

EXHIBIT 4



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/014,890	10/22/2021	7031728	47331.00004	3424
172615	7590	01/28/2022	EXAMINER	
Fabricant LLP 411 Theodore Fremd Road Suite 206 South Rye, NY 10580			KISS, ERIC B	
			ART UNIT	PAPER NUMBER
			3992	
			MAIL DATE	DELIVERY MODE
			01/28/2022	PAPER

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

The time period for reply, if any, is set in the attached communication.



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THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS

January 27, 2022

PAUL HASTINGS LLP (GENERAL)
2050 M STREET NW,
WASHINGTON, DC 20036

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. : 90014890

PATENT NO. : 7031728

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)).

Decision on Petition for Extension of Time in Reexamination	Application No. 90/014,890	Applicant(s) 7,031,728 B2
	Examiner Eric B. KISS	Art Unit 3992

1. THIS IS A DECISION ON THE PETITION FILED 01/27/22.

2. THIS DECISION IS ISSUED PURSUANT TO:

A. 37 CFR 1.550(c) – The time for taking any action by a patent owner in a third party requested *ex parte* reexamination proceeding will be extended only for sufficient cause and for a reasonable time specified.

B. 37 CFR 1.550(c) – The time for taking action by a patent owner in a patent owner requested *ex parte* reexamination proceeding will only be extended for more than two months for sufficient cause and for a reasonable time specified.

C. 37 CFR 1.956 – The time for taking any action by a patent owner in an *inter partes* reexamination proceeding will be extended only for sufficient cause and for a reasonable time specified.

The petition is before the Central Reexamination Unit for consideration.

3. FORMAL MATTERS: Patent Owner requests that the time period for filing an optional Patent Owner's Statement, after the mailing of the "**Order Granting Request for Ex Parte Reexamination**" on 12/06/21, which is a two (2) month period pursuant to 37 CFR 1.530(b) (due 02/06/22), be extended by an additional two (2) months (due 04/06/22).

A. Petition fee per 37 CFR § 1.17(g):

i. Petition includes authorization to debit a deposit account.

ii. Petition includes authorization to charge a credit card account.

iii. Other: _____.

B. Proper certificate of service was provided. (Not required in reexamination where patent owner is requester.)

C. Petition was timely filed.

D. Petition properly signed.

4. DECISION (See MPEP 2265 and 2665)

A. Granted or Granted-in-part for **two (2) additional months**. (See 37 CFR 1.550(c) and 37 CFR 1.956).

i. Other/comment: See attached explanation and below CONCLUSION.

B. Dismissed because:

i. Formal matters (See unchecked box(es) (A, B, C and/or D) in section 3 above).

ii. Petitioner failed to provide a factual accounting of reasonably diligent behavior by all those responsible for preparing a response to the outstanding Office action within the statutory time period.

iii. Petitioner failed to explain why, in spite of the action taken thus far, the requested additional time is needed.

iv. The statements provided fail to establish sufficient cause to warrant extension of the time for taking action (See attached).

v. The petition is moot.

vi. Other/comment: _____.

5. CONCLUSION: **The 01/27/22 "PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. § 1.550(c)" is hereby granted for two (2) additional months under the "extraordinary situations" standard which includes a showing of "sufficient cause" as per the attached explanation. See MPEP 2265 VI, 1st, 3rd, and 5th paras. Accordingly, the time period for Patent Owner to file an optional Patent Owner's Statement after the mailing of the 12/06/21 Order is extended for two (2) additional months from 02/06/22 to 04/06/22. Therefore, an optional Patent Owner's Statement after the mailing of the 12/06/21 Order is due by the end of the day on Wednesday, 04/06/22.**

Telephone inquiries with regard to this decision should be directed to Gay Ann Spahn at 571-272-7731 in the CRU.

/Gay Ann Spahn/, Supervisory Patent Reexamination
Specialist, Central Reexamination Unit

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Art Unit: 3992

Continuation of 4 A i: In the present *ex parte* reexamination proceeding for control number 90/014,890, an "**Order Granting Request For Ex Parte Reexamination**" was mailed December 6, 2021. Pursuant to 37 CFR 1.530(b), after the mailing of the December 6, 2021 "**Order Granting Request For Ex Parte Reexamination**," there is a two (2) month period within which Patent Owner may file an optional Patent Owner's statement thereby making the optional Patent Owner's Statement due February 6, 2022. On January 27, 2022, Patent Owner filed a "**PETITION FOR EXTENSION OF TIME PURSUANT TO 37 C.F.R. § 1.550(c)**" ("Petition") seeking two (2) additional months in which to file the optional Patent Owner's Statement. Petition, p. 1. Thus, the January 27, 2022 Petition, if granted, would allow Patent Owner to file an optional Patent Owner's Statement up until the end of the day on Wednesday, April 6, 2022.

The instant January 27, 2022 Petition indicates, in pertinent part, that:

2. The COVID-19 pandemic and the ongoing spike of the Omicron variant have significantly affected Patent Owner's ability to prepare and complete its Patent Owner Statement before the due date of February 6, 2022.
3. Due to the COVID-19 pandemic and the related travel restrictions, Patent Owner and its counsel have experienced significant delays in preparing its Patent Owner's Statement.

Petition, p. 2.

These considerations are noted, but must be balanced with the statutory requirement of special dispatch under 35 USC 305.

The Manual of Patent Examining Procedure (MPEP) § 2265, Roman Numeral VI, entitled "**REQUIREMENTS FOR A SHOWING OF SUFFICIENT CAUSE AND AN EXTENSION FOR A REASONABLE TIME**" indicates, in pertinent part, that:

Requests for any extension of time in third party requested reexaminations, . . . , MUST include a showing of sufficient cause, and the extension must be for a reasonable time.

...

Any request for an extension of time, . . . , must fully state the reasons therefor. The reasons MUST include a statement of what action the patent owner has taken to provide a response as of the date the request for extension is submitted, and why, in spite of the action taken thus far, the requested additional time is needed. The statement

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