

# Office Action Summary

Application No.  
**09/916,834**

Applicant(s)  
**FISHER**

Examiner  
**VICTOR SAKRAN**

Art Unit  
**3677**



-- 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 THREE MONTH(S) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 Jul 28, 2001.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ 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

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jul 28, 2001 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).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
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.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      6) ☐ Other: \_\_\_\_\_

Art Unit: 3677

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper."

Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Any submitted Information Disclosure Statement must comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent.

Furthermore, the information disclosure statement must comply with 37 CFR 1.98(a)(3), by including a concise explanation of the relevance of each listed patent to the claim subject matter as it is presently understood by the individual, and as required by 37 CFR 1.56(c).

Art Unit: 3677

***Claim Rejections - 35 USC § 112***

**The following is a quotation of the second paragraph of 35 U.S.C. 112:**

**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.**

**2. Claim 1, is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention as required by the statutes;**

**The claim must set forth specific structural which goes to make up the device and must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. and how they relate to each other.**

**3. Claim 1, is further rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is the general rule that an article of manufacture should not be defined by the process of making it; see In re Scheckner 106 O.G. 765. Moreover, it is not clear if the article or the method of making said article is being claimed. Furthermore, Applicant is in titled to only one statutory class of invention in a claim.**

Art Unit: 3677

***Claim Rejections - 35 USC § 103***

**4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

**(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.**

**5. 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(a) 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.**



Art Unit: 3677

6. Claims 1, and 5-8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schopbach U. S. Patent No. 0,912,624 in view of Blanc U. S. Patent No. 0,623,350.

Schopbach discloses the general combination claimed of a lacing device in which the path followed by said lace defines a double twist (helix); see Figure 1; page 1, column 2, lines 64-91; page 2, column 2, lines 50-64, and the entire document, except for the particular use of the lacing device with a shoe. Blanc teaches the use of a shoe lace device comprising shoelaces, wherein said shoelaces defining a double twisting for tying the shoe around a user's foot; see Figure 3, and the entire document. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the shoe lace device in Schopbach for tying a shoe around a user's foot by follow the path of a double twisting (helix) in the manner taught, disclosed and suggested by Blanc; especially, since such modification involves only routine skill in the art.

Furthermore, the particular use of shoelaces in a shoe or the like is considered to be no more than a matter of design choice to one having ordinary skill within the art at the time the invention was made.

7. Claims 2-4, are rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claim 1, above, and further in view of Maurer U. S. Patent No. 6,119,318, who teaches the use of a shoelace which is adapted for tying a shoe for a portion

Art Unit: 3677

of the shoe lacing path including means for preventing the end of the shoelace from pulling through the lace-holes in said shoe; see Figure 7b, and the entire document, and to further incorporate such structure in Schopbach, in order to perform the desired function for loosening its shoelaces without pulling the ends thereof through the lace-holes, in the manner taught, disclosed and suggested by Maurer, it would have been obvious to one having ordinary skill in the art at the time the invention was made.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's attention is directed to the art cited herein, and of record, as showing structure related to Applicant's disclosed invention .

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Sakran whose telephone number is (703) 308-2224. The examiner can normally be reached on Monday-Thursday from 6:30 AM - 5:00 PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann, can be reached on (703) 308-4115. The fax phone number for this Group is (703) 872-9326 (before final) or (703) 872-9327 (after final). Customer Service fax can be reached at (703) 872-9325.

Art Unit: 3677

**11. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.**

**VICTOR SAKRAN  
PRIMARY EXAMINE  
ART UNIT 3677**

**June 25, 2002**

<b>Notice of References Cited</b>	Application/Control No. <b>09/916,834</b>	Applicant(s)/Patent Under Reexam <b>FISHER</b>	
	Examiner <b>VICTOR SAKRAN</b>	Art Unit <b>3677</b>	Page 1 of 1

#### U.S. PATENT DOCUMENTS

	Document Number Country Code-Number-Kind Code	Date MM-YYYY <sup>1</sup>	Name	Classification <sup>2</sup>	
A	0,912,624	2/1909	SCHOPBACH	24	712
B	0,623,350	4/1899	BLANC	24	712
C	6,119,318	9/2000	MAURER	24	713.6
D	5,347,695	9/1994	LOPEZ SAIZ	24	714.8
E	0,805,220	11/1905	MORRISON	24	712
F	5,979,028	11/1999	HICKS ET AL	24	713.6
G	5,345,697	9/1994	QUELLAIS	36	50.1
H	1,548,407	8/1925	CHISHOLM	24	712
I	0,317,528	5/1885	FORBES	24	713.6
J	5,795,835	8/1998	BRUNER ET AL	442	310
K					
L					
M					

#### FOREIGN PATENT DOCUMENTS

	Document Number Country Code-Number-Kind Code	Date MM-YYYY <sup>1</sup>	Country	Name	Classification <sup>2</sup>	
N						
O						
P						
Q						
R						
S						
T						

#### NON-PATENT DOCUMENTS

	Include, as applicable: Author, Title, Date, Publisher, Edition or Volume, Pertinent Pages
U	
V	
W	
X	

\* A copy of this reference is not being furnished with this Office action. See MPEP § 707.05(a).

<sup>1</sup> Dates in MM-YYYY format are publication dates.

<sup>2</sup> Classifications may be U.S. or foreign.



**Attachment for PTO-948 (Rev. 03/01, or earlier)**

**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.