

EXHIBIT 7



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EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/010,506.

PATENT NO. 6006227.

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)).



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/010,506	04/23/2009	6006227	8157.012.RXUS00	1182

7590 06/01/2009

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 06/01/2009

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

Order Granting / Denying Request For Ex Parte Reexamination	Control No.	Patent Under Reexamination	
	90/010,506	6006227	
	Examiner	Art Unit	
	Christopher E. Lee	3992	

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

The request for *ex parte* reexamination filed 23 April 2009 has been considered and a determination has been made. An identification of the claims, the references relied upon, and the rationale supporting the determination are attached.

Attachments: a) PTO-892, b) PTO/SB/08, c) Other: _____

1. The request for *ex parte* reexamination is GRANTED.

RESPONSE TIMES ARE SET AS FOLLOWS:

For Patent Owner's Statement (Optional): TWO MONTHS from the mailing date of this communication (37 CFR 1.530 (b)). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

For Requester's Reply (optional): TWO MONTHS from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

2. The request for *ex parte* reexamination is DENIED.

This decision is not appealable (35 U.S.C. 303(c)). Requester may seek review by petition to the Commissioner under 37 CFR 1.181 within ONE MONTH from the mailing date of this communication (37 CFR 1.515(c)). **EXTENSION OF TIME TO FILE SUCH A PETITION UNDER 37 CFR 1.181 ARE AVAILABLE ONLY BY PETITION TO SUSPEND OR WAIVE THE REGULATIONS UNDER 37 CFR 1.183.**

In due course, a refund under 37 CFR 1.26 (c) will be made to requester:

- a) by Treasury check or,
- b) by credit to Deposit Account No. _____, or
- c) by credit to a credit card account, unless otherwise notified (35 U.S.C. 303(c)).

/Christopher E. Lee/ Primary Examiner, Art Unit 3992		
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cc:Requester (if third party requester)

DECISION

Response to Request for Ex Parte Reexamination

1. A substantial new question of patentability affecting claims 1-6, 9-17, 20, 22, and 25-29 of United States Patent Number 6,006,227 A (hereinafter '227 Patent) is raised by the request
5 for *ex parte* reexamination.

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. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extensions of time in
10 *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

2. A prior art patent or printed publication raises a substantial new question of patentability where there is:

- (A) a substantial likelihood that a reasonable Examiner would consider the prior art patent or printed publication **important** in deciding whether or not the claim is
15 patentable, MPEP §2242 (I) and,
- (B) the same question of patentability as to the claim has not been decided in a previous or pending proceeding or in a final holding of invalidity by a federal court. See MPEP §2242 (III).

3. The '227 Patent is currently assigned to: MIRROR WORLDS, LLC of TYLER, TEXAS.
20 The '227 Patent was issued from the U.S. Patent Application No. 08/673,255 (hereinafter '255 Application), which was filed on 28th of June 1996.

4. In the request for reexamination, the Requester alleges that the '227 Patent claims 1-6, 9-17, 20, 22, and 25-29 are unpatentable over the following references:

- a) Mander et al. [US 6,243,724 A] "Method and Apparatus for Organizing Information in a
25 Computer System," issued on 5th of June 2001 (hereinafter "Mander").
- b) Lucas et al. [US 5,499,330 A] "Document Display System for Organizing and Displaying Documents as Screen Objects organized along Strand Paths," issued on 12th of March 1996 (hereinafter "Lucas").
- c) Thompson-Rohrlich [US 5,504,852 A] "Method for Creating a Collection of Aliases
30 representing Computer System Files," issued on 2nd of April 1996 (hereinafter "Thompson-Rohrlich").

- d) User's Guide, "Retrospect User's Guide," version 3 first edition, published by Dantz Development Corp., 1989-1995 (hereinafter "Retrospect").
- e) Tutorial Reference, "Magellan Explorer's Guide," published by Lotus Development Corp., 1989 (hereinafter "Magellan Explorer's Guide").
- 5 f) David P. Gobel, "Using Lotus Magellan," published by QUE Corp., 1989 (hereinafter "Using Lotus Magellan").
- g) Macintosh Manual, "Inside Macintosh: Files," published by Addison-Wesley Company, August 1992 (hereinafter "Inside Macintosh").

All of the above references are not of record in the file of '227 Patent, and are not cumulative to
10 the art of record in the original file.

Scope of Reexamination

5. Since requester did not request reexamination of claims 7, 8, 18, 19, 21, 23, 24, 30-33 and did not assert the existence of a substantial new question of patentability (SNQ) for such
15 claims (See 35 U.S.C. §311(b)(2); See also 37 CFR 1.915b and 1.923), such claims will not be reexamined. This matter was squarely addressed in *Sony Computer Entertainment America Inc., et al. v. Jon W. Dudas*, Civil Action No. 1:05CV1447 (E.D.Va. May 22, 2006), Slip Copy, 2006 WL 1472462. (Not Reported in F.Supp.2d.) The District Court upheld the Office's
20 discretion to not reexamine claims in an *Inter Partes* Reexamination proceeding other than those claims for which reexamination had specifically been requested. The Court stated:

25 "To be sure, a party may seek, and the PTO may grant, *inter partes* review of each and every claim of a patent. Moreover, while the PTO in its discretion may review claims for which *inter partes* review was not requested, nothing in the statute compels it to do so. To ensure that the PTO considers a claim for *inter partes* review, 35 U.S.C. §311(b)(2) requires that the party seeking reexamination demonstrate why the PTO should reexamine each and every claim for which it seeks review. Here, it is undisputed that Sony did not seek review of every claim under the '213 and '333 patents. Accordingly, Sony cannot now claim that the PTO wrongly failed to reexamine claims for which Sony never requested review, and its argument that AIPA compels a contrary result is unpersuasive."

30 The *Sony* decision's reasoning and statutory interpretation apply analogously to *Ex Parte* Reexamination, as the same relevant statutory language applies to both *Inter Partes* and *Ex Parte* Reexamination. 35 U.S.C. §302 provides that the *Ex Parte* Reexamination "request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested" (Emphasis added), and 35 U.S.C. §303 provides that "the Director
35 will determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request ..." (Emphasis added). These provisions are

analogous to the language of 35 U.S.C. §311(b)(2) and 35 U.S.C. § 312 applied and construed in *Sony*, and would be construed in the same manner. As the Director can decline to reexamine non-requested claims in an *Inter Partes* Reexamination proceeding, the Director can likewise do so in *Ex Parte* Reexamination proceeding. See *Notice of Clarification of Office Policy To Exercise Discretion in Reexamining Fewer Than All the Patent Claims* (signed Oct. 5, 2006) 5 1311 OG 197 (Oct. 31, 2006). See also MPEP §2240, Rev. 5, Aug. 2006.

Therefore, claims 7, 8, 18, 19, 21, 23, 24, and 30-33 will not be reexamined in this *Ex Parte* Reexamination proceeding.

Substantial New Questions of Patentability Raised by the Requester

6. In the request for reexamination, the request sets forth that Requester considers that:
- a) Claims 1-6, 10-17, 20, and 25-29 of the '227 Patent are unpatentable over Mander.
 - b) Claims 9 and 22 of the '227 Patent are unpatentable over Mander taken with Retrospect.
 - c) Claims 15, 16, and 26-28 of the '227 Patent are unpatentable over Mander taken with Lucas.
 - d) Claims 1-6, 10-17, 20, and 25-29 of the '227 Patent are unpatentable over Lucas taken with Using Lotus Magellan and when further taken with Magellan Explorer's Guide.
 - e) Claims 1-6, 10-17, and 20 of the '227 Patent are unpatentable over Thompson-Rohrlich taken with Inside Macintosh.

Prosecution History of the '227 Patent

7. The '227 Patent issued from the '255 Application. The '227 Patent is generally directed to an operating system in which documents are stored in chronologically ordered "streams" instead of in the familiar hierarchical folder structure typical of many operating systems.

The Examiner of record issued a non-final Office action on 15th of September 1997 and rejected (i) claims 1-4 and 8-11 under 35 U.S.C. §102(b) as being anticipated by Gelernter ["The Cyber-Road Not Taken," *The Washington Post*, April 3, 1994], (ii) claims 1-4 and 8-11 under 35 U.S.C. §102(f) because the Patentee did not invent the claimed subject matter, (iii) claims 5-7 and 12 under 35 U.S.C. §103(a) as being unpatentable over Gelernter, (iv) claims 1-5 and 8-12 under 35 U.S.C. §102(a) as being anticipated by Tobias, II et al. [US 5,530,859; hereinafter "Tobias"], (v) claims 6 and 7 under 35 U.S.C. §103(a) as being unpatentable over Tobias, (vi) claims 1, 3, 6-8, and 10 under 35 U.S.C. §102(a) as being anticipated by Microsoft Outlook™ 97

["Getting Results with Microsoft Outlook," published by Microsoft Corp., 1995-1996], (vii) claims 2, 4, 5, 9, 11, and 12 under 35 U.S.C. §103(a) as being unpatentable over Microsoft Outlook™ 97.

5 In response to the Examiner's claim rejection mailed on 19th of September 1997, the Patentee filed an amendment on 23rd of March 1998 amending claims 1, 8, and 12, and newly added claims 13-24. The originally named inventor declared to add another inventor in order to overcome the claims 1-4 and 8-11 rejection under 35 U.S.C. §102(f).

10 The Examiner of record issued a final Office action on 8th of April 1998 and rejected (i) claim 13 under 35 U.S.C. §112, 2nd ¶ as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Patentee regards as the invention, (ii) claim 13 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter, (iii) claims 1-4, 8-11, and 13 under 35 U.S.C. §102(b) as being anticipated by Gelernter, (iv) claims 5-7, 12, 16-19, and 22-24 under §103(a) as being unpatentable over Gelernter, (v) claims 1-5 and 8-13 under §102(a) as being anticipated by Tobias, (vi) claims 6, 7, 16-19, and 15 22-24 under §103(a) as being unpatentable over Tobias, (vii) claims 1, 3, 6-8, 10, and 13 under §102(a) as being anticipated by Microsoft Outlook™ 97, (viii) claims 2, 4, 5, 9, 11, 12, 16-19, and 22-24 under §103(a) as being unpatentable over Microsoft Outlook™ 97, (ix) claims 14, 15, 20, and 21 under §103(a) as being unpatentable over Gelernter in view of Trojan et al. [US 5,297,032; hereinafter Trojan], (x) claims 14, 15, 20, and 21 under §103(a) as being 20 unpatentable over Tobias in view of Trojan, (xi) claims 14, 15, 20, and 21 under §103(a) as being unpatentable over Microsoft Outlook™ 97 in view of Trojan.

In response to the Examiner's claim rejection mailed on 17th of April 1998, the Patentee filed a continuing prosecution application on 16th of October 1998 amending claims 1, 2, 4, 6-12, 14-21, and 23, canceling claims 3, 5, and 13, and newly added claims 25-36. The Patentee 25 introduced the limitation "associating each data unit with at least one chronological indicator having the respective timestamp" or the like in the respective independent claims. The Patentee asserted all claim rejections were overcome based on the amended claims.

30 However, the Examiner of record issued a non-final Office action on 2nd of November 1998 and rejected (i) claims 1, 2, 4, 6-12, and 14-36 under 35 U.S.C. §112, 2nd ¶ as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Patentee regards as the invention, (ii) claims 1, 2, 4, and 8-11 under 35 U.S.C. §102(b) as being anticipated by Gelernter, (iii) claims 6, 7, 12, 16-19, and 22-24 under §103(a) as being

unpatentable over Gelernter, (iv) claims 1, 2, 4, and 8-12 under §102(a) and (e) as being anticipated by Tobias, (v) claims 6, 7, 16-19, and 22-24 under §103(a) as being unpatentable over Tobias, (vi) claims 1, 2, 6-10, 25-27, and 33 under §102(a) as being anticipated by Microsoft Outlook™ 97, (vii) claims 4, 9, 11, 12, 16-19, 22-24, 31, 32, and 34-36 under §103(a) as being unpatentable over Microsoft Outlook™ 97, (viii) claims 14, 15, 20, and 21 under §103(a) as being unpatentable over Gelernter in view of Trojan, (x) claims 14, 15, 20, and 21 under §103(a) as being unpatentable over Tobias in view of Trojan, (xi) claims 14, 15, 20, and 21 under §103(a) as being unpatentable over Microsoft Outlook™ 97 in view of Trojan. (x) claims 28-30 under §103(a) as being unpatentable over Microsoft Outlook™ 97 in view of Cowart [Mastering Windows 3.1, 1972, chapter 12, pp 396-417].

The Examiner of record conducted a telephonic interview on 19th of January 1999.

In response to the Examiner's claim rejection mailed on 3rd of November 1998 and the telephonic interview conducted on 19th of January 1999, the Patentee filed an amendment on 7th of May 1999 amending claims 1, 8, 10, 12, 14, 15, 17, 21, and 23-27. The Patentee argued that none of the cited references provides for the buffer or timeline to be manipulated as a virtual object to be copied as a stream into another stream or to be summarized, and thus, the Patentee submitted that the streams, as recited in the amended claims, are not merely buffers or timelines but include additional properties described in the specification and recited in the amended claims. Therefore, the Patentee asserted that the claimed invention of the '255 Application was in allowance condition.

The Examiner of record issued a notice of allowability on 18th of May 1999 indicating the prior art in the record did not teach or fairly suggest the use of chronological indicators such as past, present, future to further categorize the timestamp organization of the stream.

The '255 Application ultimately issued as the '227 Patent on 21st of December 1999.

Analysis of Substantial New Questions of Patentability

8. It is generally **agreed** that the consideration of Mander alone or Mander in combination of Retrospect proposed by Requester raises a substantial new question of patentability as to Claims 1-6, 9-17, 20, 22, and 25-29 of the '227 Patent.

As pointed out on pages 9-10 of the request, Mander discloses a computer filing system that organizes data units that are received by (e.g., electronic mail documents) or generated by the computer system (e.g., word processing documents; See Mander, Abstract, col. 2, lines 63-

66, and col. 24, lines 8-18). Each data unit (e.g., document) is stored in said computer filing system which includes indexed data information, and the data units are placed into piles (i.e., main stream) that may be further organized into one or more subpiles (i.e., substream; See Mander, col. 5, line 42 through col. 6, line 4, and col. 25, lines 21-37). Further, each document is associated with a timestamp (i.e., date and time), which is either selected by the system or by the user, and recorded in a date line field of the document or is recorded by the file system (See Mander, col. 33, lines 34-43), and the documents may further be sorted into categories based on date (See Mander, col. 23, lines 39-5 and col. 33, lines 35-36). In other words, just as in the '227 Patent, Mander suggests the use of chronological indicators such as past, present, future to further categorize the timestamp organization (i.e., order by date) of the stream (i.e., pile), which was not present in the prosecution of the '255 Application which became the '227 Patent. Furthermore, there is a substantial likelihood that a reasonable Examiner would consider this teaching important in deciding whether or not the claim is patentable. Accordingly, Mander raises substantial new questions of patentability as to Claims 1, 13, and 25, which questions have not been decided in a previously examination of the '227 Patent.

As shown above, Mander raises substantial new questions of patentability as to the respective claims 1, 13, and 25. Therefore, at least, since the claims 2-6 and 9-12 are dependent claims of the claim 1, the claims 14-17, 20, and 22 are dependent claims of the claim 13, and the claims 26-29 are dependent claims of the claim 25, Mander raises substantial new questions of patentability as to the claims 2-6, 9-12, 14-17, 20, 22, and 26-29, as well.

9. It is **not agreed** that the consideration of Mander in combination of Lucas proposed by Requester raises a substantial new question of patentability as to Claims 15, 16, and 26-28 of the '227 Patent.

At the outset, the references Mander and Lucas are respectively disclosing at least displaying the streams on a display device as visual streams having three-dimensional effect, such as forming a visual stream of polygons (See Mander, col. 5, lines 58-62 and Figs. 2-5, 6-13, 22; See Lucas, col. 5, lines 14-21 and Figs. 3, 5), which is claimed in the respective claims 15, 16, and 26-28. The Requester admits that the reference Mander teaches all the limitations of the respective claims 15, 16, and 26-28 (See the claims 15, 16, and 26-28 analysis on the claim chart CC-A on pages 26-34 and the claim 10 analysis on pages 47-62). Therefore, there is no rationale for combing Mander with Lucas to establish a *prima facie* case of obviousness.

The Examiner doubts why Mander is necessary to be modified by Lucas in order to show the obviousness of the claimed invention because the primary reference Mander teaches all the claimed limitations according to the respective analyses of the claims 15, 16, and 26-28.

Accordingly, Mander in combination with Lucas does not raise the substantial new
5 questions of patentability as to Claims 15, 16, and 26-28 of the '227 Patent.

10. It is **not agreed** that the consideration of Lucas in combination with Using Lotus Magellan and Magellan Explorer's Guide proposed by Requester raises a substantial new question of patentability as to Claims 1-6, 10-17, 20, and 25-29 of the '227 Patent.

10 The reference Lucas discloses a document display system for organizing and displaying documents (See Abstract), wherein means for generating a main stream (i.e., strand) of data units (i.e., documents) and at least one substream (i.e., substrand; See Lucas, Fig. 9). Further, Lucas suggests means for including each data unit (i.e., FIND tool; See Lucas, Fig. 1 and col. 19, lines 13-23), means for maintaining the main stream and the substreams as persistent
15 streams (See Lucas, col. 8, lines 7-10), and other limitations of the exemplary claim 1. Therefore, there is no rationale for combing Lucas with other references Using Lotus Magellan and Magellan Explorer's Guide to establish a *prima facie* case of obviousness. The Examiner doubts why Lucas is necessary to be modified by Using Lotus Magellan and Magellan Explorer's Guide in order to show the obviousness of the claimed invention because the primary
20 reference Lucas teaches all the claimed limitations of the exemplary claim 1.

Accordingly, Lucas in combination with Using Lotus Magellan and Magellan Explorer's Guide does not raise the substantial new questions of patentability as to Claims 1-6, 10-17, 20, and 25-29 of the '227 Patent.

However, as discussed above, the reference Lucas alone seems to teach the claimed
25 invention in the exemplary claim 1 including the use of chronological indicators (i.e., information sticker) such as past, present, future (i.e., date) to further categorize the timestamp organization (i.e., order by date) of the stream (i.e., strand paths; See Lucas, col. 4, lines 46-48 and col. 20, lines 54-58), which was not present in the prosecution of the '255 Application which became the '227 Patent. Furthermore, there is a substantial likelihood that a reasonable Examiner would
30 consider this teaching important in deciding whether or not at least the exemplary claim 1 is patentable. This substantial new question of patentability has not been suggested by the Requester.

11. It is generally **agreed** that the consideration of Thompson-Rohrlich in combination of Inside Macintosh proposed by Requester raises a substantial new question of patentability as to Claims 1-6, 10-17, and 20 of the '227 Patent.

As pointed out on pages 11-12 of the request, Thompson-Rohrlich discloses a computer filing system (i.e., Apple® Macintosh®) that organizes data units (i.e., files) that are received by or generated by the computer system (See Thompson-Rohrlich, col. 7, lines 2-29). Each data unit (i.e., file) is stored in said computer filing system which includes said data units (i.e., said files) information, and the data units are placed into primary organization of files (i.e., main stream) that may be further organized into one or more secondary organization of files - aliases (i.e., substream; See Thompson-Rohrlich, Abstract and col. 1, line 55 through col. 2, line 11). Further, each document is associated with a timestamp (i.e., last modified date/time; See Thompson-Rohrlich, Fig. 2). In addition to Thompson-Rohrlich, Inside Macintosh teaches the details of said computer filing system (i.e., Apple® Macintosh®) as well. Therefore, they both describe aspects of Apple® Macintosh® system, and in combination provide a fuller picture of the functionality of said computer filing system. In other words, just as in the '227 Patent, Thompson-Rohrlich in combination of Inside Macintosh suggests the use of chronological indicators such as past, present, future to further categorize the timestamp organization (i.e., order by last modified date/time) of the stream (i.e., collection of files), which was not present in the prosecution of the '255 Application which became the '227 Patent. Furthermore, there is a substantial likelihood that a reasonable Examiner would consider this teaching important in deciding whether or not the claim is patentable. Accordingly, Thompson-Rohrlich raises substantial new questions of patentability as to Claims 1 and 13, which questions have not been decided in a previously examination of the '227 Patent.

As shown above, Thompson-Rohrlich raises substantial new questions of patentability as to the respective claims 1 and 13. Therefore, at least, since the claims 2-6 and 10-12 are dependent claims of the claim 1, and the claims 14-17 and 20 are dependent claims of the claim 13, Thompson-Rohrlich raises substantial new questions of patentability as to the claims 2-6, 10-12, 14-17, and 20, as well.

30 **Conclusion**

12. Claims 1-6, 9-17, 20, 22, and 25-29 of the '227 Patent will be reexamined.

13. The Patent Owner is reminded that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 CFR 1.530(d)-(j).

After filing of a request for *ex parte* reexamination by a Third Party requester, any document filed by either the Patent Owner or the Third Party requester must be served on the other party (or parties where two or more Third Party requester proceedings are merged) in the reexamination proceeding in the manner provided in 37 CFR 1.248. The document must reflect service or the document may be refused consideration by the Office. See 37 CFR 1.550(f).

The Patent Owner is reminded of the continuing responsibility under 37 CFR 1.565(a), to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving the instant Patent Under Reexamination or any related patent throughout the course of this reexamination proceeding. The Third Party requester is also reminded of the ability to similarly inform the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

All correspondence relating to this *ex parte* reexamination proceeding should be directed:

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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

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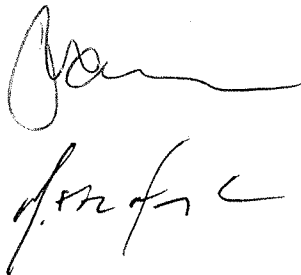
5 Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

Signed:

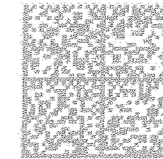
/Christopher E. Lee/

10 Primary Patent Examiner (Reexamination)
Central Reexamination Unit / Art Unit 3992

14. Conferees:



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