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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,394	10/24/2003	Mikhail Godin	351999-991410	1651
29585	7590	07/06/2009	EXAMINER	
DLA PIPER US LLP 153 TOWNSEND STREET SUITE 800 SAN FRANCISCO, CA 94107-1957			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
			2614	
			MAIL DATE	DELIVERY MODE
			07/06/2009	PAPER

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153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO, CA 94107-1957
Appeal No: 2009-012484
Application: 10/693,394
Appellant: Mikhail Godin

Board of Patent Appeals and Interferences Docketing Notice

Application 10/693,394 was received from the Technology Center at the Board on December 10, 2008 and has been assigned Appeal No: 2009-012484.

A review of the file indicates that the following documents have been filed by appellant:

Appeal Brief filed on: April 18, 2008
Reply Brief filed on: July 28, 2008
Request for Hearing filed on: NONE

In all future communications regarding this appeal, please include both the application number and the appeal number.

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By order of the Board of Patent Appeals and Interferences.



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OFFICE OF PETITIONS

Applicant: Godkin
Appl. No.: 10/693,394
Filing Date: October 24, 2003
Title: CLOSED-ENDED LINEAR VOICE COIL ACTUATOR WITH IMPROVED FORCE CHARACTERISTIC
Attorney Docket: 351999-991410
Pub. No.: US 2004/0156526 A1
Pub. Date: August 12, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 26, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains an error on the front page of the publication in the spelling of inventor's last name "Godkin" which appears as "Godin".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within **two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The request for corrected publication, received on June 25, 2008, was not timely filed under 37 CFR 1.221(b).

The error noted by requestor with respect to the misspelled name is not an Office error. The patent application publication does not include a mistake with respect to the inventor's name.

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Even if the name had been misprinted, the misspelling of inventor Godkins' name as "Godin" does not affect the understanding of the application. The mistake does affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on June 26, 2008, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

On January 29, 2004 and May 6, 2004, Filing Receipts were mailed by the Office, which listed the inventor's name. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt, correct error on the Oath and make a request for a Corrected Filing Receipt.

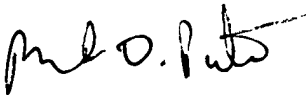
Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

<http://www.uspto.gov/ebc/portal/tutorials.htm>

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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DETAILED ACTION

The reply brief filed 28 July 2008 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Examiner's Response:

The Appellant submitted "Status of Claims" dated 7/28/08 is incorrect since claim 2 is rejected and subject to Appeal review.

The Examiner's Answer dated 10 June 2008 denotes the status of claim 2 under the "Status of Claims".

With respect to the Applicant's argument pertaining to claim 1, these arguments were addressed in the Examiner's Answer dated 10 June 2008.

With respect to the Appellant's argument pertaining to claim 2, the Examiner would like to point out that outer core section (48) of Kotsianas's reference is not a core flange nor was it used in the rejection as such. The core flanges are the extended portions of housing (58, 60) which is attached to outer core sections (48).

Art Unit: 2614

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHYLESHA DABNEY whose telephone number is (571)272-7494. The examiner can normally be reached on Monday through Thursday 9:00-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Art Unit: 2614

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September 4, 2008

/PHYLESHA DABNEY/

Examiner, Art Unit 2614

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit

2614



AT-ITW

PTO/SB/21 (01-08)

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TRANSMITTAL FORM	Application Number	10/693,394
	Filing Date	October 24, 2003
	First Named Inventor	Mikhail Godkin
	Art Unit	1651
	Examiner Name	Phylesha L. DABNEY
(to be used for all correspondence after initial filing)		
Total Number of Pages in This Submission	9	Attorney Docket Number 351999-991410

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Signature			
Printed name	Gerald T. Sekimura		
Date	July 25, 2008	Reg. No.	30,103

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TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	10/693,394	
	Filing Date	October 24, 2003	
	First Named Inventor	Mikhail Godkin	
	Art Unit	1651	
	Examiner Name	Phylesha L. DABNEY	
Total Number of Pages in This Submission	9	Attorney Docket Number	351999-991410

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Mikhail Godkin

Application No. 10/693,394

Filed: October 24, 2003

For: CLOSED-ENDED LINEAR VOICE
ACTUATOR WITH IMPROVED FORCE
CHARACTERISTIC



Group Art Unit: 1651

Examiner: Phylesha L. DABNEY

REPLY BRIEF

153 Townsend Street, Suite 800
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July 28, 2008.

A handwritten signature in cursive script, appearing to read "Ta-Tanisha L. Henry". The signature is written over a horizontal line.

Ta-Tanisha L. Henry

Dear Sir/Madam:

This is a reply to Examiner's Answer in Office Communication dated June 11, 2008, ("Examiner's Answer"). One (1) copy of this reply brief is enclosed.

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Status of Claims

Claims 1 through 40 are pending in the application. Claims 1 and 2 have been finally rejected by the Examiner. Claims 2, 3, 5, 7, 10-20, 25 and 26 have been objected to by the Examiner. Claims 34, 36 and 38 are allowed. Claims 4, 6, 8, 9, 21-24, 27-33, 35, 37, 39 and 40 have been withdrawn from consideration. This is an appeal of the rejection of claims 1 and 2.

Grounds of rejection to be reviewed on appeal

The issues on appeal are:

- (1) Whether claims 1 and 2 are unpatentable under 35 USC §102(b) as anticipated by US Pat. No. 5,898,244 to Kotsianas et al. (“Kotsianas et al.”).

Argument

A key disagreement between the Examiner's and Applicant's reading of the prior art centers around the involved claim 1 feature of:

wherein the core includes first and second portions, each including an end face and a cavity formed in the end face having an axis of symmetry along the longitudinal axis of the core, and further wherein the first and second portions are positioned so that the end faces oppose each other and are separated by a gap

(Involved claim 1, emphasis added.)

In the subject application, Figure 4 (reproduced below) illustrates an example of this feature. (See footnotes 7-11, "Summary of claimed subject matter," Applicant's Appeal Brief..)

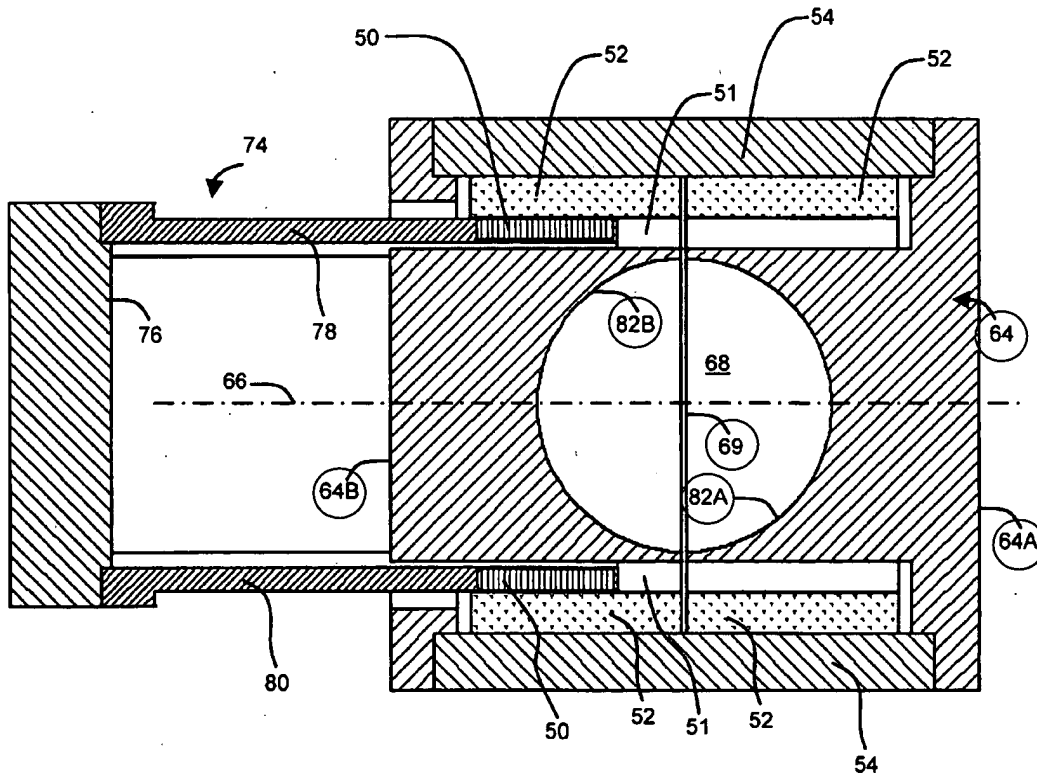
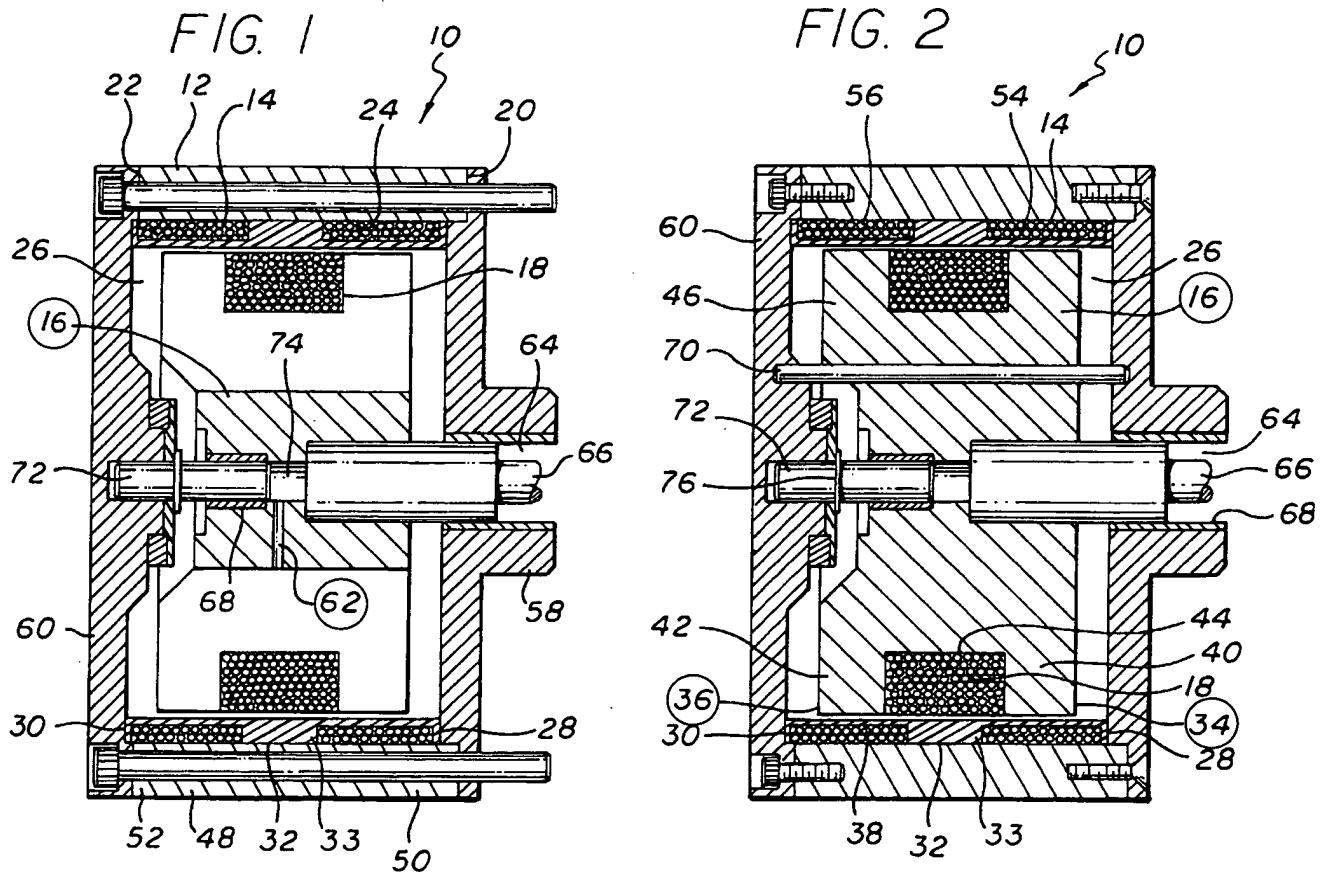


FIG. 4

In the example of Figure 4 (and annotated in red), core 64 has portions 64A and 64B, each with a cavity 82A, 82B, respectively, formed in a respective end face. The portions 64A and 64B are positioned so that the end faces oppose each other and are separated by a gap 69.

Applicant understands the Examiner's position to be that in Kotsianas et al., the features 34, 36 (referred to as "core end 34" and "core end 36" at col. 3, lines 55-56) are "end faces" that "oppose each other," and that they are separated by the feature "62" which the Examiner considers to be a "gap." (See Examiner's Answer, page 4, last paragraph.) Applicant respectfully submits that the core ends 34, 36 of Kotsianas et al. cannot be said to "oppose each other" and cannot be said to be "separated by a gap." Figures 1 and 2 from Kotsianas et al. are illustrative:



In the above Figures, core ends 34, 36 (circled in red) are located at distant, opposite ends of the same core 16 (circled in red), so that instead of being positioned to "oppose each other" they face away from each other. Further, they are positioned on and are linked together by the same body of core 16 (Figure 2, cross hatching), so they are not separated from each other. As to

the feature labeled 62 in Figure 1 which the Examiner asserts is a “gap” that separates core ends 34, 36, Applicant respectfully submits that such feature is simply a shaft-like structure which allows air movement to or from the air gap between shaft 66 and pin 72 when shaft 66 moves relative to pin 72. (See e.g., Column 5, lines 5-14.) The shading of the feature 62 in the cross section shown in Figure 1 is respectfully submitted to be indicative of a shallow depth or small diameter, and not of a feature which separates core ends 34, 36 of core 16 from each other. Further, the absence of such feature in the cross section shown in Figure 2, confirms that such feature is of limited extent, and does not, and cannot operate to separate core ends 34, 36.

Simply put, the core ends 34, 36 in Kotsianas et al., instead of being positioned to “oppose each other,” face away from each other, and, instead of being “separated” from each other “by a gap,” are positioned on and are linked together by the same body of core 16. For the reasons set forth above and in Applicant’s Appeal Brief, it is respectfully submitted that claim 1 is patentable over Kotsianas et al., and that the Examiner’s rejection of claim 1 must be reversed.

Regarding the Examiner’s position on involved claim 2, that the “outer core section (48)” of Kotsianas et al. corresponds to “core flanges” which support a housing (58, 60) (see Examiner’s Answer, page 5, first paragraph), it is respectfully submitted that claim 2 is patentable as dependent from a patentable base claim 1, and further, that “outer core section (48)” is not a “core flange.” First of all, nowhere in Kotsianas et al. is “outer core section (48)” referred to as a “flange,” much less a “core flange.” In Kotsianas et al., the closest association of feature 48 with the feature labeled 16 in Figure 1, is found at col. 3, lines 64-65, where it is stated that “[t]he core 16 may also be defined as having an inner core member 46 and an outer core member 48.” However, it is respectfully submitted that the fact that inner core member 46 (Figure 2) is moveable with respect to outer core member 48 (see col. 4, lines 3-8) prevents it

from being a “flange” of inner core member 46. There are further indications that feature 48 is not operatively a part of inner core member 46 (core 16). As can be seen from Figure 1, and described at col. 3, lines 36-46, the same structure to which reference number 48 points is described as a case 12, having an interior wall 24, and that a conductive coil 14 is coextensively adjacent interior wall 24. Thus, as a case 12, feature 48 can hardly be seen as a core flange supporting a housing as recited in involved claim 2. Also, conductive coil 14 is the same coil that the Examiner asserts corresponds to the claim 1 feature of “a coil shaped for movement along the longitudinal axis of the core.” (See Examiner’s Answer, page 3, last paragraph.) Thus, feature 48 (case 12) in Kotsianas et al. is physically associated with the “conductive coil 14” rather than the core 16 (inner core member 46).

For the foregoing reasons, it is respectfully submitted that feature 48 in Kotsianas et al. is not a “core flange,” that claim 2 is patentable as dependent from patentable base claim 1, and that the Examiner’s rejection of claim 2 must be reversed.

Conclusion

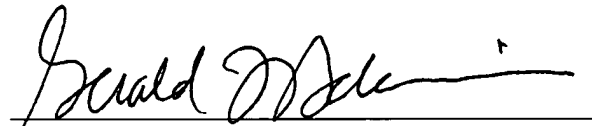
For the reasons set forth above, it is respectfully submitted that Kotsianas et al. do not teach or suggest the invention claimed in claims 1 and 2, and hereby requests that the Board reverse the Examiner's rejections and affirm the patentability of the claims on appeal.

Respectfully submitted,

DLA Piper US LLP

Dated: July 25, 2008

By:



Gerald T. Sekimura

Reg. No. 30,103

Attorneys for Applicant

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Total Number of Pages in This Submission	5	Attorney Docket Number	351999-991410

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Printed name	Gerald T. Sekimura		
Date	June 23, 2008	Reg. No.	30,103

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Typed or printed name	Ta-Tanisha L. Henry	Date	June 23, 2008

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/693,394	
	Filing Date	October 24, 2003	
	First Named Inventor	Mikhail Godkin	
	Art Unit	2614	
	Examiner Name	Phylesha L. DABNEY	
Total Number of Pages in This Submission	5	Attorney Docket Number	351999-991410

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Request to Correct Publication 2. Copy of face page of Publication No. 2004/0156526 A1 3. Return Postcard
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	DLA Piper US LLP		
Signature			
Printed name	Gerald T. Sekimura		
Date	June 23, 2008	Reg. No.	30,103

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mikhail Godkin

Serial No.: 10/693,394

Group Art Unit: 2614

Filed: October 24, 2003

Examiner: Phylesha L. DABNEY

Title: CLOSED-ENDED LINEAR VOICE COIL ACTUATOR WITH IMPROVED
FORCE CHARACTERISTIC

* * *

REQUEST TO CORRECT PUBLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

Applicant hereby requests correction to lines (12) and (76) of Publication No. US 2004/0156526 A1 relating to the above-identified U.S. patent application. Lines (12) and (76) currently list the inventor's name as --Godin--, which is an incorrect spelling of the inventor's last name. This is to request that the spelling of inventor's name in lines (12) and (76) be changed to --Godkin--.

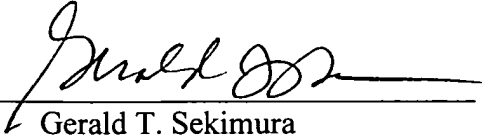
A marked-up copy of the first page of the referenced publication indicating the correction is attached for your reference.

Should the Examiner have any questions concerning the above, she is invited to telephone the undersigned at the number listed below.

Respectfully Submitted,

DLA PIPER US LLP

Dated: 6/23/00

By: 

Gerald T. Sekimura

Reg. No. 30,103

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US 20040156526A1

(19) **United States**

(12) **Patent Application Publication** (10) **Pub. No.: US 2004/0156526 A1**

~~Godin~~ *Godkin*

(43) **Pub. Date: Aug. 12, 2004**

(54) **CLOSED-ENDED LINEAR VOICE COIL ACTUATOR WITH IMPROVED FORCE CHARACTERISTIC**

Publication Classification

(51) **Int. Cl.⁷ H04R 11/02; H04R 1/02; H04R 1/00**

(76) **Inventor: Mikhail ~~Godin~~ *Godkin*, San Diego, CA (US)**

(52) **U.S. Cl. 381/400; 381/412; 381/345**

(57) **ABSTRACT**

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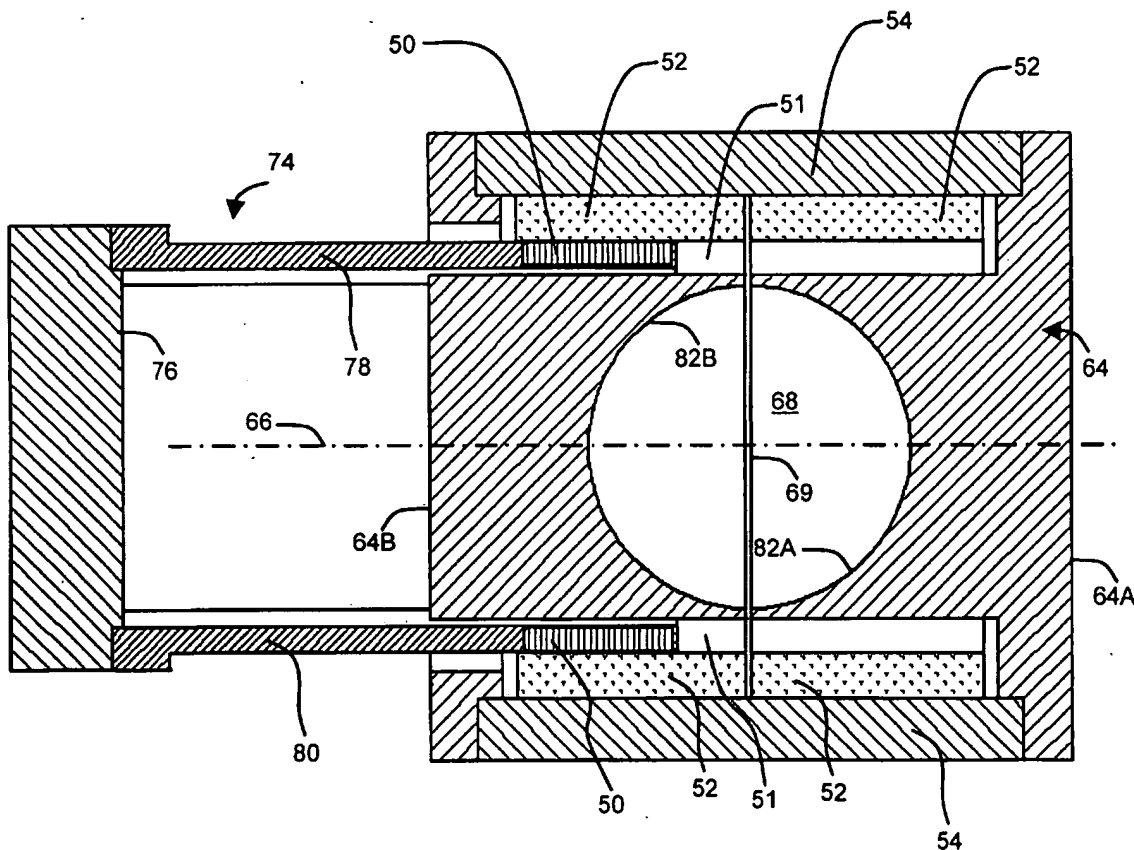
Disclosed is a linear actuator which includes a core, a coil, a magnet assembly, and a housing. The coil that is shaped to be positioned about the core for movement along a longitudinal axis of the core. The housing is supported by core flanges and positioned about the coil and the core. The magnet assembly includes magnets of the same polarity facing the coil and shaped to be positioned inside or outside of the coil, and supported by the core or by the housing, respectively. The core includes first and second portions, each having an end face, and the first and second portions are positioned along the longitudinal axis so that the end faces oppose each other and are separated by a gap. A cavity is formed in each of the end faces along the longitudinal axis.

(21) **Appl. No.: 10/693,394**

(22) **Filed: Oct. 24, 2003**

Related U.S. Application Data

(60) **Provisional application No. 60/421,929, filed on Oct. 28, 2002.**





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,394	10/24/2003	Mikhail Godin	351999-991410	1651
29585	7590	06/11/2008	EXAMINER	
DLA PIPER US LLP 153 TOWNSEND STREET SUITE 800 SAN FRANCISCO, CA 94107-1957			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
			2614	
			MAIL DATE	DELIVERY MODE
			06/11/2008	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.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/693,394
Filing Date: October 24, 2003
Appellant(s): GODIN, MIKHAIL

Gerald T. Sekimura
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 18, 2008 appealing from the Office Action mailed August 8, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1 and 2.

Claims 34, 36, and 38 are allowed.

Claims 3, 5, 7, 10-20, 25, and 26 are 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.

Claims 4, 6, 8-9, 21-24, 27-33, 35, 39-40 are withdrawn from consideration as not directed to the elected Group and/or Species.

Claim 37 has been canceled.

(4) Status of Amendments After Final

Art Unit: 2615

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,898,244

KOTSIANAS et al

4-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kotsianas et al (U.S. Patent No. 5,898,244). The rejection is set forth in the prior Office Action, mailed on August 8, 2007.

Regarding claim 1, Kotsianas teaches a linear actuator comprising a core (16) having a longitudinal axis; a coil (14) shaped for movement along the longitudinal axis of the core; and a

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magnet structure (12, 18) positioned along the longitudinal axis of the core; wherein the core includes first and second portions, each including an end face (near 66, 72) and a cavity (at 66, 72 relative to core 16) having an axis of symmetry along the longitudinal axis of the core, and further wherein the first and second portions are positioned so that the end faces oppose each other and are separated by a gap (62).

Regarding claim 2, Kotsianas teaches the linear actuator of claim 1, further including a housing (58, 60) supported by core flanges and positioned about the coil and the core.

(10) Response to Argument

With respect to the Appellant's argument that the Kotsianas reference does not teach or suggest *a core including "first and second portions, each including an end face and a cavity formed in the end face...wherein the first and second portions are positioned so that the end faces oppose each other and are separated by a gap* as suggested by claim 1, the Examiner disagrees.

Kotsianas teaches the core (16) including first and second portions (*which reads on the first end (34) and second end (36)*), each including an end face (*which reads on the outside of the core namely near insertion areas for 66, 72; specifically end faces 34, 36*) and each including cavity (*which reads on the area of the core carved out for the insertion of shaft 66 and pin 72*) formed in the end face...wherein the first and second portions are positioned so that the end faces oppose each other (*represent opposite sides of the core relative to each other*) and are separated by a gap (*which reads on gap (62) positioned medial to the end faces, thus separating the two portions*).

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With respect to the Appellant's argument that the Kotsianas reference does not teach or suggest *a housing (58, 60) supported by core flanges and positioned about the coil and the core* as suggested by claim 2, the Examiner disagrees.

Kotsianas teaches the linear actuator of claim 1, further including a housing (58, 60) supported by core flanges and positioned about the coil and the core (*which reads the outer core section (48) being used to attach the housing such that the housing is positioned about the coil and inner core (16)*).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Phylesha L Dabney/
Examiner, Art Unit 2614
June 5, 2008

Conferees:

/Curtis Kuntz/

Supervisory Patent Examiner, Art Unit 2614

/Vivian Chin/

Supervisory Patent Examiner, Art Unit 2615

Application/Control Number: 10/693,394
Art Unit: 2615

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