

Exhibit 4

July 14, 2010 Order entered by the USPTO granting *ex parte* reexamination of U.S. Patent No. 5,455,854.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/010,965	04/28/2010	5455854	0919/01030	8066

64967 7590 07/14/2010

LAW OFFICES OF PAUL E. KUDIRKA  
40 BROAD STREET  
SUITE 300  
BOSTON, MA 02109

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 07/14/2010

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

<b>Order Granting / Denying Request For Ex Parte Reexamination</b>	<b>Control No.</b> 90/010,965	<b>Patent Under Reexamination</b> 5455854	
	<b>Examiner</b> Deandra M. Hughes	<b>Art Unit</b> 3992	

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

The request for *ex parte* reexamination filed 28 April 2010 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)).

cc:Requester ( if third party requester )

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### ORDER GRANTING REQUEST FOR *EX PARTE* REEXAMINATION

1. Substantial new questions of patentability ("**SNQ**") affecting claims 1-24 of USP **5,455,854** ("**'854 patent**") have been proposed by the third party requester ("**3PR**") in the *ex parte* reexamination request filed April, 28, 2010 ("**Request**").

#### *References Cited in this Action*

2. Sixtensson et al. "Reuse in the Telecommunication Domain Using Object Oriented Technology and ADA". Washington ADA Symposium Proceeding. June 1990. pgs. 231-239. ("**Sixtensson**")
3. Cohen et al. "Version Management in Gypsy". Siemens Research and Technology Laboratories. 1988. ("**Cohen**")
4. "NeXTSTEP™ Object-Oriented Programming and the Objective Language". NeXTSTEP Developer's Library Release 3. Addison-Wesley Publishing Company. April 1993. ("**NextStep**")
5. "Programming the Display PostScript® System with NeXTSTEP™". Addison-Wesley Publishing Company. April 1993. ("**PostScript**")
6. USP 4,625,081 to Lotito published Nov. 26, 1986. ("**Lotito**")

#### *Prosecution History*

7. The prosecution history of the application (08/108,877) which became the '**854 patent** is presented below.

- On August 26, 1993, claims 1-26 were presented for examination.
- On October 11, 1994, claims 1-26 were rejected as clearly anticipated by any one of Babson, Hayden, Britton, Ljunblom, or Dickman.
- On January 11, 1995, independent claims 1 and 14 were amended and claims 4 and 17 were cancelled.
- On January 25, 1995, an Examiner interview was conducted wherein the breadth of claim 1 with respect to the terms 'object oriented' and 'telephony objects' was discussed.



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- On April 12, 1995, **claims 1-3, 5-16, 18-26** were finally rejected as being obvious over Staas in view of Rankin.
- On June 22, 1995, a second Examiner interview was conducted wherein the Examiner suggested claim amendments to distinguish the claimed object oriented operating system of independent **claims 1 and 14** from the prior art object oriented programming disclosures.
- On June 27, 1995, the Examiner issued a notice of allowance with Examiner's amendments, which were discussed in the interview of June 22, 1995. These amendments were as follows.

In **claims 1 and 14**, the word "system" was deleted and the phrase "system supporting encapsulation, polymorphism, and inheritance" was inserted to put **claims 1-3, 5-16, 18-26** in condition for allowance.

8. The Examiner considers a teaching as to "*an object oriented operating system supporting encapsulation, polymorphism, and inheritance*" to form the proper basis of an SNQ for **claims 1-24** of the '854 patent because the Examiner of application 08/108,877 determined that the insertion of this phrase made the claims allowable over the prior art.

#### ***Decision***

9. In the Request, 3PR states that the following prior art references disclose the following features that form the basis of the SNQ:

- **NextStep** discloses supporting encapsulation, polymorphism, and inheritance on pages 12-18. (*Request pg. 48*)

**NextStep** provides the teaching that forms the basis of a SNQ for the '854 patent. Further, NextStep was not before the Examiner during the prosecution of the '854 patent and there is a substantial likelihood that a reasonable examiner would consider this teaching important in deciding whether **claims 1-24** are patentable.

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Accordingly, **NextStep** raises an SNQ as to **claims 1-24**, which question has not been decided in a previous examination of the '**854 patent**.

***Conclusion***

**10.** All correspondence relating to this reexamination proceeding should be directed:

By Mail to: Mail Stop Ex Parte Reexam  
Attn: Central Reexamination Unit  
Commissioner for Patents  
United States Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

By FAX to: (571) 273-9900  
Central Reexamination Unit

By hand: Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

**11.** 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.

**12.** 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.

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Signed:

/Deandra M. Hughes/  
Primary Examiner, CRU 3992

Conferees:

ESK

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Substitute for form 1449/PTO (Revised 07/2007)  <b>INFORMATION DISCLOSURE          STATEMENT BY APPLICANT</b> <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	<del>08/108,877</del> 90/010,965
				Filing Date	October 26, 1993
				Patent Number	5,455,854 (Exhibit A)
				Issue Date	October 3, 1995
				First Named Inventor	Dilts
				Art Unit	<del>2601</del> AU 3992
Examiner Name	<del>H. Hong</del> Deandra M. Hughes				
Sheet	1	of	1	Attorney Docket Number	0919/01030
<b>U. S. PATENT DOCUMENTS</b>					
Examiner Initials*	Cite No.	Document Number Number - Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages of Relevant Figures Appear
/DMH/	1	US-4,625,081 (Exhibit G)	11-25-1986	Lotito et al.	
<b>OTHER DOCUMENTS</b>					
Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.			English Language Translation Attached
/DMH/	2	SIXTENSSON et al., Reuse in the Telecommunication Domain Using Object Oriented Technology and ADA, June 1990, Pages 231-239, Washington Ada Symposium Proceedings (Exhibit B)			
/DMH/	3	COHEN et al., Version Management in Gypsy, 1988, Pages 201-215, ACM (Exhibit C)			
/DMH/	4	NEXTSTEP, NeXTStep™ Object-Oriented Programming and The Objective C Language, April 1993, Release 3, pages xi-xvi, 1, 5 and 8-18, Addison-Wesley Publishing Company, Inc. (Exhibit D)			
/DMH/	5	NEXTSTEP, NeXTStep™ Programming Interface Summary, April 1993, Release 3, pages Intro-1, 13 (1-7), Addison-Wesley Publishing Company, Inc. (Exhibit E)			
/DMH/	6	NEXTSTEP, NeXTStep™ General Reference, November 1992, Volume 2, Addison-Wesley Publishing Company, Inc., pages 13-(1-14, 16-36 and 38). (Exhibit F)			
/DMH/	7	ADOBE SYSTEMS INCORPORATED, Programming the Display PostScript® System with NeXTStep™, November 1991, Addison-Wesley Publishing Company, Inc., pages xxii-xxiii, 1-4, 7 and 10. (Exhibit H)			
Examiner Signature	/Deandra M. Hughes/			Date Considered	July 11, 2010

\*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.