

EXHIBIT B TO:

**DEFENDANT MICROSOFT
CORPORATION'S NOTICE OF PTO
ORDERS IN MICROSOFT'S
REQUESTS FOR REEXAMINATION
OF ANASCAPE PATENTS**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DO NOT USE IN PALM PRINTER

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

STEPHEN J. JONKUS
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET, SUITE 1600
PORTLAND, OR 97204

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

REEXAMINATION CONTROL NUMBER 95/000,222.

PATENT NUMBER 6,344,791.

TECHNOLOGY CENTER 3999.

ART UNIT 3993.

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
 UNITED STATES PATENT AND TRADEMARK OFFICE
 P.O. BOX 1450
 ALEXANDRIA, VA 22313-1450
 www.uspto.gov

| CONTROL NO. | FILING DATE | PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|-------------|-------------|-------------------------|---------------------|
| 95/000,222 | 05/10/07 | 6,344,791 | |

BRAD ARMSTRONG
 15487 JOSEPH ROAD
 TYLER, TX 75707

EXAMINER

Flanagan, Beverly

| | |
|----------|-------|
| ART UNIT | PAPER |
|----------|-------|

3993

DATE MAILED:

MAILED

AUG - 2 2007

CENTRAL REEXAMINATION UNIT

**INTER PARTES REEXAMINATION
 COMMUNICATION**

BELOW/ATTACHED YOU WILL FIND A COMMUNICATION FROM THE UNITED STATES PATENT AND TRADEMARK OFFICE OFFICIAL(S) IN CHARGE OF THE PRESENT REEXAMINATION PROCEEDING.

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 communication.

| | | | |
|--|---------------------|-----------------------------------|--|
| ORDER GRANTING/DENYING REQUEST FOR INTER PARTES REEXAMINATION | Control No. | Patent Under Reexamination | |
| | 95/000,222 | 6,344,791 B1 ET AL. | |
| | Examiner | Art Unit | |
| | Beverly M. Flanagan | 3993 | |

-- 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.

Application/Control Number: 95/000,222
Art Unit: 3993

Page 2

DECISION GRANTING INTER PARTES REEXAMINATION

Amended/Substitute Request

Receipt of the replacement request filed May 102007 is acknowledged. The decision below is based upon this replacement request, and not the original request, filed February 2, 2007, which filing date was vacated with the decision of March 10, 2007.

Substantial New Question of Patentability

A substantial new question of patentability affecting claims 1-66 of U.S. Patent No. 6,344,791 to Armstrong (hereinafter "Armstrong '791") is raised by the present request for *inter partes* reexamination.

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 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).

Application/Control Number: 95/000,222
Art Unit: 3993

Page 3

Notification of Concurrent Proceedings

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 U.S. Patent No. 6,344,791 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.

References Relied Upon

The following prior art documents are relied upon by requester in support of this request for *inter partes* reexamination:

1. Knox, UK Published Patent Specification No. 1 412 298 (hereinafter "Knox");
2. Kaneko et al., Japanese Laid Open Utility Model Application No. JP S61-100844 (hereinafter "Kaneko");
3. Matsumoto et al., Japanese Laid Open Utility Model Application No. JP S61-103836 (hereinafter "Matsumoto");
4. Jackson, U.S. Patent No. 3,463,041 (hereinafter "Jackson");
5. Kramer, U.S. Patent No. 5,164,697 (hereinafter "Kramer");
6. Clancy, U.S. Patent No. 4,604,509 (hereinafter "Clancy");
7. Furukawa et al., Japanese Laid Open Utility Model Application No. JP5-87760 (hereinafter "Furukawa '760");

Application/Control Number: 95/000,222
Art Unit: 3993

Page 4

8. Brandenberg et al., U.S. Patent No. 5,231,386 (hereinafter “Brandenberg”);
9. Tanami, Japanese laid-Open Patent Application No. H5-304007 (hereinafter “Tanami”);
10. Kawashima, Japanese Laid-Open Utility Model Application No. H3-61304 (hereinafter “Kawashima”);
11. Furukawa et al., Japanese Laid Open Utility Model Application No. H6-56740 (hereinafter “Furukawa ‘740”);
12. Mason, Switch Engineering Handbook (McGraw-Hill, Inc., 1993) (hereinafter “Switch Engineering Handbook”);
13. Meleard et al., UK Published Patent Application No. 2 156 588 A (hereinafter “Meleard”);
14. Sakurai et al., Japanese Laid-Open Patent Application No. H06-154422 (hereinafter « Sakurai »);
15. Padula et al., U.S. Patent No. Re. 34,095 (hereinafter “Padula”);
16. Yamaoka, Japanese Patent Application Laid-Open Disclosure No. H7-122073 (hereinafter “Yamaoka”);
17. Himoto et al., European Patent Application EP 0 835676 A1 (hereinafter « Himoto »).

Requester’s Position

The request indicates that the third party requester considers:

Application/Control Number: 95/000,222
Art Unit: 3993

Page 5

1. Claim 1 of Armstrong '791 to be unpatentable over Knox alone;
2. Claim 1 of Armstrong '791 to be unpatentable over Kaneko alone;
3. Claim 1 of Armstrong '791 to be unpatentable over Matsumoto alone;
4. Claim 1 of Armstrong '791 to be unpatentable over Jackson alone;
5. Claims 1-5, 7, 19, 34-38, 44-46, 56, 61 and 64 to unpatentable over Kramer alone;
6. Claims 3-5 and 7 to be unpatentable over Kramer taken with Clancy;
7. Claim 7 to be unpatentable over Kramer taken with Furukawa '760 and Clancy;
8. Claim 6 to be unpatentable over Kramer taken with Brandenburg;
9. Claim 6 to be unpatentable over Kramer taken with Tanami;
10. Claims 8-13 to be unpatentable over Kramer taken with Kawashima;
11. Claims 14-18 to be unpatentable over Kramer taken with Furukawa '760;
12. Claims 20 and 21 to be unpatentable over Kramer taken with Brandenburg;
13. Claims 20 and 21 to be unpatentable over Kramer taken with Furukawa '740;
14. Claims 1, 19 and 20 to be unpatentable over Furukawa '760 taken with Furukawa '740 and Switch Engineering;
15. Claims 22-24, 27 and 28 to be unpatentable over Kramer taken with Meleard;

Application/Control Number: 95/000,222
Art Unit: 3993

Page 6

16. Claims 22, 25, 26 and 29-33 to be unpatentable over Kramer taken with Meleard and Furukawa '760;
17. Claims 31-33 to be unpatentable over Kramer taken with Meleard, Furukawa '760 and Sakurai;
18. Claim 39 to be unpatentable over Kramer taken with Padula;
19. Claims 40-43, 47-55, 57-60, 62, 63, 65 and 66 to be unpatentable over Kramer taken with Furukawa '760;
20. Claims 41-43, 47-55 and 57-60 to be unpatentable over Kramer taken with Furukawa '760 and Sakurai;
21. Claims 62, 63, 65 and 66 to be unpatentable over Kramer taken with Furukawa '760 and Yamaoka;
22. Claims 43, 48, 50 and 53 to be unpatentable over Kramer taken with Furukawa '760 and Himoto;
23. Claim 10 to be unpatentable over Kramer taken with Furukawa '740 and Himoto;
24. Claim 21 to be unpatentable over Kramer taken with Furukawa '740 and Himoto;
25. Claims 27 and 29 to be unpatentable over Kramer taken with Meleard and Himoto;
26. Claim 35 to be unpatentable over Kramer taken with Himoto.

Application/Control Number: 95/000,222
Art Unit: 3993

Page 7

Prosecution History of the Armstrong '791 Patent

U.S. Patent No. 6,344,791 issued from an application with the Serial No. 09/599,095, which was filed on June 21, 2000. The '095 application was a continuation of an application with the Serial No. 09/122,269, filed on July 24, 1998, Now U.S. Patent No. 6,135,886, which was a continuation-in-part of an application with the Serial No. 08/942,450, filed on October 1, 1997, now U.S. Patent No. 6,102,802.

Substantial New Question (SNQ)

. The substantial new questions of patentability with respect to Knox, Meleard, Kaneko, Matsumoto, Kawashima, Tanami, Furukawa '740, Yamaoka, Himoto, Jackson, Clancy, Padula, Brandenburg and Switch Engineering Handbook is based on new teachings, not previously considered or addressed in the prior examination of the patent or a final holding of invalidity by the Courts. The substantial new question of patentability with respect to Kramer, Furukawa '760 and Sakurai is based on a patent already cited by the applicant and considered, but neither applied nor commented upon by the examiner.

A discussion of the specifics now follows:

Claim 1 of Armstrong '791 to be unpatentable over Knox alone

It is agreed that consideration of Knox alone raises a substantial new question of patentability as to claim 1 of Armstrong '791. As pointed out in page 22 of the replacement request, Knox teaches a keyboard that includes a plastic plate or sheet 4

Application/Control Number: 95/000,222
Art Unit: 3993

Page 8

formed with a plurality of dome keys 3 arranged to push a conductive layer into engagement with contacts 2 (see Figs. 4 and 5). Variable resistance is established between the layer 14 and the terminals A-O of the contact track 2 (see page 3, lines 61-69 and Fig. 4). Knox further teaches that each key can be arranged to act against a metal spring so that a "snap action" and an audible "click" is obtained when the key is depressed (see page 4, lines 30-33).

These teachings of Knox were not present in the prosecution of the application which became the Armstrong '791. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Knox is considered to raise a substantial new question of patentability as to claim 1 of the Armstrong '791 patent.

Claim 1 of Armstrong '791 to be unpatentable over Kaneko alone

It is agreed that consideration of Kaneko alone raises a substantial new question of patentability as to claim 1 of Armstrong '791. As pointed out in pages 22-23 of the replacement request, Kaneko teaches a variable resistance switch 10 that includes an electro-conductive curved plate 3 (dome cap) adapted to be pressed by a pushbutton 1 so as to engage a pressure sensitive electroconductive rubber sheet 6 (see page 4, lines 4-12). When pressed to the center of the generating line 8 on a concave surface side of the sheet 6, the concave surface is elastically deformed and changes its orientation with a click action to the configuration shown in Fig. 4 (see also Fig. 3 and page 5, lines 7-11). Kaneko also teaches that "a switchover point (clock point) is

Application/Control Number: 95/000,222
Art Unit: 3993

Page 9

provided in the middle of the stroke of the push button so that the operator clearly recognizes the switching from the off-state to the on-state in the course of the pressing operation (see page 2, lines 12-16, page 6, lines 2-4 and page 7, lines 4-13).

These teachings of Kaneko were not present in the prosecution of the application which became the Armstrong '791. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kaneko is considered to raise a substantial new question of patentability as to claim 1 of the Armstrong '791 patent.

Claim 1 of Armstrong '791 to be unpatentable over Matsumoto alone

It is agreed that consideration of Matsumoto alone raises a substantial new question of patentability as to claim 1 of Armstrong '791. As pointed out in page 23 of the replacement request, Matsumoto teaches a variable resistance sensor that comprises a rigid support board, a sheet between the board and a resilient dome cap (see Fig. 1 and page 4, lines 9-11). Matsumoto also teaches that the dome cap exhibits a snap-through tactile feedback, stating "a switchover point (click point) is provided in the middle of the stroke of the push button so that the operator clearly recognizes the switching from the off-state to the on-state in the course of the pressing operation" (see page 2, lines 12-16, page 6, lines 2-4 and page 7, lines 4-13).

These teachings of Matsumoto were not present in the prosecution of the application which became the Armstrong '791. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding

Application/Control Number: 95/000,222

Page 10

Art Unit: 3993

whether or not the claims are patentable. Accordingly, Matsumoto is considered to raise a substantial new question of patentability as to claim 1 of the Armstrong '791 patent.

Claim 1 of Armstrong '791 to be unpatentable over Jackson alone

It is agreed that consideration of Jackson alone raises a substantial new question of patentability as to claim 1 of Armstrong '791. As pointed out in pages 23-24 of the replacement request, Jackson teaches a push button diaphragm switch for a keyboard formed of a plurality of openings 18 where a metal switch 20 underlies a metal keyboard base plate 16 and is formed with a plurality of dome-shaped resiliently deformable dimples 22 that project into corresponding openings 18 and serve as keyboard push buttons (see col. 1, lines 64-73). The dimples 22 are adapted to engage contact buttons 30 secured to a contact board 28 and provide snap-through tactile feedback to the user (see Fig. 3 and col. 2, lines 25-42).

These teachings of Jackson were not present in the prosecution of the application which became the Armstrong '791. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Jackson is considered to raise a substantial new question of patentability as to claim 1 of the Armstrong '791 patent.

Application/Control Number: 95/000,222

Page 11

Art Unit: 3993

***Claims 1-5, 7, 19, 34-38, 44-46, 56, 61 and 64 of Armstrong '791 to be unpatentable
over Kramer alone***

It is agreed that consideration of Kramer alone raises a substantial new question of patentability as to claims 1-5, 7, 19, 34-38, 44-46, 56, 61 and 64 of Armstrong '791. As pointed out in page 24-27 of the replacement request, Kramer teaches a variable sensor 3 including a rigid support board 10, supporting a sheet 17 where the sheet is positioned between the board 10 and a depressible, resilient dome cap providing a snap-through threshold tactile feedback to the user (see col. 5, lines 36-48 and col. 1, lines 21-35). Kramer also teaches that the board 10 supports electrical circuit traces 11.1 and 11.2 and a means for variable controlling imagery is the control circuit operating on the basis of variable resistance as a function of applied pressure (see col. 4, lines 61-65 and Fig. 2). Kramer also teaches a spring 20 located on the ceiling surface of a rubber dome and electrically conductive carbonized foil 14 located to contact circuit traces 11.1 and 11.2 (see Fig. 1). Kramer also teaches that spring 20, carbonized foil 14 and conductive layer 17 are carried by the dome cap and deform under pressure and the switching device 3 acts as a pressure dependent, variable sensor as pressure is applied to the pushbutton (see col. 5, lines 39-48). Kramer also teaches that the countercontact 16 and spring 20 supply snap-through tactile feedback through the button to the user (see col. 5, lines 42-48 and col. 1, lines 21-35). Kramer also teaches that the dome cap is rubber (see col. 1, lines 21-35 and col. 5, line 40).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied.

Application/Control Number: 95/000,222
Art Unit: 3993

Page 12

Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable.

Accordingly, Kramer is considered to raise a substantial new question of patentability as to claims 1-5, 7, 19, 34-38, 44-46, 56, 61 and 64 of the Armstrong '791 patent.

***Claims 3-5 and 7 of Armstrong '791 to be unpatentable over Kramer taken with
Clancy***

It is agreed that consideration of Kramer taken with Clancy raises a substantial new question of patentability as to claims 3-5 and 7 of Armstrong '791. As pointed out in pages 31-32 of the replacement request, Clancy teaches a dome cap with a deformable surface having an apex located to contact the sheet (see Figs. 3 and 4).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Clancy were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Clancy is considered to raise a substantial new question of patentability as to claims 3-5 and 7 of the Armstrong '791 patent.

Application/Control Number: 95/000,222
Art Unit: 3993

Page 13

Claim 7 of Armstrong '791 to be unpatentable over Kramer taken with Furukawa '760 and Clancy

It is agreed that consideration of Kramer taken with Furukawa '760 and Clancy raises a substantial new question of patentability as to claim 7 of Armstrong '791. As pointed out in pages 32-33 of the replacement request, Furukawa '760 teaches the use of pressure sensitive switches in a video game controller for a video game machine which would have output displayed on a television (see paragraph 8).

These teachings of Kramer and Furukawa '760 were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Clancy were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Furukawa '760 and Clancy is considered to raise a substantial new question of patentability as to claim 7 of the Armstrong '791 patent.

Claim 6 of Armstrong '791 to be unpatentable over Kramer taken with Brandenburg

It is agreed that consideration of Kramer taken with Brandenburg raises a substantial new question of patentability as to claim 6 of Armstrong '791. As pointed out in pages 33-34 of the replacement request, Kramer teaches circuit traces 11.1 and 11.2,

Application/Control Number: 95/000,222
Art Unit: 3993

Page 14

as noted above. It is also agreed that Brandenburg teaches interdigitated circuit traces in pressure sensitive switch constructions (see col. 3, line 68 through col. 4, line 2).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Brandenburg were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Brandenburg is considered to raise a substantial new question of patentability as to claim 6 of the Armstrong '791 patent.

Claim 6 of Armstrong '791 to be unpatentable over Kramer taken with Tanami

It is agreed that consideration of Kramer taken with Tanami raises a substantial new question of patentability as to claim 6 of Armstrong '791. As pointed out in pages 35-36 of the replacement request, Kramer teaches circuit traces 11.1 and 11.2, as noted above. It is also agreed that Tanami teach interdigitated circuit traces in pressure sensitive switch constructions (see page 6, paragraph 10 and Fig. 2).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Tanami were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or

Application/Control Number: 95/000,222

Page 15

Art Unit: 3993

not the claims are patentable. Accordingly, Kramer taken with Tanami is considered to raise a substantial new question of patentability as to claim 6 of the Armstrong '791 patent.

***Claims 8-13 of Armstrong '791 to be unpatentable over Kramer taken with
Kawashima***

It is agreed that consideration of Kramer taken with Kawashima raises a substantial new question of patentability as to claims 8-13 of Armstrong '791. As pointed out in pages 36-38 of the replacement request, Kramer teaches variable pressure sensitive sensors in hand-operated input keyboards on remote transmitters or for electronic appliances in entertainment electronics that produce active tactile feedback (see col. 1, lines 46-54 and col. 5, lines 42-48). It is agreed that Kawashima teaches variable resistors in an operating body 10 for finger tip actuation where the operating body or button 10 is of the see-saw type (see page 6, lines 3-9, page 4, lines 24-26, page 5, lines 25 and 26 and Figs. 1, 3 and 4).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Kawashima were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Kawashima is

Application/Control Number: 95/000,222
Art Unit: 3993

Page 16

considered to raise a substantial new question of patentability as to claims 8-13 of the Armstrong '791 patent.

***Claims 14-18 of Armstrong '791 to be unpatentable over Kramer taken with
Furukawa '760***

It is agreed that consideration of Kramer taken with Furukawa '760 raises a substantial new question of patentability as to claims 14-18 of Armstrong '791. As pointed out in pages 38-40 of the replacement request, Furukawa '760 teaches a hand-operated video game controller 10 that includes right and left-hand areas, with cross key or button 12 on the left side and trigger buttons 19 and 20 on the right side (see Fig. 1). It is also agreed that Furukawa '760 teaches that the pressure sensitive switch could be employed with other buttons, as desired locations (see page 9).

These teachings of Kramer and Furukawa '760 were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Furukawa '760 is considered to raise a substantial new question of patentability as to claims 14-18 of the Armstrong '791 patent.

Application/Control Number: 95/000,222
Art Unit: 3993

Page 17

***Claims 20 and 21 of Armstrong '791 to be unpatentable over Kramer taken with
Brandenberg***

It is agreed that consideration of Kramer taken with Brandenberg raises a substantial new question of patentability as to claims 20 and 21 of Armstrong '791. As pointed out in pages 40-41 of the amended/substitute request, Brandenberg teaches the use of convex actuator surfaces (17 in Brandenberg).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Brandenberg were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Brandenberg is considered to raise a substantial new question of patentability as to claims 20 and 21 of the Armstrong '791 patent.

***Claims 20 and 21 of Armstrong '791 to be unpatentable over Kramer taken with
Furukawa '740***

It is agreed that consideration of Kramer taken with Furukawa '740 raises a substantial new question of patentability as to claims 20 and 21 of Armstrong '791. As pointed out in pages 42-43 of the replacement request, Furukawa '740 teaches the use of convex actuator surfaces (14b in Furukawa '740).

Application/Control Number: 95/000,222
Art Unit: 3993

Page 18

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Furukawa '740 were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Furukawa '740 is considered to raise a substantial new question of patentability as to claims 20 and 21 of the Armstrong '791 patent.

Claims 1, 19 and 20 of Armstrong '791 to be unpatentable over Furukawa '760 taken with Furukawa '740 and Switch Engineering Handbook

It is agreed that consideration of Furukawa '760 taken with Furukawa '740 and Switch Engineering Handbook raises a substantial new question of patentability as to claims 1, 19 and 20 of Armstrong '791. As pointed out in pages 43-45 of the replacement request. Furukawa '760 teaches a variable sensor with a rigid board 5 that supports a dome cap the supports a sheet 32 that is positioned between the done cap and the board. The dome cap 29 is structured to provide snap-through threshold tactile feedback. It is also agreed that Furukawa '760 teaches electrically conductive material 33 carried by the dome cap. It is also agreed that Switch Engineering Handbook teaches dome caps that are structured like Furukawa '760, that exhibit snap-through threshold tactile feedback (see Fig. 11.6). It is also agreed that Furukawa '740 teaches electrically conductive material 14b carried by the dome cap.

Application/Control Number: 95/000,222
Art Unit: 3993

Page 19

These teachings of Furukawa '760 were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Switch Engineering Handbook and Furukawa '740 were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Furukawa '760 taken with Switch Engineering Handbook and Furukawa '740 is considered to raise a substantial new question of patentability as to claims 1, 19, 20 of the Armstrong '791 patent.

Claims 22-24, 27 and 28 of Armstrong '791 to be unpatentable over Kramer taken with Meleard

It is agreed that consideration of Kramer taken with Meleard raises a substantial new question of patentability as to claims 22-24, 27 and 28 of Armstrong '791. As pointed out in pages 45-47 of the replacement request, Meleard teaches a snap-through switch where a non-conductive sheet 20 supports conductive material (contact surface 26) (see page 2, lines 70-81 and Fig. 3). It is also agreed that the conductive material 26 in Meleard contacts circuit traces 16 (see Fig. 3 and page 2, lines 125-130).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Meleard were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a

Application/Control Number: 95/000,222

Page 20

Art Unit: 3993

reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Meleard is considered to raise a substantial new question of patentability as to claims 22-24, 27 and 28 of the Armstrong '791 patent.

Claims 22, 25, 26 and 29-33 of Armstrong '791 to be unpatentable over Kramer taken with Meleard and Furukawa '760

It is agreed that consideration of Kramer taken with Meleard and Furukawa '760 raises a substantial new question of patentability as to claims 22, 25, 26 and 29-33 of Armstrong '791. As pointed out in pages 47-50 of the replacement request, Furukawa '760 teaches a hand-operated video game controller 10 that includes right and left-hand areas, with cross key or button 12 on the left side and trigger buttons 19 and 20 on the right side (see Fig. 1). It is also agreed that Furukawa '760 teaches that the pressure sensitive switch could be employed with other buttons, as desired locations (see page 9).

These teachings of Kramer and Furukawa '760 were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Meleard were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with

Application/Control Number: 95/000,222
Art Unit: 3993

Page 21

Meleard and Furukawa '760 is considered to raise a substantial new question of patentability as to claims 22, 25, 26 and 29-33 of the Armstrong '791 patent.

***Claims 31-33 of Armstrong '791 to be unpatentable over Kramer taken with
Meleard, Furukawa '760 and Sakurai***

It is agreed that consideration of Kramer taken with Meleard, Furukawa '760 and Sakurai raises a substantial new question of patentability as to claims 31-33 of Armstrong '791. As pointed out in pages 50-52 of the replacement request, it is agreed that Sakurai teaches pressure sensitive variable conductance sensors in the right hand side of the video game controller (see paragraphs 21 and 26). It is also agreed that Sakurai teaches a four-way rocker in the left-hand area of the housing (see Fig. 1). It is also agreed that Sakurai teaches up to five or more pressure sensitive variable conductance sensors in the right hand side of the video game controller (see paragraphs 21, 26 and 57).

These teachings of Kramer, Furukawa '760 and Sakurai were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Meleard were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Meleard, Furukawa '760 and Sakurai is considered to raise a substantial new question of patentability as to claims 31-33 of the Armstrong '791 patent.

Application/Control Number: 95/000,222
Art Unit: 3993

Page 22

Claim 39 of Armstrong '791 to be unpatentable over Kramer taken with Padula

It is agreed that consideration of Kramer taken with Padula raises a substantial new question of patentability as to claim 39 of Armstrong '791. As pointed out in pages 52-53 of the replacement request, Padula teaches using a metal dome 102 in a pressure transducer (see col. 9, lines 12-16 and Fig. 12).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Padula were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Padula is considered to raise a substantial new question of patentability as to claim 39 of the Armstrong '791 patent.

Claims 40-43, 47-55, 57-60, 62, 63, 65 and 66 of Armstrong '791 to be unpatentable over Kramer taken with Furukawa '760

It is agreed that consideration of Kramer taken with Furukawa '760 raises a substantial new question of patentability as to claims 40-43, 47-55, 57-60, 62, 63, 65 and 66 of Armstrong '791. As pointed out in pages 53-59 of the replacement request, Furukawa '760 teaches a hand-operated video game controller 10 that includes right and left-hand areas, with cross key or button 12 on the left side and trigger buttons 19 and 20 on the right side, where the buttons are positioned for thumb depression (see

Application/Control Number: 95/000,222
Art Unit: 3993

Page 23

Fig. 1). It is also agreed that Furukawa '760 teaches that the pressure sensitive switch could be employed with other buttons, as desired locations (see page 9). It is also agreed that Furukawa '760 teaches controlling game characters in a video (see paragraph 10 on page 7).

These teachings of Kramer and Furukawa '760 were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Furukawa '760 is considered to raise a substantial new question of patentability as to claims 40-43, 47-55, 57-60, 62, 63, 65 and 66 of the Armstrong '791 patent.

Claims 41-43, 47-55 and 57-60 of Armstrong '791 to be unpatentable over Kramer taken with Furukawa '760 and Sakurai

It is agreed that consideration of Kramer taken with Furukawa '760 and Sakurai raises a substantial new question of patentability as to claims 41-43, 47-55 and 57-60 of Armstrong '791. As pointed out in pages 59-64 of the replacement request, Furukawa '760 teaches a hand-operated video game controller 10 that includes right and left-hand areas, with cross key or button 12 on the left side and trigger buttons 19 and 20 on the right side, where the buttons are positioned for thumb depression (see Fig. 1). It is also agreed that Furukawa '760 teaches that the pressure sensitive switch could be employed with other buttons, as desired locations (see page 9). It is also agreed that

Application/Control Number: 95/000,222
Art Unit: 3993

Page 24

Furukawa '760 teaches controlling game characters in a video (see paragraph 10 on page 7). It is also agreed that Sakurai teaches up to five or more pressure sensitive variable conductance sensors in the right hand side of a video game controller and a four way rocker in the left-hand area of the housing (see paragraphs 21, 26 and 57). It is also agreed that Sakurai teaches buttons positioned for thumb depression (see Fig. 1).

These teachings of Kramer and Furukawa '760 were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Sakurai were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Furukawa '760 and Sakurai is considered to raise a substantial new question of patentability as to claims 41-43, 47-55 and 57-60 of the Armstrong '791 patent.

Claims 62, 63, 65 and 66 of Armstrong '791 to be unpatentable over Kramer taken with Furukawa '760 and Yamaoka

It is agreed that consideration of Kramer taken with Furukawa '760 and Yamaoka raises a substantial new question of patentability as to claims 62, 63, 65 and 66 of Armstrong '791. As pointed out in pages 64-66 of the replacement request, it is agreed that Yamaoka teaches a video game machine that converts the intensity of the pressing

Application/Control Number: 95/000,222
Art Unit: 3993

Page 25

to the action of a game character, such as jumping higher (see paragraphs 9, 25, 28-30 and 35).

These teachings of Kramer and Furukawa '760 were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Yamaoka were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Furukawa '760 and Yamaoka is considered to raise a substantial new question of patentability as to claims 62, 63, 65 and 66 of the Armstrong '791 patent.

Claims 43, 48, 50 and 53 of Armstrong '791 to be unpatentable over Kramer taken with Furukawa '760 and Himoto

It is agreed that consideration of Kramer taken with Furukawa '760 and Himoto raises a substantial new question of patentability as to claims 43, 48, 50 and 53 of Armstrong '791. As pointed out in pages 66-68 of the replacement request, Himoto teaches a means for active tactile feedback (see Figs. 1 and 15 and col. 16, lines 38-58).

These teachings of Kramer and Furukawa '760 were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Himoto were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial

Application/Control Number: 95/000,222

Page 26

Art Unit: 3993

likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Furukawa '760 and Himoto is considered to raise a substantial new question of patentability as to claims 43, 48, 50 and 53 of the Armstrong '791 patent.

Claim 10 of Armstrong '791 to be unpatentable over Kramer taken with Kawashima and Himoto

It is agreed that consideration of Kramer taken with Kawashima and Himoto raises a substantial new question of patentability as to claim 10 of Armstrong '791. As pointed out in pages 68-69 of the replacement request, Himoto teaches a means for active tactile feedback (see Figs. 1 and 15 and col. 16, lines 38-58).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Kawashima and Himoto were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Kawashima and Himoto is considered to raise a substantial new question of patentability as to claim 10 of the Armstrong '791 patent.

Application/Control Number: 95/000,222
Art Unit: 3993

Page 27

Claim 21 of Armstrong '791 to be unpatentable over Kramer taken with Furukawa '740 and Himoto

It is agreed that consideration of Kramer taken with Furukawa '740 and Himoto raises a substantial new question of patentability as to claim 21 of Armstrong '791. As pointed out in pages 69-71 of the replacement request, Himoto teaches a means for active tactile feedback (see Figs. 1 and 15 and col. 16, lines 38-58).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Furukawa '740 and Himoto were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Furukawa '740 and Himoto is considered to raise a substantial new question of patentability as to claim 21 of the Armstrong '791 patent.

Claims 27 and 29 of Armstrong '791 to be unpatentable over Kramer taken with Meleard and Himoto

It is agreed that consideration of Kramer taken with Meleard and Himoto raises a substantial new question of patentability as to claims 27 and 29 of Armstrong '791. As pointed out in pages 71-72 of the replacement request, Himoto teaches a means for active tactile feedback (see Figs. 1 and 15 and col. 16, lines 38-58).

Application/Control Number: 95/000,222
Art Unit: 3993

Page 28

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Meleard and Himoto were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Meleard and Himoto is considered to raise a substantial new question of patentability as to claims 27 and 29 of the Armstrong '791 patent.

Claim 35 of Armstrong '791 to be unpatentable over Kramer taken with Himoto

It is agreed that consideration of Kramer taken with Himoto raises a substantial new question of patentability as to claim 35 of Armstrong '791. As pointed out in pages 72-73 of the replacement request, Himoto teaches a means for active tactile feedback (see Figs. 1 and 15 and col. 16, lines 38-58).

These teachings of Kramer were present in the prosecution of the application which became the Armstrong '791 patent and were considered, but not applied. The teachings of Himoto were not present in the prosecution of the application which became the Armstrong '791 patent. Further, there is a substantial likelihood that a reasonable examiner would consider these teaching important in deciding whether or not the claims are patentable. Accordingly, Kramer taken with Himoto is considered to raise a substantial new question of patentability as to claim 35 of the Armstrong '791 patent.

Application/Control Number: 95/000,222
Art Unit: 3993

Page 29

Summary of Substantial New Questions Adopted and Not Adopted

All of requester's substantial new questions have been adopted by the examiner.

Office Action on the Merits

An Office action on the merits will follow in due course.

NOTICE RE PATENT OWNER'S CORRESPONDENCE ADDRESS

Effective May 16, 2007, 37 CFR 1.33(c) has been revised to provide that:

The patent owner's correspondence address for all communications in an *ex parte* reexamination or an *inter partes* reexamination is designated as the correspondence address of the patent.

Revisions and Technical Corrections Affecting Requirements for Ex Parte and Inter Partes Reexamination, 72 FR 18892 (April 16, 2007)(Final Rule)

The correspondence address for any pending reexamination proceeding not having the same correspondence address as that of the patent is, by way of this revision to 37 CFR 1.33(c), automatically changed to that of the patent file as of the effective date.

This change is effective for any reexamination proceeding which is pending before the Office as of May 16, 2007, including the present reexamination proceeding, and to any reexamination proceeding which is filed after that date.

Parties are to take this change into account when filing papers, and direct communications accordingly.

In the event the patent owner's correspondence address listed in the papers (record) for the present proceeding is different from the correspondence address of the patent, it is strongly encouraged that the patent owner affirmatively file a Notification of Change of Correspondence Address in the reexamination proceeding and/or the patent (depending on which address patent owner desires), to conform the address of the proceeding with that of the patent and to clarify the record as to which address should be used for correspondence.

Application/Control Number: 95/000,222

Page 30

Art Unit: 3993

Telephone Numbers for reexamination inquiries:

| | |
|--|----------------|
| Reexamination and Amendment Practice | (571) 272-7703 |
| Central Reexam Unit (CRU) | (571) 272-7705 |
| Reexamination Facsimile Transmission No. | (571) 273-9900 |

Application/Control Number: 95/000,222
Art Unit: 3993

Page 31

Conclusion

Please mail any communications to:

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

Please FAX any communications to:

(571) 273-9900
Central Reexamination Unit

Please hand-deliver any communications to:

Customer Service Window
Attn: Central Reexamination Unit
Randolph Building, Lobby Level
401 Dulaney Street
Alexandria, VA 22314

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:

/Beverly M. Flanagan/

Beverly M. Flanagan
CRU Examiner
GAU 3993
(571) 272-4766

Conferee: /Jeffrey R. Jastrzab/
Jeffrey R. Jastrzab
CRU Examiner

Conferee _____

EXPRESS MAIL LABEL NO.: EV 669613273 US
 DATE OF DEPOSIT: May 10, 2007

ATTORNEY REFERENCE NO 6620-76454-08
 REEXAM CONTROL NO: 95/000,222

| | | |
|---|------------------------|-------------------|
| INFORMATION DISCLOSURE STATEMENT REEXAMINATION PRIOR ART | Attorney Docket Number | 6620-76454-08 |
| | Patent Number | 6,344,791 |
| | Issued Date | February 5, 2002 |
| | First Named Inventor | Brad A. Armstrong |

U.S. PATENT DOCUMENTS

Copies of U.S. Patent documents do not need to be provided, unless requested by the Patent and Trademark Office. For patents, provide the patent number and the issue date. For published U.S. applications, provide the publication number and the publication date. For unpublished pending patent applications, provide the application number and the filing date.

| Examiner's Initials* | Cite No. (optional) | Number | Publication Date | Name of Applicant or Patentee |
|----------------------|---------------------|-----------|-------------------|-------------------------------|
| BZ ↓ | | RE 34,095 | October 13, 1992 | Padula |
| | | 3,643,041 | February 15, 1972 | Jackson |
| | | 4,604,509 | August 5, 1986 | Clancy |
| | | 5,164,697 | November 17, 1992 | Kramer |
| | | 5,231,386 | July 27, 1993 | Brandenburg |

FOREIGN PATENT DOCUMENTS

| Examiner's Initials* | Cite No. (optional) | Country | Number | Publication Date | Name of Applicant or Patentee |
|----------------------|---------------------|---------------|------------|-------------------|-------------------------------|
| BZ ↓ | | Great Britain | 1 412 298 | November 5, 1975 | Knox |
| | | Great Britain | 2 156 588 | October 9, 1985 | Meleard |
| | | Japan | S61-100844 | June 27, 1986 | Kaneko |
| | | Japan | S61-103836 | July 2, 1986 | Matsumoto |
| | | Japan | H3-61304 | June 17, 1991 | Kawashima |
| | | Japan | H5-304007 | November 16, 1993 | Tanami |
| | | Japan | H5-87760 | November 26, 1993 | Furukawa |
| | | Japan | H06-154422 | June 3, 1994 | Sakurai |
| | | Japan | H6-56740 | August 5, 1994 | Furukawa |

| | |
|--|--------------------------|
| EXAMINER SIGNATURE: B. FLASAGAS | DATE CONSIDERED: 7/26/07 |
| * Examiner: Initial if reference considered, whether or not in conformance with MPEP 609. Draw line through cite if not in conformance and not considered. Include copy of this form with next communication to applicant. | |

EXPRESS MAIL LABEL NO.: EV 669613273 US
 DATE OF DEPOSIT: May 10, 2007

ATTORNEY REFERENCE NO 6620-76454-08
 REEXAM CONTROL NO: 95/000,222

| | | |
|---|------------------------|-------------------|
| INFORMATION DISCLOSURE STATEMENT REEXAMINATION PRIOR ART | Attorney Docket Number | 6620-76454-08 |
| | Patent Number | 6,344,791 |
| | Issued Date | February 5, 2002 |
| | First Named Inventor | Brad A. Armstrong |

| FOREIGN PATENT DOCUMENTS | | | | | |
|--------------------------|---------------------|--|----------------|------------------|-------------------------------|
| Examiner's Initials* | Cite No. (optional) | Country | Number | Publication Date | Name of Applicant or Patentee |
| <i>BJ</i> | | Japan | H7-112073 | May 2, 1995 | Yamaoka |
| <i>BJ</i> | | Europe | EP 0 835676 A1 | April 15, 1998 | Himoto |
| Examiner's Initials* | Cite No. (optional) | OTHER DOCUMENTS | | | |
| <i>BJ</i> | | Mason, Switch Engineering Handbook (McGraw-Hill, Inc. 1993) (excerpts, ch. 1, 6, 8-11) | | | |

| | |
|--|---------------------------------|
| EXAMINER SIGNATURE: <i>B FLANAGAN</i> | DATE CONSIDERED: <i>7/26/07</i> |
| * Examiner: Initial if reference considered, whether or not in conformance with MPEP 609. Draw line through cite if not in conformance and not considered. Include copy of this form with next communication to applicant. | |