						
1) V Notice of References Cited (PTO-892) 3) Interview Summary (PTO-413)						
2) ✓ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date 4) □ Other:						
OCKET						
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DETAILED CORRESPONDENCE

Notice of Pre-AIA or AIA Status

1. The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Claim Rejections - 35 USC § 101

2. 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.

Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. The claim(s) does/do not fall within at least one of the four categories of patent eligible subject matter because the claims are not clear as to what statutory category "System" falls under. Applicant can overcome this rejection by amending the preamble of claims 1-18 to read, "A flavor release article...", "A flavor enhancing article...", or the like.

Claim Rejections - 35 USC § 102

3. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(a)(1) the claimed invention was patented, described in a printed publication, or in public use, on sale or otherwise available to the public before the effective filing date of the claimed invention.

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5. Claim(s) 1-2, 4, 5, 10, 12, 13, are rejected under 35 U.S.C. 102(a)(1) as being anticipated by Ashcraft US 5,249,676.

Regarding claims 1-2, 4, 5, 10, 12, 13, Ashcraft discloses a flavor burst structure comprising a multilayer film with a flavor carrier label disposed between barrier layers (Abstract). Given the broadest reasonable interpretation of "label", the multilayer film of Ashcraft is expected to meet the claimed limitation. The flavor burst film comprises a flavor carrier layer, a first polymeric barrier layer on one side of the flavor carrier layer and a second barrier layer on the other side of the flavor carrier layer (col. 2, lines 15-20). Ashcraft teaches the film comprises an adhesive between the flavor layer and barrier layers (col. 2, line 45) and in use an overwrapped package with a tear tape, a strip of the flavor burst film is adhesively bonded to the package beneath the overwrap so that the entire tear tape or a portion thereof overlies the flavor burst film and is adhesively bonded to the separable barrier layer of the film. To open the package the tear tape is pulled to slit the overwrap. At the same time, the tear tape separates the outermost barrier layer from the flavor burst film thereby exposing the surface of the flavor carrier layer and simultaneously releasing a burst of flavor from the film. The flavor burst film can also be incorporated in the tear tape of an overwrapped package (col. 4, lines 10-25) or a flavor burst film comprising one barrier layer and a flavor carrier layer may be applied to the surface of a metal or glass container or package so that removal of the one barrier layer will release the flavorant (col. 4, line 65-col. 5, line 5). Ashcraft further teaches flavors may comprises essential oils and flavors such as dessert flavors (vanillin flavor) (col. 3, lines 5-30, col. 4, lines 2).

Claim Rejections - 35 USC § 103

6. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

7. This application currently names joint inventors. In considering patentability of the claims the examiner presumes that the subject matter of the various claims was commonly owned as of the effective filing date of the claimed invention(s) absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and effective filing dates of each claim that was not commonly owned as of the effective filing date of the later invention in order for the examiner to consider the applicability of 35 U.S.C. 102(b)(2)(C) for any potential 35 U.S.C. 102(a)(2) prior art against the later invention.

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103 are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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