



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/514,407	10/15/2014	Michaela Swartz	MYB.P001.US.01	2239
120281	7590	03/01/2017	EXAMINER	
Spruce Law Group, LLC 1622 Spruce St. Philadelphia, PA 19103			KALACH, BRIANNE E	
			ART UNIT	PAPER NUMBER
			3776	
			NOTIFICATION DATE	DELIVERY MODE
			03/01/2017	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):

patents@schottpc.com
cofficeaction@apcoll.com
patents@sprucelaw.com

Office Action Summary	Application No. 14/514,407	Applicant(s) SWARTZ ET AL.	
	Examiner BRIANNE KALACH	Art Unit 3776	AIA (First Inventor to File) 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 11/02/2016.
 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) 1,6 and 8-12 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, 6 and 8-12 is/are rejected.
- 8) Claim(s) _____ 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 _____ 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) <input type="checkbox"/> Notice of References Cited (PTO-892) | 3) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date _____. | 4) <input type="checkbox"/> 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.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112(a):

(a) IN GENERAL.—The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor or joint inventor of carrying out the invention.

The following is a quotation of the first paragraph of pre-AIA 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6 and 8 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant requires that the base body and cover are removably connected via a magnetic attachment in claim 1. Claim 8, which depends from claim 1 requires that the

Art Unit: 3776

base body and cover are removably connected by hook and loop fastener. Applicant does not have support for the use of magnets and hook and loop fasteners on the same device. Therefore for the purpose of examination, claim 8 will be treated as requiring the hook and loop fastener in place of the magnetic attachment. Similarly, Claim 6, which depends from claim 1 requires that the base body and cover are removably connected by a clip. Applicant does not have support for the use of magnets and clip fasteners on the same device. Therefore for the purpose of examination, claim 6 will be treated as requiring the clip fastener in place of the magnetic attachment.

Claim Rejections - 35 USC § 103

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

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102 of this title, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103 as being unpatentable over Chou (US Pat # 5,826,597) in view of Liao (US Pub # 2011/0315160) and Miller (US Pat # 3,211,160) and Hill et al. (US Pub # 2012/0125360).

In regards to claim 1, Chou teaches a wearable hairband accessory comprising a base body (Figure 1 at 1), wherein the base body forms a receptacle between (Figure 1

Art Unit: 3776

at 10) the ends of the base, and an interchangeable decorative insert (Figure 1 at 2) sized to fit within the receptacle.

Chou does not teach a transparent cover removably connected to the base body via a magnetic attachment, wherein the magnetic attachment comprises magnets permanently attached to the base body that are attracted to a ferromagnetic material permanently attached to the transparent cover, wherein the magnets are located at proximal ends of the base body and transparent cover.

However, Liao teaches a hair accessory to have its decorative portion (Figure 3 at 5) covered by a transparent layer (Figure 3 at 6). It would have been obvious to one of ordinary skill in the art, at the time the invention was filed to modify the headband of Chou to contain the transparent cover of Liao, in order to protect the decorative portion from wear (Liao, Paragraph 4).

With regards to the transparent cover being removably connected to the base, Miller teaches a headband with a removable cover (Col 2, Lines 53-65) to be secured at the ends of the headband (see figure 6 at 42 where such means of securement are permanently attached to the device). It would have been obvious to one of ordinary skill in the art, at the time the invention was filed to modify the transparent cover of modified Chou to be removable, as taught by Miller in order to allow the user to access the headband separately from the cover.

With regards to how the base body and cover are connected, modified Chou teaches the connection is done via snap fasteners instead of magnetic fasteners. Hill et al. shows that magnetic fasteners are an equivalent structure known in the art.

Art Unit: 3776

Therefore, because these two fasteners for removable engagement were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the snaps of modified Chou for the magnetic fasteners of Hill et al. With regards to the magnetic material being a magnet and ferromagnetic material, it would have been obvious to one of ordinary skill in the art, at the time the invention was filed to modify the magnets of modified Chou to be a magnet/ferromagnetic material arrangement, as such are well known magnetic structures for fastening.

Claims 6, 9 and 10, as best understood by the Examiner, are rejected under 35 U.S.C. 103 as being unpatentable over Chou in view of Liao, Miller and Hill et al., as applied to claim 1 above, in further view of Porter (US #D603,584).

In regards to claims 6, 9 and 10, as applied to claim 1 above, modified Chou teaches the base body and cover are connected, but does not teach they are connected by a removable clip. However, Porter teaches a headband with a removable clip including a decorative head (see Figure 1 below at A) that secures the top and bottom of the headband (See figure 1) by a shaft (see Figure 1 below at B) that fits within a hole located on a hair accessory to attach to the decorative head. It would have been obvious to one of ordinary skill in the art, at the time the invention was filed to modify the headband of modified Chou to contain the removable clip with the decorative head/shaft of Porter in order to increase the aesthetic appeal of the device.

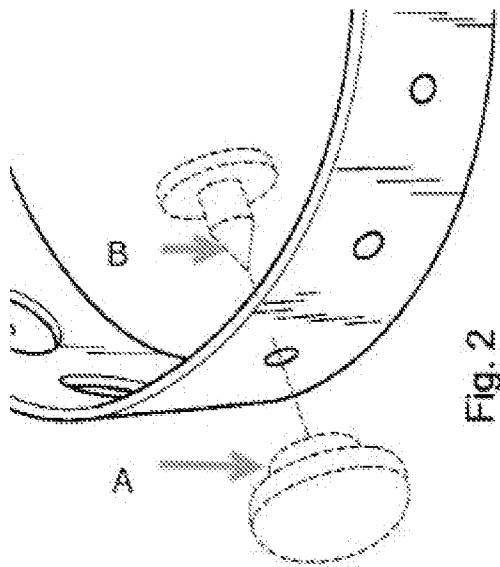


Figure 1 of Office Action: Porter Figure 2 annotated for clarity

Claims 8, 9 and 11-12, as best understood by the Examiner, are rejected under 35 U.S.C. 103 as being unpatentable over Chou in view of Liao, Miller and Hill et al., as applied to claim 1 above, in further view of Klug (US Pat # 6,688,316).

In regards to claim 8, as applied to claim 1 above, modified Chou discloses the claimed invention except that the base body and cover are connected through snap connection instead of hook and loop fasteners. Klug shows that hook and loop fasteners are an equivalent structure known in the art. Therefore, because these two fasteners for removable engagement were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the snaps of modified Chou for the hook and loop fasteners of Klug.

Art Unit: 3776

In regards to claims 9 and 11, as applied to claim 1 above, modified Chou teaches a headband, but does not teach a decorative item comprising a decorative head is removably attached to the cover. However, Klug teaches a headband cover (Figure 2a at 24) contains a removable decorative item (Figure 2a at 28) removably attached via hook and loop fastener (Figure 2a at 20/22). It would have been obvious to one of ordinary skill in the art, at the time the invention was filed to modify the headband of modified Chou to contain the removable decorative item of Klug in order to increase the aesthetic appeal of the device.

In regards to claim 12, as applied to claim 9 above, modified Chou teaches a headband with the decorative item comprising a decorative head removably attached to the cover via a removable attachment, but does not teach the attachment to the cover is via magnetic attachment. However, as modified Chou teaches the connection is done a removable fastener instead of magnetic fasteners and Hill et al. shows that magnetic fasteners are an equivalent structure known in the art, then because these two fasteners for removable engagement were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the removable attachment of the decorative element of modified Chou for the magnetic fasteners of Hill et al.

Response to Arguments

Applicant's arguments filed 11/02/2016 have been fully considered but they are not persuasive.

Art Unit: 3776

In response to applicant's argument that the device of Hill et al. provides features that would go against that of the instant invention, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Hill et al. is merely shown to teach the interchangeability of snap fasteners and magnetic fasteners on a device.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3776

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIANNE KALACH whose telephone number is (571)270-7489. The examiner can normally be reached on Monday- Thursday, 8:00 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. K./
Examiner, Art Unit 3776
/TODD E MANAHAN/

Application/Control Number: 14/514,407

Page 10

Art Unit: 3776

Supervisory Patent Examiner, Art Unit 3776