



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.
13/659,123	10/24/2012	Wayne A. Noda	1156-15C.DV2CON	9161
24955	7590	10/31/2016	EXAMINER	
ROGITZ & ASSOCIATES Jeanne Gahagan 750 B STREET SUITE 3120 SAN DIEGO, CA 92101			COMLEY, ALEXANDER BRYANT	
			ART UNIT	PAPER NUMBER
			3746	
			NOTIFICATION DATE	DELIVERY MODE
			10/31/2016	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):

Noelle@rogitz.com  
eofficeaction@apcoll.com  
John@rogitz.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* WAYNE A. NODA and STELICA STELEA

---

Appeal 2014-008027  
Application 13/659,123  
Technology Center 3700

---

Before CHARLES N. GREENHUT, MICHAEL L. HOELTER, and  
PAUL J. KORNICZKY, *Administrative Patent Judges*.

GREENHUT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a rejection of claims 27–31 and 35–49.<sup>1</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

---

<sup>1</sup> The Examiner addresses the claims, with the following comment: “Misnumbered claims 39-49 have been renumbered 38-48. However, in order to avoid any possible confusion, the following rejections will refer to claims as currently numbered in [Appellants’] reply filed on January [8], 2014.” Final Act. 3 (emphasis omitted). We use the Examiner’s convention.

### CLAIMED SUBJECT MATTER

The claims are directed to a fluid pump assembly. Claim 27, reproduced below, is illustrative of the claimed subject matter:

27. A fluid pump assembly, comprising:  
a pump support platform supporting a motor; and  
a pump removably engaged with the pump support platform, the pump pumping working fluid to and from an intravascular catheter, the motor being removably coupled to the pump to provide power to the pump when the pump is engaged with the pump support platform;  
a magnet extending from the pump and coupled thereto;  
a cup-shaped member coupled to the motor to receive the magnet and magnetically engage the magnet such that as the cup-shaped member is rotated by the motor it causes the magnet to rotate which, in turn, causes the pump to pump fluid.

### REJECTIONS

Claims 27–28, 35–37, 39, and 43–49 are rejected under pre-AIA 35 U.S.C. § 102(b) as being anticipated by Furlong (US 4,065,235, iss. Dec. 27, 1977).

Claims 29 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Furlong and Rani (US 5,634,907, iss. June 3, 1997).

Claims 30 and 41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Furlong and Portner (US 4,126,132, iss. Nov. 21, 1978).

Claims 31 and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Furlong and Tsuji (US 4,653,987, iss. Mar. 31, 1987).

### OPINION

Each of claims 37, 39, and 47 requires “the collars,” which means both collars recited, to be “received in a pump bore.” Appellants correctly

point out that “[t]he ‘bore’ [relied upon by the Examiner to reject these claims] is formed by the legs (one of which is broken away in figure 1) and the interior of the top of the element 45 *on the outside of which the element 22 is bolted.*” Reply Br. 3 (emphasis added); *see* Ans. 12. Thus, we agree with Appellants that “no part of the element 22 is ‘within’ the bore formed by the element 45.” Reply Br. 3. Thus, we cannot sustain the rejections of claims 37, 39, and 47, and claims 40–45 depending from claim 39, on the basis set forth by the Examiner.

With respect to the rejections of claims 27–31, 35, 36, 46, 48, and 49, rejections not argued are summarily sustained. *See Hyatt v. Dudas*, 551 F.3d 1307, 1314 (Fed. Cir. 2008) (“[T]he applicant can waive appeal of a ground of rejection”); 37 C.F.R. § 41.37(c)(iv).

#### DECISION

The Examiner’s rejections of claims 37, 39–45, and 47 are reversed.

The Examiner’s rejections of claims 27–31, 35, 36, 46, 48, and 49 are affirmed.

AFFIRMED-IN-PART