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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/621,401	12/21/2021	Andrew J. McGregor	82203US004	9101
196179	7590	07/15/2024	EXAMINER	
Solventum Intellectual Properties Company			SMITH, KAITLYN ELIZABETH	
2510 Conway Ave E			ART UNIT	PAPER NUMBER
3M Center, 275-6E-21			3794	
St Paul, MN 55144			NOTIFICATION DATE	DELIVERY MODE
			07/15/2024	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):

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Office Action Summary	Application No. 17/621,401	Applicant(s) McGregor et al.	
	Examiner KAITLYN E SMITH	Art Unit 3794	AIA (FITF) Status Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2022.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ 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 allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

- 5) ☒ Claim(s) 1-20 is/are pending in the application.
5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1,4-13,15 and 18-20 is/are rejected.
- 8) ☒ Claim(s) 2-3,14 and 16-17 is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 21 December 2021 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 is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

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 the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date _____
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 4) ☐ Other: _____

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

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 (i.e., changing from AIA to pre-AIA) 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.

Claim Rejections - 35 USC § 112

The following is a quotation of 35 U.S.C. 112(b):

(b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4, 19 and 20 are rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor (or for applications subject to pre-AIA 35 U.S.C. 112, the applicant), regards as the invention.

Claim 4 recites “configured to provide the stream of pressurized, warmed air to the opening capable of generating a hose end temperature of at least 37 degrees C” and this does not make sense as it is unclear how the opening would be capable of generating a hose end temperature or airflow. It is believed that Applicant meant --

configured to provide the stream of pressurized, warmed air to the opening at a temperature of at least 37 degrees C--. It is suggested that the claim be amended as such.

Claim 19 recites "the convective warming unit" in line 5. There is insufficient antecedent basis for this claim limitation. It is suggested that this limitation be amended to --a convective warming unit--.

Claim 20 is unclear as it recites "wherein the pneumatic convective device is the second pneumatic convective device" and it is unclear what Applicant is trying to claim with this limitation. Is this limitation meant to reference the "pneumatic convective device" of claim 18? If so claim 19, from which claim 20 depends, requires the application of heat to the patient using a first pneumatic convective device for at least 5 minutes. Therefore, it is unclear how the pneumatic device is the second pneumatic device. No prior art has been applied.

Claim Rejections - 35 USC § 102

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 –

(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.

(a)(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

Claim(s) 1, 5, 7 and 9-13 is/are rejected under 35 U.S.C. 102(a)(1) and (a)(2) as being anticipated by EP 1 937 196 A1 to Anderson et al. (Anderson).

Regarding claim 1, Anderson teaches a warming system (title which states “Multifunction Warming Device for Perioperative Use”), comprising a warming device (Fig. 3A-3F), comprising a clinical garment (22) comprising a body portion adapted to cover a portion of a patient (Fig. 3F), an inner surface (43) for facing the patient, and an outer surface ([Fig. 3F) for facing away from the patient, wherein the body portion includes sleeves (53) sized and positioned for receiving the patient’s arms, wherein the body portion includes a torso portion, adapted to cover an anterior torso of the patient (Fig. 3F), a first pneumatic convective device (70) disposed adjacent to the inner surface (Fig. 3D) and an opening formed in the clinical garment for admitting steam of pressurized, warmed air into the first pneumatic convective device (85), and a second pneumatic convective device (60) in a fully-folded configuration or partially-folded configuration and disposed on a portion of the clinical garment ([0038]).

Regarding claim 5, Anderson teaches the system of claim 1 as well as wherein the body portion further includes a neck opening (Fig. 3F) and a hemline (47), a rear slit (Fig. 3F) extending from the neck opening to a hemline (Fig. 3F) and fastening devices (59) near the rear slit for attaching opposing sides of the rear slit ([0036] which states in part “the opening may be closed by means 59 along the lateral hems 45 which releasably connect to keep the hems together.”), a longitudinal axis (49) extending from the neck opening to the hemline (Fig. 3F).

Regarding claim 7, Anderson teaches the system of claim 1 as well as wherein the warming device comprises a pocket (58) dimensioned to receive the second pneumatic convective device ([0061] which states in part “an end 63 folded and tucked into a cuff 58”).

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