Anascape, Ltd v. Microsoft Corp. et al
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EXHIBIT A

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11/5/2007

THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS

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EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO 90/008480
PATENT NO. 6,135,886
ART UNI 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.
90/008,480	05/11/2007	6135886	6620-76454-04	3680

7590 11/05/2007

Brad A. Armstrong
P.O. BOX 2048
Carson City, NV 89702

EXAMINER	
FLANAGAN, B.	
ART UNIT	PAPER NUMBER
3993	

DATE MAILED: 11/05/2007

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

COURTESY COPY TO: ANASCAPE LTD.,
c/o BRAD ARMSTRONG
16487 JOSEPH ROAD
TYLER, TX 75707

Office Action in Ex Parte Reexamination	Control No. 90/008,480	Patent Under Reexamination 6135886	
	Examiner Beverly M. Flanagan	Art Unit 3993	

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

a☐ Responsive to the communication(s) filed on _____ . 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. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Information Disclosure Statement, PTO/SB/08.
3. ☐ Interview Summary, PTO-474.
4. ☐ _____.

Part II SUMMARY OF ACTION

1a. ☒ Claims 1-19 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 1-19 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)

DETAILED ACTION

Reexamination Procedures

In order to ensure full consideration of any amendments, affidavits or declarations, or other documents as evidence of patentability, such documents must be submitted in response to this Office action. Submissions after the next Office action, which is intended to be a final action, will be governed by the requirements of 37 C.F.R. 1.116, after final rejection and 37 C.F.R. 41.33 after appeal, which will be strictly enforced.

Extensions of time under 37 C.F.R. 1.136(a) will not be permitted in these proceedings because the provisions of 37 C.F.R. 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. § 305 requires that reexamination proceedings "will be conducted with special dispatch" (37 C.F.R. 1.550(a)). Extension of time in *ex parte* reexamination proceedings are provided for in 37 C.F.R. 1.550(c).

The patent owner is reminded of the continuing responsibility under 37 C.F.R. 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 6,135,886 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability of similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

Patent owner is notified that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 C.F.R. 1.530(d)-(j), must

be formally presented pursuant to 37 C.F.R. 1.52(a) and (b), and must contain any fees required by 37 C.F.R. 1.20(c).

After the filing of a request for reexamination by a third party requester, any document filed by either the patent owner or the third party requested must be served on the other party (or parties where two or more third party requested proceedings are merged) in the reexamination proceeding in the manner provided in 37 C.F.R. 1.248. See 37 C.F.R. 1.550(f).

Patent Owner's Statement

No patent owner's statement has been filed.

Correspondence with Patent Owner

It is noted that in the request for reexamination filed by the third party, the address of an assignee, Anascape, Ltd., and counsel for the assignee, Luke Fleming McLeroy, is listed. However, until such time as a properly executed power of attorney and/or change of correspondence address is filed by the patent owner, all correspondence will be mailed to the patent owner at the address of record with the U.S. Patent and Trademark Office. See MPEP § 2224 and 37 CFR 1.33(c).

A courtesy copy of this communication is being sent to Anascape Ltd., c/o Brad Armstrong, 16487 Joseph Road, Tyler TX 75707. All further communications will be directed solely to the address of record.

References Applied

The following references are applied in the rejections set forth below:

- Furukawa, Japanese Laid-Open Utility Model Application No. H06-56740 and its accompanying translation (hereinafter "Furukawa '740");
- Furukawa, Japanese Laid-Open Patent Application Publication No. H05-326217 (hereinafter "Furukawa '217");
- Kramer, U.S. Patent No. 5,164,697 (hereinafter "Kramer");
- Shinohara, U.S. Patent No. 6,004,219 (hereinafter "Shinohara");
- Maynard, U.S. Patent No. 5,557,299 (hereinafter "Maynard);
- Snyder, U.S. Patent No. 4,749,878 (hereinafter "Snyder");
- Fukushima, U.S. Patent No. 4,775,574 (hereinafter "Fukushima");
- Konieczny, U.S. Patent No. 5,236,324 (hereinafter "Konieczny"); and
- Mason, Switch Engineering Handbook (McGraw-Hill, Inc. 1993) (hereinafter "Switch Engineering Handbook").

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 negatived by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '740.

In regard to claims 1-19, Furukawa '740 teaches a pressure sensitive device 10 comprised of a rubber key top 14 formed from a thermoset rubber having a surface with an apex positioned above fixed contacts 12 and 13 on a board 11 where the fixed contacts 12 and 13 can be electrically connected to each other via a movable contact 14b mounted to the lower end of the rubber key top 14 (see Fig. 2 and paragraphs 12-16 of the accompanying translation). The electrical resistance value R between the fixed contacts 12 and 13 changes considerably on the basis of pushing force F of the rubber key top 14 (see Figs. 3 and 4). Furukawa '740 also teaches at least three readable states produced by at least three different pressures (see Figs. 1-3 and paragraphs 16-18 of Furukawa '740, with attention to pushing forces Fa and Fb, as well as considering an "off" state; see also page 25 of the replacement request). The use of the variable resistor in the control keys of a computer keyboard implies that the output of the sensor will be converted from its original analog value to a digital value that can be input to the computer, as is typical with computer key commands and would be stored as digital information requiring at least two digital bits (see pages 11 and 24 of the replacement request). The operational feeling of rubber key top 14 would be felt as a mechanical resistance by the user, who is applying pressing force on the button with a fingertip. In addition, patent owner's admission that "most but not all elastomeric injection molded dome caps when depressed produce a soft snap which is a user discernable tactile feedback" at col. 1, lines 58-65 through col. 2, lines 1-15 of U.S. Patent No. 6,135,886 further supports the argument that the rubber key top 14 of Furukawa '740 would have implicitly provided active tactile feedback to the finger of a

user. Furukawa '740 is silent as to the method of manufacturing the rubber key top 14. However, forming the rubber key top 14 by injection molding would have been obvious for one of ordinary skill in the art at the time the invention was made since injection molding is a well known method for making plastic and rubber articles. Furthermore, **with further respect to claims 4-5 and 17-18**, it would have been obvious for one of ordinary skill in the art at the time the invention was made to choose the range of readable states to suit the applicability of the intended use, such that 129 or more readable states, 9 or more readable states and corresponding four or more or eight or more digital bits would be provided to create greater resolution and control to the user.

Claims 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '740 in view of Switch Engineering Handbook.

In regard to claims 11 and 16, as noted above, the operational feeling of rubber key top 14 would be felt as a mechanical resistance by the user, who is applying pressing force on the button with a fingertip. In addition, patent owner's admission that "most but not all elastomeric injection molded dome caps when depressed produce a soft snap which is a user discernable tactile feedback" at col. 1, lines 58-65 through col. 2, lines 1-15 of U.S. Patent No. 6,135,886 further supports the argument that the rubber key top 14 of Furukawa '740 would have implicitly provided active tactile feedback to the finger of a user. However, the Switch Engineering Handbook teaches key top dome caps that have a snap-through tactile feedback effect on actuation and deactuation (see Figs. 11.5 and 11.6 of Switch Engineering Handbook).The Switch Engineering

Handbook reference also teaches that the "tactile feel" of switches with high snap ratios is "excellent" while the "tactile feel" of switches with lower snap ratios is only "good" or "fair" (see 11.14 and Table 11.8 of Switch Engineering Handbook). Since the key top 14 of Furukawa '740 is structurally similar to the key tops switch taught by Switch Engineering Handbook, it would have been obvious for one of ordinary skill in the art at the time the invention was made to form the key top 14 of Furukawa '740 in the manner disclosed by Switch Engineering Hand book in order to obtain the proper tactile feedback from the key top 14.

Claims 4, 5, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '740 in view of Shinohara.

In regard to claims 4, 5, 17 and 18, Furukawa '740 is silent as to the digital bits involved in storing or the number of readable states to represent an analog switch value. However, Shinohara teaches that 256 is a useful number of readable states to represent an analog switch value for a video game controller (see col. 4, lines 9-24 of Shinohara). Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to use the 256 readable states of the analog switch value for a video game controller in Shinohara in the variable switch of Furukawa '740, thereby requiring at least eight digital bits.

Claims 1, 3-5, 13-18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '740 in view of Maynard.

In regard to claims 1, 3-5, 13-18 and 19, Furukawa '740 teaches a pressure sensitive device 10 comprised of a rubber key top 14 formed from a thermoset rubber having a surface with an apex positioned above fixed contacts 12 and 13 on a board 11 where the fixed contacts 12 and 13 can be electrically connected to each other via a movable contact 14b mounted to the lower end of the rubber key top 14 (see Fig. 2 and paragraphs 12-16 of the accompanying translation). The electrical resistance value R between the fixed contacts 12 and 13 changes considerably on the basis of pushing force F of the rubber key top 14 (see Figs. 3 and 4). Furukawa '740 also teaches at least three readable states produced by at least three different pressures (see Figs. 1-3 and paragraphs 16-18 of Furukawa '740, with attention to pushing forces Fa and Fb, as well as considering an "off" state; see also page 25 of the replacement request). The use of the variable resistor in the control keys of a computer keyboard implies that the output of the sensor will be converted from its original analog value to a digital value that can be input to the computer, as is typical with computer key commands and would be stored as digital information requiring at least two digital bits (see pages 11 and 24 of the replacement request). Furthermore, Maynard teaches that for a conventional keyboard microcontroller conversion of key commands to digital form is commonplace, e.g., "[t]he key attributes associated with each key are recognized by programs or modules in the microcontroller which, in turn, generates one or more digital key strike signals ultimately retrieved by the microprocessor in the personal computer system" (see col. 8, lines 1-5 and col. 7, lines 52-55 of Maynard). Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to

covert the variable analog signals from Furukawa '740 to digital form so computers could recognize the key commands.

The operational feeling of rubber key top 14 would be felt as a mechanical resistance by the user, who is applying pressing force on the button with a fingertip. In addition, patent owner's admission that "most but not all elastomeric injection molded dome caps when depressed produce a soft snap which is a user discernable tactile feedback" at col. 1, lines 58-65 through col. 2, lines 1-15 of U.S. Patent No. 6,135,886 further supports the argument that the rubber key top 14 of Furukawa '740 would have implicitly provided active tactile feedback to the finger of a user. Furukawa '740 is silent as to the method of manufacturing the rubber key top 14. However, forming the rubber key top 14 by injection molding would have been obvious for one of ordinary skill in the art at the time the invention was made since injection molding is a well known method for making plastic and rubber articles. Furthermore, **with further respect to claims 4-5 and 17-18**, it would have been obvious for one of ordinary skill in the art at the time the invention was made to choose the range of readable states to suit the applicability of the intended use, such that 129 or more readable states, 9 or more readable states and corresponding four or more or eight or more digital bits would be provided to create greater resolution and control to the user.

Claims 10, 11 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '740 in view of Konieczny.

In regard to claims 10 and 15, Furukawa '740 teaches that rubber key top 14 is formed from a thermoset rubber, specifically silicone rubber. Konieczny specifically discloses that silicone rubber is an example of a thermoset rubber that can be injection molded (see col. 3, lines 29-40 of Konieczny). Accordingly, it would have been obvious for one of ordinary skill in the art a the time the invention was made that the silicone rubber chosen by Furukawa '740 is a thermoset rubber, in the manner set forth in claims 10 and 15. **In regard to claims 11 and 16-18**, see the above rejection of claims 11 and 16-18 over Furukara '740.

Claims 10, 11 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '740 in view of Fukushima.

In regard to claims 10 and 15, Furukawa '740 teaches that rubber key top 14 is formed from a thermoset rubber, specifically silicone rubber. Fukushima teaches that it is preferable to make elastic pushbutton elements, such as dome caps, primarily of thermoset rubber, such as silicone (see col. 4, lines 46-53 of Fukushima). Accordingly, it would have been obvious for one of ordinary skill in the art a the time the invention was made that the silicone rubber chosen by Furukawa '740 is a thermoset rubber, in the manner set forth in claims 10 and 15. **In regard to claims 11 and 16-18**, see the above rejection of claims 11 and 16-18 over Furukara '740.

Claims 1-9, 12-14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '217.

In regard to claims 1-9, 12-14 and 19, Furukawa '217 teaches a switch in a computer keyboard to allow the scroll rate, cursor moving speed and character reaction speed in computer games to be controlled according to the intention of a user (see paragraph 11 of the accompanying translation). Furukawa '217 teaches a pressure-sensitive variable resistor 1 and abuts secure contact points 9 and 10 where the contact pressure between carbon powder particles is increased by the applied pressure and anisotropic conductivity established between the secure contact points 9 and 10 and the electroconductive layer 7 (see Figs. 4 and 5). The resistance of the pressure-sensitive variable resistor 1 is changed according to the applied pressure so that the voltage between the secure contact points 9 and 10 can be manually and arbitrarily controlled (see abstract). When the elastic rubber of rubber key top 6 is pressed down, the pressure-sensitive variable resistor 1 makes contact with the two secure contact points 9 and 10 and when the contact pressure is low, the pressure-sensitive variable resistor 1 has high resistance; when the rubber key top 6 is further pressed down and the contact pressure is increased, the resistance is reduced (see paragraph 10 of the accompanying translation). Furukawa '217 also discloses that the variable resistor yields changes in resistance corresponding to operational feeling (see paragraph 5 of the accompanying translation). Furukawa '217 implicitly teaches converting the analog output of the sensor into a digital form for use in a device such as a computer and that the output would be stored as digital information requiring at least two digital bits (see paragraph 11 of Furukawa '217 and page 26 of the replacement request). The operational feeling of rubber key top 6 would be felt as a mechanical resistance by the

user, who is applying pressing force on the button with a fingertip. In addition, patent owner's admission that "most but not all elastomeric injection molded dome caps when depressed produce a soft snap which is a user discernable tactile feedback" at col. 1, lines 58-65 through col. 2, lines 1-15 of U.S. Patent No. 6,135,886 further supports the argument that the rubber key top 6 of Furukawa '217 would have implicitly provided active tactile feedback to the finger of a user. Furthermore, **with further respect to claims 4 and 5**, it would have been obvious for one of ordinary skill in the art at the time the invention was made to choose the range of readable states to suit the applicability of the intended use, such that 129 or more readable states, 9 or more readable states and corresponding four or more or eight or more digital bits would be provided to create greater resolution and control to the user.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '217 in view of Shinohara.

In regard to claims 4 and 5, Furukawa '217 is silent as to the digital bits involved in storing or the number of readable states to represent an analog switch value. However, Shinohara teaches that 256 is a useful number of readable states to represent an analog switch value for a video game controller (see col. 4, lines 9-24 of Shinohara). Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to use the 256 readable states of the analog switch value for a video game controller in Shinohara in the variable switch of Furukawa '217, thereby requiring at least eight digital bits.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '217 in view of Fukushima and further in view of Shinohara.

In regard to claims 17 and 18, Furukawa '217 is silent as to the digital bits involved in storing or the number of readable states to represent an analog switch value. However, Shinohara teaches that 256 is a useful number of readable states to represent an analog switch value for a video game controller (see col. 4, lines 9-24 of Shinohara). Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to use the 256 readable states of the analog switch value for a video game controller in Shinohara in the variable switch of Furukawa '217, thereby requiring at least eight digital bits.

Claims 1, 3-5, 13, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa '217 in view of Maynard.

In regard to claims 1, 3-5, 13, 14 and 19, Furukawa '217 teaches a switch in a computer keyboard to allow the scroll rate, cursor moving speed and character reaction speed in computer games to be controlled according to the intention of a user (see paragraph 11 of the accompanying translation). Furukawa '217 teaches a pressure-sensitive variable resistor 1 and abuts secure contact points 9 and 10 where the contact pressure between carbon powder particles is increased by the applied pressure and anisotropic conductivity established between the secure contact points 9 and 10 and the electroconductive layer 7 (see Figs. 4 and 5). The resistance of the pressure-sensitive variable resistor 1 is changed according to the applied pressure so that the voltage

between the secure contact points 9 and 10 can be manually and arbitrarily controlled (see abstract). When the elastic rubber of rubber key top 6 is pressed down, the pressure-sensitive variable resistor 1 makes contact with the two secure contact points 9 and 10 and when the contact pressure is low, the pressure-sensitive variable resistor 1 has high resistance; when the rubber key top 6 is further pressed down and the contact pressure is increased, the resistance is reduced (see paragraph 10 of the accompanying translation). Furukawa '217 also discloses that the variable resistor yields changes in resistance corresponding to operational feeling (see paragraph 5 of the accompanying translation). Furukawa '217 implicitly teaches converting the analog output of the sensor into a digital form for use in a device such as a computer and that the output would be stored as digital information requiring at least two digital bits (see paragraph 11 of Furukawa '217 and page 26 of the replacement request). Furthermore, Maynard teaches that for a conventional keyboard microcontroller conversion of key commands to digital form is commonplace, e.g., "[t]he key attributes associated with each key are recognized by programs or modules in the microcontroller which, in turn, generates one or more digital key strike signals ultimately retrieved by the microprocessor in the personal computer system" (see col. 8, lines 1-5 and col. 7, lines 52-55 of Maynard). Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to covert the variable analog signals from Furukawa '217 to digital form so computers could recognize the key commands.

The operational feeling of rubber key top 6 would be felt as a mechanical resistance by the user, who is applying pressing force on the button with a fingertip. In

addition, patent owner's admission that "most but not all elastomeric injection molded dome caps when depressed produce a soft snap which is a user discernable tactile feedback" at col. 1, lines 58-65 through col. 2, lines 1-15 of U.S. Patent No. 6,135,886 further supports the argument that the rubber key top 6 of Furukawa '217 would have implicitly provided active tactile feedback to the finger of a user. Furthermore, **with further respect to claims 4 and 5**, it would have been obvious for one of ordinary skill in the art at the time the invention was made to choose the range of readable states to suit the applicability of the intended use, such that 129 or more readable states, 9 or more readable states and corresponding four or more or eight or more digital bits would be provided to create greater resolution and control to the user.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer.

Kramer teaches a pushbutton switching device in an input keyboard and generates variable output by utilizing a thin carbonized plastic foil with an electrical resistce that varies with the pressure applied to the button (see col. 1, line 45 to col. 2, line 41 of Kramer). Depressing the pushbutton causes the foil 14 to come into contact with the contact linings 11.1 and 11.2, creating a bridging resistance between conductore 12.1 and 12.2 through the foil 14 (see col. 3, line 39 through col. 5, line 35 of Kramer). Kramer is silent as to the method of manufacturing the pushbutton. However, forming the rubber pushbutton by injection molding would have been obvious for one of ordinary skill in the art at the time the invention was made since injection molding is a well known method for making plastic and rubber articles.

Conclusion

Please mail any communications to:

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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: /JMC/

Conferee: