

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD S. SCHWERDTFEGER
and
JAMES W. THATCHER

Appeal No. 2002-0653
Application No. 09/121,747

ORDER REMANDING TO EXAMINER

On March 22, 2001, appellants filed a Notice of Appeal (Paper No. 8) "from the Final Rejection of claims 1-44 mailed December 19, 2000." The "Claims on Appeal" section located on page 2 of the Appeal Brief filed April 17, 2001 (Paper No. 10) stated that "[c]laims 1-44 are now on Appeal." The "Grounds of Rejection" section of the Examiner's Answer mailed July 26, 2001 (Paper No. 11) states:

Claims 1, 9, 17, 25, 32 and 39 are
rejected under 35 U.S.C. 102(b). This

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rejection is set forth in prior Office
action, Paper No. 5; and

Claims 2-8, 10-16, 18-24, 26-31, 33-38 and
40-44 are rejected under 35 U.S.C. 103(a).
This rejection is set forth in prior Office
action, Paper No. 5.

It should be noted that the Final Rejection mailed December 19,
2000 (Paper No. 5) and the Appeal Brief filed April 17, 2001
(Paper No. 10), do not appear to discuss the rejection of
claim 36. Appropriate correction is required.

Accordingly, it is

ORDERED that the application is remanded to the
examiner for a determination regarding the status of claim 36.

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

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