



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/008,648	06/11/2007	5826259	6883/23	4772

32605 7590 07/19/2007

MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 07/19/2007

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

IBM Ex. 1022



DO NOT USE IN PALM PRINTER

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

William L. Anthony, Jr. Orrick, Herrington & Sutcliffe
1000 Marsh Road
Menlo Park, Ca 94025

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/008,648.

PATENT NO. 5826259.

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)).

Order Granting / Denying Request For Ex Parte Reexamination	Control No. 90/008,648	Patent Under Reexamination 5826259	
	Examiner Albert W. Paladini	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 11 June 2007 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)).

Albert W Paladini
Primary Examiner
Art Unit: 3992

DECISION ON REQUEST FOR REEXAMINATION

1. A substantial new question of patentability affecting claims 1-18 of United States Patent Number 5,826,259 issued to Doktor is raised by the request for *ex parte* reexamination.

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

References

- (1) US 4,506,326 issued to Shaw et al.
- (2) US 4,774,661 issued to Kumpati.
- (3) US 4,918,593 issued to Huber.
- (4) Computer Surveys 1986 by Teorey.
- (5) Communications of the ACM 1987 by Dolk.
- (6) IBM Systems Journal 1977 by Zloof.
- (7) International Conference of Management of Data 1976 by Tsiichritzis.
- (8) Information Systems 1978 by Munz.
- (9) The entity relationship model 1977 by Chen.
- (10) Database Step-by-Step 1990 by Gillenson.

Prosecution History

2. The application for serial number 08/439,207 was filed on 5/11/95.

An application for a continuation including a preliminary amendment was filed on 5/22/97. The continuation is serial number 08/862,176.

The case was allowed on 3/5/98. The reasons for allowance for the Doktor patent was the uniqueness of “retrieving a specific relation instance record defining a relation of said provided entity and said desired entity from a relation instance table” and “retrieving a desired entity type record containing said desired entity type from an entity definition table”.

Substantial New Question of Patentability

3. On pages 53 through 63, the Requestor enumerates all recited elements of independent claim 1 of the Doktor patent, which is representative, and suggests allegedly corresponding elements from references Teorey and Huber. Some details are provided below.

On page 54, the Requestor discusses the recited preamble to claim 1 of the Doktor patent, which includes “A method for retrieving a desired entity of a desired

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.