

# EXHIBIT 1



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/010,856	02/09/2010	5893120	358121US91RX	3502

22850                      7590                      07/23/2010

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EXAMINER

ART UNIT                      PAPER NUMBER

DATE MAILED: 07/23/2010

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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**EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/010,856.

PATENT NO. 5893120.

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)).

<b>Office Action in Ex Parte Reexamination</b>	Control No. 90/010,856	Patent Under Reexamination 5893120	
	Examiner ALEXANDER J. KOSOWSKI	Art Unit 3992	

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

- a  Responsive to the communication(s) filed on 09 February 2010.      b  This action is made FINAL.  
c  A statement under 37 CFR 1.530 has not been received from the patent owner.

A shortened statutory period for response to this action is set to expire 2 month(s) from the mailing date of this letter. Failure to respond within the period for response will result in termination of the proceeding and issuance of an *ex parte* reexamination certificate in accordance with this action. 37 CFR 1.550(d). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c)**. If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 3. <input type="checkbox"/> Interview Summary, PTO-474. |
| 2. <input type="checkbox"/> Information Disclosure Statement, PTO/SB/08.     | 4. <input type="checkbox"/> _____                       |

Part II SUMMARY OF ACTION

- 1a.  Claims 1-8 are subject to reexamination.  
1b.  Claims     are not subject to reexamination.  
2.  Claims     have been canceled in the present reexamination proceeding.  
3.  Claims     are patentable and/or confirmed.  
4.  Claims 1-8 are rejected.  
5.  Claims     are objected to.  
6.  The drawings, filed on     are acceptable.  
7.  The proposed drawing correction, filed on     has been (7a)  approved (7b)  disapproved.  
8.  Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of the certified copies have  
1  been received.  
2  not been received.  
3  been filed in Application No. \_\_\_\_\_  
4  been filed in reexamination Control No. \_\_\_\_\_  
5  been received by the International Bureau in PCT application No. \_\_\_\_\_  
\* See the attached detailed Office action for a list of the certified copies not received.  
9.  Since the proceeding appears to be in condition for issuance of an *ex parte* reexamination certificate except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.  
10.  Other: \_\_\_\_\_

cc: Requester (if third party requester)

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### **DETAILED ACTION**

1) This Office action addresses claims 1-8 of United States Patent Number 5,893,120 (Nemes), for which it has been determined in the Order Granting Ex Parte Reexamination (hereafter the "Order") mailed 3/25/10 that a substantial new question of patentability was raised in the Request for *Ex Parte* reexamination filed on 2/9/10 (hereafter the "Request").

#### ***Rejections***

2) The following three rejections are utilized by the examiner below, referencing the proposed prior art listed on page 3 of the Request:

*Issue 1:* Claims 1, 3, 5 and 7 in view of Morrison

*Issue 2:* Claims 1-8 in view of Thatte

*Issue 3:* Claims 2, 4, 6 and 8 in view of Morrison and Dirks

*Issue 4:* Claims 2, 4, 6 and 8 in view of Morrison and Thatte

*Issue 5:* Claims 1-8 in view of Dirks and Morris

#### ***Claim Rejection Paragraphs***

3) ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

***Issue 1***

4) Claims 1, 3, 5 and 7 are rejected under 35 U.S.C. 102(b) as being unpatentable by Morrison (See claim mapping in Request pages 25-32 and Exhibit CC-A Claim Chart, incorporated by reference).

***Issue 2***

5) Claims 1-8 are rejected under 35 U.S.C. 102(b) as being unpatentable by Thatte (See claim mapping in Request pages 42-53 and Exhibit CC-C Claim Chart, incorporated by reference).

***Issue 3***

6) Claims 2, 4, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable by Morrison in view of Dirks (See claim mapping in Request pages 32-42 and Exhibit CC-B Claim Chart, incorporated by reference).

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In addition, examiner notes that it would have been obvious to one skilled in the art at the time the invention was made to combine Morrison and Dirks for the reasons given on page 32 of the Request.

*Issue 4*

7) Claims 2, 4, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable by Morrison in view of Thatte (See claim mapping in Request pages 66-75 and Exhibit CC-E Claim Chart, incorporated by reference).

In addition, examiner notes that it would have been obvious to one skilled in the art at the time the invention was made to combine Morrison and Thatte for the reasons given on page 66 of the Request.

*Issue 5*

8) Claims 1-8 are rejected under 35 U.S.C: 103(a) as being unpatentable by Dirks in view of Morris (See claim mapping in Request pages 75-86 and Exhibit CC-F Claim Chart, incorporated by reference).

In addition, examiner notes that it would have been obvious to one skilled in the art at the time the invention was made to combine Morrison and Thatte for the reasons given on pages 75-76 of the Request.

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*Conclusion*

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

By U.S. Postal Service Mail to:

Mail Stop Ex Parte Reexam  
ATTN: Central Reexamination Unit  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By FAX to:

(571) 273-9900  
Central Reexamination Unit

By hand to:

Customer Service Window  
Randolph Building  
401 Dulany St.  
Alexandria, VA 22314

By EFS-Web:

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.

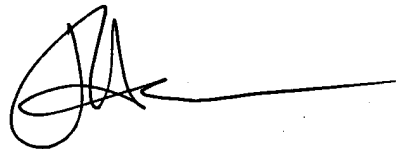


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Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

/Alexander J Kosowski/

Primary Examiner, Art Unit 3992



**JESSICA HARRISON  
SUPERVISORY PATENT EXAMINER**