

REMARKS

This Amendment is in response to the outstanding Office Action mailed January 27, 2009. Claims 1-40 are pending in the present application. Claims 1-22 have been amended. Claims 10-11 have been cancelled. Claims 12 and 13 have been withdrawn. Claims 23-40 are new claims. No new matter has been introduced. In view of the amendments and remarks made herein, reconsideration of the Examiner's rejections and Notice of Allowance of all pending claims is respectfully requested.

In the Office Action, the Examiner rejected claims 3 and 22 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Applicant respectfully submits that the Examiner is mistaken in his assertion that a bending/torsion coupling must be described in the specification for a person skilled in the art to make or use the invention. In fact, the term "bending/torsion coupling" is not referring to a physical element or mechanical part, but rather to a working principle of the actuating members 11, 12 as shown in FIG. 1. The actuating members, as shown in FIG. 1, are adapted in a way so as to provide a torsion of the aerodynamically active surface when it is bent. This concept can be readily seen from the drawings and will be familiar to a person of ordinary skill in the art, and no undue experimentation is needed to practice the invention. *In re Wands*, 858 F.2d 731, 737, 8 U.S.P.Q.2d 1400, 1404 (Fed. Cir. 1988).

The Examiner also rejected claim 20 under 35 U.S.C. § 112, second paragraph. The Examiner asserted that the phrase "or the like" rendered the claim indefinite. Applicant has deleted the phrase "or the like" from the claim. Accordingly, Applicant submits that the rejections of claims 3, 20, and 22 under § 112 have been traversed or rendered moot and should be withdrawn.

Next, the Examiner rejected claims 1-4, 8, 14, 15, 21, and 22 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,138,957 to Nastasi et al. ("*Nastasi*"). In addition, the Examiner rejected claims 5, 7, 9, and 16-20 under 35 U.S.C. §103(a) as obvious over *Nastasi* in view of PCT Appln. No. WO 02/47976 to Perez ("*Perez*"), and claim 6 as obvious over *Nastasi* in view of U.S. Patent No. 6,070,834 to Jänker et al. ("*Jänker*") or U.S. Patent No. 6,375,127 to Appa ("*Appa*"). The Examiner objected to claims 10 and 11 as dependent on rejected base claims, but indicated that such claims would be allowable if rewritten in independent form.

In order to push the application toward allowance, and without acquiescing to the Examiner's positions, Applicant has amended claim 1 to incorporate the limitations of claim 10. In addition, Applicant has added new claim 23, incorporating all of the features of claim 11 and its underlying base claim. Applicant has cancelled claims 10 and 11. Thus, claims 1 and 23 include all of the features previously included in claims 10 and 11, which claims were indicated as allowable by the Examiner. Accordingly, Applicant respectfully submits that claims 1 and 23 are allowable at this time.

Finally, claims 2-9, 14-22, and 24-40 depend from independent claims 1 and 23 either directly or indirectly. As dependent claims, each of these claims include all of the features recited in the base claim(s) from which it depends. Accordingly, each of the dependent claims is allowable at least for the reasons set forth above with regard to claims 1 and 23. Moreover, such claims are believed to include additional patentable subject matter in their own rights.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such

action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908)654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,
Electronic signature: /Taylor P. Evans/
Taylor P. Evans
Registration No.: 60,506
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant