

EXHIBIT 6



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95/001,261	11/13/2009	7,139,761 B2	309101-203	5286
57608	7590	02/09/2010	EXAMINER HUGHES, DEANDRA M	
ERIC D. JORGENSON 1457 KING ROAD HINCKLEY, OH 44233			ART UNIT 3992	PAPER NUMBER
			MAIL DATE 02/09/2010	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.



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THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS
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PALO ALTO, CA 94306-2155

Date:
MAILED

FEB 09 2010

CENTRAL REEXAMINATION UNIT

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

REEXAMINATION CONTROL NO. : 95001261
PATENT NO. : 7139761
TECHNOLOGY CENTER : 3999
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	
95/001,261	7,139,761	
Examiner	Art Unit	
Deandra M. Hughes	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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ORDER GRANTING REQUEST FOR *INTER PARTES* REEXAMINATION

1. Third Party Requester ("**3PR**") has alleged substantial new questions of patentability ("**SNQ**") affecting **claims 1-16, 21, 23-26, 29, and 31-34** of **USP 7,139,761** ("**McKibben**") in the *inter parte* reexamination request filed Nov. 13, 2009 ("**Request**").
2. This is the second request for reexamination of the **McKibben** patent. The first request (**90/010,591**) was filed on July 2, 2009 and an order granting reexamination has been mailed granting reexamination of **claims 1-2, 4-16, 21-29, and 31-35**.

References Cited in this Action

3. Christopher K. Hess & Roy H. Campbell, *A Context File System for Ubiquitous Computing Environments*, published by Dept. of Computer Science, U of Illinois at Urbana-Champaign. July 2002. ("**Hess**")
4. USP 6,236,994 to Dourish et al. published Aug. 6, 2002. ("**Dourish**")
5. EP 1 087 306A2 to Hubert et al. published May 22, 2001. ("**Hubert**")
6. iManage, Inc. iManage DeskSite 6.0 User Reference Manual, 2001. Chapters 1-5, 2001. ("**iManage**")
7. USP 6,236,994 to Swartz et al. published May 22, 2001 ("**Swartz**")
8. USP 6,434,403 to Ausems et al. published Aug. 13, 2002. ("**Ausems**")
9. Microsoft Press. Microsoft Computer Dictionary. 3rd Ed. 1997. pgs. 403-404, 462, 487, 505-506, 511-512. ("**Microsoft**")
10. US Pub. No. 2003/0120660 to Maritzen et al. filed Dec. 7, 2001. ("**Maritzen**")

Prosecution History

11. The prosecution history of the application (10/732,744) which became the **McKibben** patent is presented below.

- On Dec. 10, 2004, Applicant presented **claims 1-44** for examination.

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- On June 3, 2005, the Examiner rejected claims 1-44 in a non-final office action under 35 U.S.C. §102(e) as being anticipated by McKelvie (Pub. No. 2003/0217096).
- On Nov. 3, 2005, Applicant amended claims 1, 3-10, 12-14, 16-19, 26, 32, 36, 40-42 and 44. Claims 11, 27, and 30 were cancelled.
- On Jan. 5, 2006, the Examiner rejected claims 1-10, 12-26, 28-29, and 31-44 in a final office action under 35 U.S.C. §103(a) as being unpatentable over McKelvie in view of Smiga (USP 6,421,678).
- On May 5, 2006, Applicant filed an RCE and an amendment cancelling claims 1-17, and amending claims 18-26, 29, 36, and 39-41.
- On Aug. 15, 2006, an interview was initiated and amendment to claims 18, 26, 36, 41, 45, and 52 to overcome the prior art was discussed.
- On Aug. 30, 2006, claims 18-26, 28-29, 31-41, 45-49, 51-57, and 59 were allowed. Claims 18, 26, 36, 40-41, and 45 were independent. The Examiner amended independent claims 18, 26, 36, and 45 to put the said claims in condition for allowance.

The crux of the amendments was as follows (see NOA):

- stored metadata is dynamically updated based on a change of the user from one context to another wherein the user accesses the data from the second context; (pg. 3, claim 18 and pg. 11, claim 45); and
- the stored metadata is dynamically updated with an association of the data, the application, and the second user environment wherein the user employs at least one of the application and the data from the second environment. (pg. 5, claim 26 and pg. 7, claim 36)

12. Based on the prosecution history of the **McKibben** patent, the Examiner considers the following teachings to form the proper basis for a SNQ for claims 1-16, 21, 23-26, 29, and 31-34.

- (I) stored metadata is dynamically updated based on a change of the user from one context to another wherein the user accesses the data from the second context; or

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- (II) the stored metadata is dynamically updated with an association of the data, the application, and the second user environment wherein the user employs at least one of the application and the data from the second environment.

Decision

13. The Request (pg. 6) indicates that 3PR considers:

- (A) Claims 1-13, 16, 21, 23-26, 29, and 31-34 are anticipated by Hess.
- (B) Claims 1-15, 21, 23-26, 29, and 31-34 are anticipated by Dourish.
- (C) Claims 1-15, 21, 23-26, 29, and 31-34 are anticipated by Hubert.
- (D) Claims 1-2, 4-15, 21, 23-26, 29, 32-34 are anticipated by iManage.
- (E) Claim 3 is anticipated by Swartz.
- (F) Claims 9-15, 21, 23-26, and 31-34 are obvious over Hess in view of Microsoft.
- (G) Claim 16 is obvious over Dourish in view of Ausems.
- (H) Claim 16 is obvious over Hubert in view of Ausems.
- (I) Claim 16 is obvious over iManage in view of Ausems.
- (J) Claim 31 is obvious over Hess in view of Microsoft.
- (K) Claim 31 is obvious over Dourish in view of Microsoft.
- (L) Claim 31 is obvious over iManage in view of Microsoft.
- (M) Claims 1-16, 21, 23-26, 29, and 31-34 are obvious over Hess in view of Microsoft.
- (N) Claims 1-15, 21, 23-26, 29, and 31-34 are obvious over Hubert in view of Maritzen.

14. With regard to (A), (F), (J), and (M), it is agreed that the consideration of Hess raises a SNQ as to claims 1-16, 21, 23-26, 29, and 31-34 of the McKibben patent.

Hess discloses

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"Active spaces...are often designed for specific tasks; classes are held in lecture halls, shopping is done in stores, and work completed in offices, and therefore typically have a context associated with them. This context information can be used to determine which information is meaningful in a particular space." (pg. 3, 7th ¶).

Hess was not before the Examiner during the prosecution of the **McKibben** patent and there is a substantial likelihood that a reasonable examiner would consider this teaching of **Hess** important in deciding whether the claims of the **McKibben** patent are patentable. Accordingly, **Hess** raises a SNQ as to claims 1-16, 21, 23-26, 29, and 31-34, which question has not been decided in a previous examination of the of the **McKibben** patent.

15. With regard to **(B)**, **(G)**, and **(K)**, it is agreed that the consideration of **Dourish** raises a SNQ as to claims 1-16, 21, 23-26, 29, and 31-34 of the **McKibben** patent.

Dourish discloses

"After documents are categorized using the category manager 122, the documents can be viewed (i.e., retrieved) according to the context of a particular filing structure that is distinct from the context under which they were filed. That is, once a document is filed according to a particular filing structure, the context in which that document was filed can be mapped to other customized filing structures in a manner that is transparent to users operating the application program interfaces." (col. 4:33-41).

Dourish was not before the Examiner during the prosecution of the **McKibben** patent and there is a substantial likelihood that a reasonable examiner would consider this teaching of **Dourish** important in deciding whether the claims of the **McKibben** patent are patentable. Accordingly, **Dourish** raises a SNQ as to claims 1-16, 21, 23-26, 29, and 31-34, which question has not been decided in a previous examination of the of the **McKibben** patent.

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16. With regard to (C), (H), and (N), it is agreed that the consideration of **Hubert** raises a SNQ as to claims 1-16, 21, 23-26, 29, and 31-34 of the **McKibben** patent.

Hubert discloses

"Creation and recording of processing information and associated metadata on the meta-document may be accomplished externally by the particular source or environment to which the meta-document may be residing." (Abstract).

Hubert was not before the Examiner during the prosecution of the **McKibben** patent and there is a substantial likelihood that a reasonable examiner would consider this teaching of **Hubert** important in deciding whether the claims of the **McKibben** patent are patentable. Accordingly, **Hubert** raises a SNQ as to claims 1-16, 21, 23-26, 29, and 31-34, which question has not been decided in a previous examination of the of the **McKibben** patent.

17. With regard to (D), (I), and (L), it is agreed that the consideration of **iManage** raises a SNQ as to claims 1-2, 4-16, 21, 23-26, 29, 31-34 of the **McKibben** patent.

iManage discloses a display about the document history such as the computer location where the activity took place. (pgs. 82-83). **iManage** was not before the Examiner during the prosecution of the **McKibben** patent and there is a substantial likelihood that a reasonable examiner would consider this teaching of **iManage** important in deciding whether the claims of the **McKibben** patent are patentable. Accordingly, **iManage** raises a SNQ as to claims 1-2, 4-16, 21, 23-26, 29, 31-34, which question has not been decided in a previous examination of the of the **McKibben** patent.

18. As to (E), it is agreed that the consideration of **Swartz** raises a SNQ as to claim 3 of the **McKibben** patent.

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Swartz discloses

"use of a knowledge repository containing record of integration transactions, context information from users and applications, information metadata catalog, knowledge access control, application activation rules, metadata and rules for knowledge integration, knowledge generation, knowledge visualization, 'live' knowledge links, task execution, and case-based data for regulatory review" (col. 4:33-40).

Swartz was not before the Examiner during the prosecution of the **McKibben** patent and there is a substantial likelihood that a reasonable examiner would consider the said teaching of **Swartz** important in deciding whether the claims of the **McKibben** patent are patentable. Accordingly, **Swartz** raises a SNQ as to claim 3, which question has not been decided in a previous examination of the of the **McKibben** patent.

Conclusion

19. For the reasons set forth above, claims 1-16, 21, 23-26, 29, and 31-34 of **McKibben** will be reexamined.

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

By Mail to: Mail Stop *Inter Partes* Reexam
Attn: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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21. Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at:

<https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>.

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

22. Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties 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).

23. 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 concurrent proceeding, involving Patent No. **7,139,761** 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 throughout the course of this reexamination proceeding. See MPEP §2686 and 2686.04.

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24. 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.

Signed:

/Deandra M. Hughes/

Deandra M. Hughes

Primary Examiner
Central Reexamination Unit 3992
(571) 272-6982

Conferees:

/A. J. G./

Examiner, Art Unit 3992

ESK