

REMARKS

In this Amendment, claims 1, 8, and 17 have been amended without prejudice or disclaimer to previously-presented versions of the claims, and claims 11, 19-23 have been canceled without prejudice or disclaimer to previously-presented versions of the claims. Applicant respectfully submits that the amendments are supported by U.S. Patent No. 9,775,570 and that no new matter is being added. For example, the amendments are supported, but not limited, by previously pending dependent claims.

Accordingly, entry of the amendments is respectfully requested.

Allowable Subject Matter

The Office Action indicated the Claim 11 “is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.” *Office Action*, 6. The Office Action further indicated that Claims 1 – 7 and 12-18 are allowed. *Id.* Applicant has incorporated the allowable subject matter of Claim 11 into its corresponding independent Claim 8. Applicant has further canceled remaining claims 19-23. Applicant respectfully requests that this application is now in condition for allowance. Applicant may pursue previously pending Claims 8 and 19-23 in reissue continuation applications.

Applicant makes the following comments in response to the Examiner’s description of allowable subject matter. *Office Action*, 6. Applicant respectfully disagrees with the Examiner’s statement to the extent that it may characterize the language or scope of the claims pending in this application or in any other prior art referenced in the statement. Applicant notes that it is the language of the claims, not the Examiner’s characterization of the language that determines the scope of the claims. Also, to the extent that there is any implication that the patentability of the claims rests on the recitation of a single feature or subset of features, Applicant respectfully disagrees with the Examiner’s statement because it is the recited combination of features that makes the claims patentable.

Rejection of Claims 1 - 7 Under 35 U.S.C § 112, Second paragraph

The Office Action rejected Claim 1 and its corresponding dependent claims as being indefinite under § 112, second paragraph. *Office Action*, 3. In particular, the Office Action stated that there is insufficient antecedent basis for “at least first oxygen saturation value.” *Id.* Applicant has amended Claim 1 solely for the purposes of clarification to resolve the antecedent basis. Based at least on the amendment, Applicant respectfully requests withdrawal of the rejection against Claim 1 and its corresponding dependent claims.

Art Based Rejection

The Office Action rejected Claims 8 – 10 and 19-23 as either allegedly anticipated under 35 U.S.C. § 102(b) or allegedly obvious under § 103(a) over U.S. Pat. Pub. No. 2009/0247848 to Baker, Jr. (“Baker”). *Office Action*, 4. Applicant respectfully disagrees with the rejection and the characterization of the claims. Solely in the interest of expediting prosecution, Applicant has incorporated the allowable subject matter of dependent Claim 11 into independent Claim 8. Furthermore, Claims 19-23 were canceled without prejudice or disclaimer. Accordingly, the rejection is moot and the application is in condition for allowance.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by

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the present application. Further, Applicant's arguments in favor of one independent claim should not be imputed to any other independent claim.

Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests that the Examiner withdraw the outstanding rejections and allow the present application. If any issues arise during examination, the Examiner is invited to call the undersigned representative at his direct dial number listed below.

By focusing on specific claims and claim recitations in the discussion above, Applicant does not intend to imply that other claim recitations are disclosed or rendered obvious by the art of record.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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