

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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GILBERT P. HYATT,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 09-1872 (RCL)
v.	)	
	)	
ANDREI IANCU,	)	
	)	
Defendant.	)	
_____	)	

**JUDGMENT AND ORDER**

Before the Court is plaintiff Gilbert Hyatt's action brought under 35 U.S.C. § 145 concerning certain claims contained with his patent application 08/431,639 (the '639 application), that had been disallowed by the United States Patent and Trademark Office. A total of fifty-eight claims in the '639 application remain subject to Mr. Hyatt's § 145 action before this Court: fifty-two rejected for lack of written description, and six because of obviousness. *See* 09-1872 ECF No. 197 at 3;<sup>1</sup> 09-1872 ECF No. 220 at 1. A five-day trial began November 13, 2017, during which new evidence was presented on each of the disputed claims. *See, e.g.*, PTX-901; PTX904. Upon consideration of the evidence and arguments presented at trial, the subsequent proposed

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<sup>1</sup> Document 197, Mr. Hyatt's pre-trial statement, lists sixty claims, but his challenges to two of those, claims 95 and 215, were withdrawn at trial. *See* 09-1872 ECF No. 219 at 5. Mr. Hyatt's proposed findings and conclusions list seventy-two claims on which he wants the Court to order PTO to issue a patent. *See* 09-1872 ECF No. 219 at 1. This appears to include the non-disputed independent claims upon which several disputed claims are dependent, *e.g.*, independent claim 103, upon which claims 220-24 depend. The Constitution's case or controversy requirement bars the Court from issuing an Order on claims not in dispute before it. U.S. CONST. ART. III, §2(1).

findings of fact and conclusions of law filed by both parties and the plaintiff's reply thereto, *see* ECF Nos. 219, 220, and 221, and the entire record in this case, it is hereby

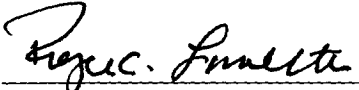
ORDERED that the defendant, Director of the United States Patent and Trademark Office shall issue a patent in Mr. Hyatt's '639 application at-issue in this case, covering Claims 86, 89, 98, 104, 151, 214, and 367;

IT IS FURTHER ORDERED THAT the remaining claims that are at issue (206, 209, 220, 221, 222, 223, 224, 227, 228, 229, 230, 231, 232, 235, 236, 237, 238, 239, 242, 243, 244, 245, 246, 249, 253, 300, 301, 344, 364, 368, 372, 396, 397, 398, 399, 400, 406, 407, 408, 409, 410, 416, 417, 418, 419, 420, 426, 427, 428, 429, and 430) are DENIED

IT IS FURTHER ORDERED THAT the issued patent shall reference the accompanying Opinion in this case, issued this day, and include the Figures upon which plaintiff relied at trial as evidence of written description support.

**SO ORDERED.**

Date: 7/31/18

  
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Royce C. Lamberth  
United States District Judge