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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/164,131	06/30/2008	Jzu-Jung Lan	FP13465	9837
52981	7590	01/07/2009		
LEONG C LEI PMB # 1008 1867 YGNACIO VALLEY ROAD WALNUT CREEK, CA 94598			EXAMINER OLSZEWSKI, JOHN	
			ART UNIT 3618	PAPER NUMBER
			MAIL DATE 01/07/2009	DELIVERY MODE PAPER

**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.

<b>Office Action Summary</b>	<b>Application No.</b> 12/164,131	<b>Applicant(s)</b> LAN ET AL.	
	<b>Examiner</b> JOHN R. OLSZEWSKI	<b>Art Unit</b> 3618	

-- 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 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 30 June 2008.
- 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) 1-6 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- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.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, 4 and 5 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ 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 30 June 2008 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).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### 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).
- 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.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

1. **The disclosure is objected to because of the following informalities:** on the 1<sup>st</sup> page of the specification in the first line applicant writes "VARIATIION" which would seem to be a simple misspelling of "VARIATION".

Appropriate correction is required.

### ***Claim Objections***

2. **Claims 2-6 objected to because of the following informalities:** claims all depend from claim 4 with no one claim depending from claim 1, it appears that all claims were intended to depend from claim 1, so for the purposes of advanced prosecution the dependent claims have been read to depend from claim 1. Also, claim 4 depends from itself. Appropriate correction is required.

### ***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.

3. **Claims 4-5 recites the limitation "an outlet end of said exhaust conduit" in the 2<sup>nd</sup>-3<sup>rd</sup> lines of claim 4 and the 3<sup>rd</sup> line of claim 5.** There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Lan et al. (US 6,938,676).**

The applied reference has a common Assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

**[Claim 1]** a continuous transmission system (9); and a gearbox (91) enclosing said continuous transmission system and having a front end provided with an inlet (911) and a rear end provided with an outlet (912), said inlet being connected with an inlet conduit (92) for drawing outside cool air into said gearbox, said outlet being connected with an exhaust conduit (93) for discharging hot air from said gearbox; wherein a cap (931) is provided on a bottom side of a rear body cover (B) and receives an outlet end of said exhaust conduit for preventing water, dirt and dust from entering said exhaust conduit.

***Allowable Subject Matter***

**5. Claims 2-6 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

*With regards to claim 2:*

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- The allowable subject matter present in claim 2 is that the cap is integrally formed with the rear body cover. This has not been found to have been taught or disclosed in the prior art found at this time, therefore claim 2 and any claim(s) that depend therefrom are found to contain allowable subject matter.

With regards to claim 3:

- The allowable subject matter present in claim 3 is that the cap has an opened end facing a rear portion of said vehicle. This has not been found to have been taught or disclosed in the prior art found at this time, therefore claim 3 and any claim(s) that depend therefrom are found to contain allowable subject matter.

With regards to claim 4:

- The allowable subject matter present in claim 4 is that the outlet end of said exhaust conduit is mounted facing a head portion of said vehicle. This has not been found to have been taught or disclosed in the prior art found at this time, therefore claim 4 and any claim(s) that depend therefrom are found to contain allowable subject matter.

With regards to claim 5:

- The allowable subject matter present in claim 5 is that a lateral side of said cap and the outlet end of said exhaust conduit overlap in projection. This has not been found to have been taught or disclosed in the prior art found at this time, therefore claim 5 and any claim(s) that depend therefrom are found to contain allowable subject matter.

With regards to claim 6:

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- The allowable subject matter present in claim 6 is that the cap is mounted along a longitudinal center line of said vehicle. This has not been found to have been taught or disclosed in the prior art found at this time, therefore claim 6 and any claim(s) that depend therefrom are found to contain allowable subject matter.

***Conclusion***

**6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:**

- Nakamura (US 2003/0066696), Sheets (US 7,059,438), Eastman et al. (US 4,697,665), Mizuta et al. (US 5,086,858), Kitai et al. (US 6,705,417), Nakamura (US 6,820,708), Nakamura et al. (US 6,695,083), Nakamura et al. (US 2002/0134598), and Shimizu (US 6,823,956)
  - Disclose structure similar to that claimed and disclosed by applicant

**7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. OLSZEWSKI whose telephone number is (571)272-2706.** The examiner can normally be reached on M-Th 5:30AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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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.

/J. R. O./  
Examiner, Art Unit 3618

/Christopher P Ellis/  
Supervisory Patent Examiner, Art  
Unit 3618