

EXHIBIT A



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***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/009,155.

PATENT NO. 6411947.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

**Ex Parte Reexamination
Advisory Action
Before the Filing of an Appeal Brief**

Control No.

90/009,155

Patent Under Reexamination

6411947

Examiner

MARY STEELMAN

Art Unit

3992

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

THE PROPOSED RESPONSE FILED 12 July 2010 FAILS TO OVERCOME ALL OF THE REJECTIONS IN THE FINAL REJECTION MAILED 11 May 2010.

1. ☒ Unless a timely appeal is filed, or other appropriate action by the patent owner is taken to overcome all of the outstanding rejection(s), this prosecution of the present *ex parte* reexamination proceeding WILL BE TERMINATED and a Notice of Intent to Issue *Ex Parte* Reexamination Certificate will be mailed in due course. Any finally rejected claims, or claims objected to, will be CANCELLED.

THE PERIOD FOR RESPONSE IS EXTENDED TO RUN 4 MONTHS FROM THE MAILING DATE OF THE FINAL REJECTION. Extensions of time are governed by 37 CFR 1.550(c).

NOTICE OF APPEAL

2. ☐ An Appeal Brief is due two months from the date of the Notice of Appeal filed on _____ to avoid dismissal of the appeal. See 37 CFR 41.37(a). Extensions of time are governed by 37 CFR 1.550(c). See 37 CFR 41.37(e).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final action, but prior to the date of filing a brief, will not be entered because:
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ They raise the issue of new matter (see NOTE below);
 - (c) ☐ They are not deemed to place the proceeding in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____ (See 37 CFR 1.116 and 41.33(a)).

4. ☒ Patent owner's proposed response filed 12 July 2010 has overcome the following rejection(s): See attached
5. ☐ The proposed new or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ For purposes of appeal, the proposed amendment(s) a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claim(s) would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) patentable and/or confirmed: 9,10,14,30-37,50,51,57-61,63-66 and 69-124
- Claim(s) objected to: _____
- Claim(s) rejected: 1-8,11-13,15-29,38-49,52-56,62,67,68
- Claim(s) not subject to reexamination: _____

AFFIDAVIT OR OTHER EVIDENCE

7. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because patent owner failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
8. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence fails to overcome all rejections under appeal and/or appellant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
9. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

10. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
11. ☒ Note the attached Information Disclosure Statement(s), PTO/SB/08, Paper No(s) 6/15 & 7/12/2010.
12. ☐ Other: _____

/M. Steelman/ for M. Steelman,
Primary Examiner Art Unit 3992

cc: Requester (if third party requester)

U.S. Patent and Trademark Office

PTOL-467 (Rev. 08-06)

Ex Parte Reexamination Advisory Action Before the Filing of an Appeal Brief

Part of Paper No. 20100719

BR011274