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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/010,560	05/29/2009	6411941	418263007US	1017
26694	7590	08/03/2009	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			ART UNIT	PAPER NUMBER

DATE MAILED: 08/03/2009

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

HTC EX. 1005



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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

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**EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/010,560.

PATENT NO. 6411941.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

<b>Order Granting / Denying Request For Ex Parte Reexamination</b>	Control No. 90/010,560	Patent Under Reexamination 6411941	
	Examiner MATTHEW HENEGHAN	Art Unit 3992	

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

The request for *ex parte* reexamination filed 29 May 2009 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)).

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cc: Requester ( if third party requester )

U.S. Patent and Trademark Office  
PTOL-471 (Rev. 08-06)

Office Action in *Ex Parte* Reexamination

Part of Paper No. 20090722

## DECISION GRANTING *EX PARTE* EXAMINATION

### *Reexamination*

An Ex Parte Reexamination has been requested by a third party on 28 May 2009 for claims 1-19 of U.S. Patent No. 6,411,941 (hereinafter "the '941 patent"), granted on 25 June 2002.

A substantial new question of patentability affecting claims 1-19 of United States Patent Number 6,411,941 is raised by the request for *ex parte* reexamination.

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 6,411,941 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 §§ 2207, 2282 and 2286.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these 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. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37

Art Unit: 3992

CFR 1.550(a)). Extensions of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

### ***References Submitted by Requester***

U.S. Patent No. 5,734,819 to Lewis (hereinafter "Lewis")

U.S. Patent No. 6,153,835 to Schwartz et al. (hereinafter "Schwartz")

Neither of the references cited above were discussed by the Office in a previous examination or reexamination proceeding.

Several other references have been submitted by the Requester; however, these references are not being relied upon to establish a Substantial New Question of Patentability. These references are not being made part of the record at this time.

### ***Prosecution History***

The '941 patent was originally filed as Application No. 09/164,777 on 1 October 1998, having claims 1-15. Foreign priority was claimed to Israel Patent Application No. 124571, filed 21 May 1998, for which a certified copy in English was concurrently filed.

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