

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DOMINGO A. FIGUEREDO

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Appeal No. 2000-2060  
Application No. 08/568,209

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ORDER REMANDING TO EXAMINER

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On October 14, 1997, appellant filed a "Response After Final Rejection" (Paper No. 8) which included a request to cancel claim 7. While the examiner indicated on the "Response" by handwritten note "OK to enter 10/29/97," the amendment has not been physically entered. It should be noted that the Office Advisory Action mailed November 25, 1999 (Paper No. 9) stated that "[c]laims 1-22 is/are pending in the application" and "[c]laims 1-22 is/are rejected" (page 1). In addition, the Notice of Appeal filed by appellant on November 16, 1998 (Paper No. 15) states that "[a]pplicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the

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examiner dated May 12, 1998, rejecting the following claims:  
1-14, 16-20, and 22." Further, on page 3 of the Appeal Brief  
filed January 15, 1999 (Paper No. 16), appellant states:

B. Proffer of Second Amendment After  
Final

Appellant herewith requests cancellation  
of claim 7. It was appellant's intention to  
cancel this claim in the amendment filed  
March 3 [sic, 2], 1998 (in that amendment,  
base claim 1 was amended to include the  
limitation of claim 7). This amendment  
places the claims in better form for appeal,  
and entry of this amendment is respectfully  
requested.

Confusion exists regarding the status of claim 7. Clarification  
is required.

On July 21, 1998, appellant filed an "Amendment After  
Final Rejection" (Paper No. 12). The Advisory Action mailed  
October 13, 1998 (Paper No. 13) indicated that such amendment  
would be entered upon filing an appeal. Both, the Appeal Brief  
filed January 15, 1999 (Paper No. 16) and the Examiner's Answer  
mailed August 3, 1999 (Paper No. 19) indicate that this amendment  
has been entered. A review of the record indicates the amendment  
was not entered.

Accordingly, it is

ORDERED that the application is remanded to the  
examiner:

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1. for clarification regarding the entry status of claim 7;

2. if appropriate, for entry of the amendment contained in the Response filed October 14, 1997 (Paper No. 8) (If claim 7 was not cancelled by the October 14, 1997 (Paper No. 8) Response, appellant will need to submit the amendment included in the Appeal Brief filed January 15, 1999 (Paper No. 16) in proper format and on a separate paper.);

2. for entry of the amendment filed July 21, 1998 (Paper No. 12) and written notification to appellant of the action taken; and

3. for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: \_\_\_\_\_  
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DS:psb

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