

EXHIBIT 2



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,284	12/18/2009	7009655	8157.019.655	1850

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 03/12/2010

Please find below and/or attached an Office communication concerning this application or proceeding.



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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

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MAR 12 2010

CENTRAL REEXAMINATION UNIT

**Transmittal of Communication to Third Party Requester
Inter Partes Reexamination**

REEXAMINATION CONTROL NUMBER 95/001,284.

PATENT NUMBER 7,009,655.

TECHNOLOGY CENTER 3900.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

**ORDER GRANTING/DENYING
REQUEST FOR INTER PARTES
REEXAMINATION**

Control No.	Patent Under Reexamination	
95/001,284	7009655	
Examiner	Art Unit	
OVIDIO ESCALANTE	3992	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address. –

The request for *inter partes* reexamination has been considered. Identification of the claims, the references relied on, and the rationale supporting the determination are attached.

Attachment(s): PTO-892 PTO/SB/08 Other: _____

1. The request for *inter partes* reexamination is GRANTED.

An Office action is attached with this order.

An Office action will follow in due course.

2. The request for *inter partes* reexamination is DENIED.

This decision is not appealable. 35 U.S.C. 312(c). Requester may seek review of a denial by petition to the Director of the USPTO within ONE MONTH from the mailing date hereof. 37 CFR 1.927. EXTENSIONS OF TIME ONLY UNDER 37 CFR 1.183. In due course, a refund under 37 CFR 1.26(c) will be made to requester.

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Order.

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DECISION GRANTING *INTER PARTES* REEXAMINATION

1. A substantial new question of patentability affecting claims 1-18 of United States Patent Number 7,009,655 is raised by the request for *inter partes* reexamination.

References Cited in the Request

2. The Request identifies the following printed publications as providing teachings relevant to the claims of the '655 patent.

PA-A "Cleanser 5 User Manual For MAC OS and Windows", Terran Interactive, 1995-2000 (**Cleaner 5 Manual**)

PA-B "Cleaner MPEG Charger User Manual For MAC OS and Windows", Media 100, 1995-2001 (**Cleaner MPEG Charger User Manual**)

PA-C "**Avid Xpress**"

[http://web.archive.org/web/20000815061831/
www.avid.com/products/pdf/xpress.pdf](http://web.archive.org/web/20000815061831/www.avid.com/products/pdf/xpress.pdf)

PA-D "**Avid Xpress DV**"

[http://web.archive.org/web/20010331173804/
www.avid.com/products/avidxpressdv/index.html](http://web.archive.org/web/20010331173804/www.avid.com/products/avidxpressdv/index.html)

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PA-E **MPEG Standard**

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***Detailed Explanation of How the Cited Prior Art is Applied to Every Claim for Which
Reexamination is Requested.***

- Issue 1: Cleaner 5 User Manual is asserted as rendering claims 1-18 anticipated.
- Issue 2: Cleaner 5 User Manual in view of Cleaner MPEG Charger is asserted as rendering claims 5, 6 and 8 obvious.
- Issue 3: Avid Xpress in view of Avid Xpress DV is asserted as rendering claims 1-3, 5, 7, 9 and 13-18 obvious.

Prosecution History

The '655 patent issued from Application No. 10/202,999 filed on July 23, 2002 (hereinafter the '999 application).

In the first Office Action, the Examiner rejected claims 1-15 and 20 but allowed claims 16-19.

The Examiner stated that the prior art failed to disclose:

“A system for converting video information from an incoming format to an outgoing format using an integrated computer software application, the integrated computer software application being provided on one or more memories, the one or more memories including: a code directed to receiving video information in a first format; a code directed to receiving a desired output media format based upon a first input; a code directed to receiving a desired TV standard based upon a second input; a code directed to converting the video information in the first format to raw video information an uncompressed format using a decoding process; a code directed to resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired TV standard; a code directed to adjusting the uncompressed format in the size associated with the desired output media format and the desired TV standard to a frame rate associated with the desired TV standard; a code directed to processing the Uncompressed format in the size and the frame rate into an elementary video stream; and a code directed to processing the elementary video stream with audio information in the desired output media format and the desired TV standard to form video and audio

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information in a presentation format based upon the desired output media format and the desired TV standard.”

The Examiner rejected claims 13 and 14 under 35 U.S.C. § 112 as being indefinite for reciting editing information based upon an unclear fourth and an unclear fifth input; thus, rendering the claims indefinite.

In response to the Office Action, Applicant canceled claims 1 and 20 and amended claims 2-15 to be dependent upon claim 16, which had been previously allowed and the Examiner promptly issued a notice of allowance.

Reasons for Allowance Analysis as disclosed in the Request

The Requester notes that original claims 1-15 and 20 recited a similar system [to allowed claims 16-19] but did not require that the system perform the steps using computer code. The Requester notes that claims 1-15 and 20 were rejected under Washino for disclosed the recited method but "apparently did not recite software for accomplishing the methods."

Statement of Substantial New Question

The Examiner Notes that the Requester's Substantial New Question is based on a showing of a software based system.

As noted on pages 8-10, the Requester Substantial New Question was directed to the issue that "the claims of the '655 patent were only deemed patentable because the Examiner was note aware of a software system for carrying out the steps of the invention". The Requester then asserts several prior art references for being directed to a software system that are in the same field of endeavor of the instant claims.

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Discussion of References that Raise a SNQ

Issues 1 and 2 - Cleaner 5 User Manual

As noted in the Request, **Cleaner 5** discloses a system for converting incoming DV [incoming format] to an outgoing MPEG-1 [outgoing format] or MPEG-2 stream (Cleaner 5 at pp. 141,206) via an integrated computer software application, which "offers a complete camera-to-web solution that makes it easy to put video and audio on a [user' s] site," (Cleaner 5 at p. 141). Cleaner 5 discloses a receiving source material in DV format [i.e., video information in a first format] from a DV camera, (Cleaner 5 at pp. 5, 8) and allowing a user to select a different output media format based upon a first input. For example, the user "can easily produce MPEG-1 files for Video CD projects by selecting the Video CD preset in the Advanced Settings window." Cleaner 5 at p. 209.

Cleaner 5 also discloses that a user may choose between NTSC or PAL (i.e., desired TV standard) based upon the preset [i.e., second input] the user selects, (Cleaner 5 at pp. 204-206) and that Cleaner 5 decodes and converts the DV stream format video information to an uncompressed raw video format, such as YUV and Digital Origin's DV codec, (Cleaner 5 at p. 138). Cleaner 5 discloses converting the uncompressed raw video information to the selected image size through a resizing operation. Cleaner 5 at p. 204. In Cleaner 5, 720 x 480 pixels is the image size associated with an MPEG 2 output media format in an NTSC TV standard. Cleaner 5 at p. 204. Additionally, 720 x 576 pixels is the image size associated with an MPEG 2 output media format in a PAL TV standard. Cleaner 5 at p. 204.

Cleaner 5 further discloses a frame rate of 29.97 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the NTSC TV standard and a frame rate

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of 25 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the PAL TV standard, (Cleaner 5 at p. 207) and a user can select to process the video into an elementary video stream when outputting MPEG 1 and MPEG 2 files, (Cleaner 5 at p. 206) Cleaner 5 discloses that when an MPEG 1 system stream is selected, the elementary video stream is processed or multiplexed with the audio stream to form a single multiplexed stream of audio and video information in the desired NTSC or PAL TV standard based on the desired MPEG 1 output media format, (Cleaner 5 at p. 7, 206).

Given the above teachings, there is a substantially likelihood that a reasonable examiner would consider these teachings important in deciding whether or not the instant claims under reexamination are patentable.

The teaching of “a system for converting video information from an incoming format to an outgoing format using an integrated computer software application including receiving video information, output selection formats, converting received video into a raw video in an uncompressed format, resizing raw video into the size associated with desired output media format; processing the uncompressed video into an elementary video stream and processing the elementary video stream in the desired output media format ” was not considered or discussed on the record during the prosecution of the application which became the ‘655 patent. Therefore, it is agreed that Cleaner 5 raises a SNQ over at least claims 1-18 of the instant ‘655 Patent.

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Issue 3
Avid Xpress and Avid Xpress DV

As noted in the Request, the **Avid Xpress** system is a software system for converting and editing video and multimedia content quickly, (Avid Xpress at p. 1). Additionally, **Avid Xpress DV** is a software product that is related to Avid Xpress that has a variety of exporting options including MPEG output abilities, (Avid Xpress DV Features - Digital Distribution Options at p. 1).

Avid Xpress receives video in many different formats including popular animation files on Windows, Macintosh and SGI, and QuickTime formats, (Avid Xpress at pp. 1, 3). Additionally, since Avid Xpress supports the ITU R-601 standard for converting video into broadcast digital formats. Avid Xpress at p. 1 - Avid Express has code to output video in a compliant ITU-R601 format.

Avid Xpress DV receives RealMedia, Windows Media/ASF, 1WMV, AVI and OMF/JFIF files input formats, (Avid Xpress DV at p. 1 and FEATURES, p. 1)

Avid Xpress software utilizes the ITU R-601 standard for outputting broadcast quality outputs in both the NTSC and PAL TV standards. Avid Xpress at p. 3.

The **Avid Xpress** software system includes code directed to resizing input video information in a size associated with the desired output media format and TV standard (720 x 486 NTSC; 720 x 576 PAL). Avid Xpress at p. 3. Furthermore, the Avid Xpress software system can output projects as uncompressed video for the best possible image quality. Avid Xpress at p. 2. Therefore, Avid Xpress can resize the input video and output an uncompressed video file in the desired size for the output media format and TV standard. Avid Xpress at pp. 2-3.

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In addition, since the **Avid Xpress** software conforms to the ITU R-601 broadcast industry standard output for PAL and NTSC TV standards (Avid Xpress at p. 3). Avid Xpress can adjust the output frame rate, Furthermore, **Avid Xpress DV** exports files to MPEG format and therefore must conform the output to the MPEG standard. Avid Xpress DV at FEATURES, p. 1.

Avid Xpress discloses processing the output audio-visual file based on broadcast industry standards and the output media format (storage for online broadcasting). Avid Xpress at p. 1. Avid Xpress also discloses many other output formats such as Quicktime, and other Windows and Macintosh platform files. Avid Xpress at p. 1.

Avid Xpress DV enhances Avid Xpress capabilities providing MPEG outputs and media formats including Web, DVD, and tape. Avid Xpress DV at p. 1 and FEATURES, p. 1.

Given the above teachings, there is a substantially likelihood that a reasonable examiner would consider these teachings important in deciding whether or not the instant claims under reexamination are patentable.

The teaching of "a system for converting video information from an incoming format to an outgoing format using an integrated computer software application including receiving video information, output selection formats, converting received video into a raw video in an uncompressed format, resizing raw video into the size associated with desired output media format; processing the uncompressed video into an elementary video stream and processing the

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elementary video stream in the desired output media format ” was not considered or discussed on the record during the prosecution of the application which became the ‘655 patent. Therefore, it is agreed that Cleaner 5 raises a SNQ over at least claims 1-18 of the instant ‘655 Patent.

Scope of Reexamination

3. Claims 1-18 will be reexamined as requested in the request.

Conclusion

4. Extensions of time under 37 CFR 1.136(a) will not be permitted in *inter partes* reexamination proceedings because the provisions of 37 CFR 1.136 apply only to “an applicant” and not to the patent owner in a reexamination proceeding. Additionally, 35 U.S.C. 314(c) requires that inter partes reexamination proceedings “will be conducted with special dispatch” (37 CFR 1.937). Patent owner extensions of time in inter partes reexamination proceedings are provided for in 37 CFR 1.956. Extensions of time are not available for third party requester comments, because a comment period of 30 days from service of patent owner’s response is set by statute. 35 U.S.C. 314(b)(3).

5. The Patent Owner is reminded of the continuing responsibility under 37 CFR 1.985(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving the US Patent 7,009,655 throughout the course of this reexamination proceeding. The Third Party Requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding through the course of this reexamination proceeding. See MPEP § 2686 and 2686.04.

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All correspondence relating to this *inter partes* reexamination proceeding should be directed:

By EFS: Registered users may submit via the electronic filing system EFS-Web, at <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>.


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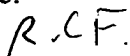
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For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a certificate of transmission for each piece of correspondence stating the data of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication or earlier communications from the examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.


Ovidio Escalante
Primary Examiner
Central Reexamination Unit - Art Unit 3992
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Conferee:


Conferee:
