

Office Action in Ex Parte Reexamination	Control No. 90/011,607	Patent Under Reexamination 6057221
	Examiner JOHN HEYMAN	Art Unit 3992

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

- a Responsive to the communication(s) filed on 12 August 2011 . 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. 3. Interview Summary, PTO-474.
2. Information Disclosure Statement, PTO/SB/08. 4. _____.

Part II SUMMARY OF ACTION

- 1a. Claims 3,4,6-8,11,13-15,17,18 and 21-29 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 3, 4, 6-8, 13-15, 17, 18 and 21-29 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)

Ex Parte Reexamination First Office Action

Preliminary Matters

This Office Action is taken up in response to the Patent Owner's Statement filed on 08/12/2011 that was filed in response to an Order granting reexamination of Claims 1-21 of US Patent 6,057,221 to Bernstein et al. (Bernstein '221) made on 06/23/2011.

On April 14, 2011 Patent Owner/Requester filed a Preliminary Amendment in which Claims 1, 2, 5, 9, 10, 12, 16, and 20 were canceled; Claim 3 made independent by combining with Claim 1; Claims 6, 7 and 13 made dependent upon claim 3; Claims 8, 15 and 21 amended by correcting informal matters; Claim 17 made independent by combining with Claims 1 and 13; and new dependent Claims 22-29 added. Thus, of the original 21 claims, 12 will be reexamined, and 8 new claims will be examined. Claims 1, 11, 14 and 17 are independent claims. Thus, 20 claims, namely, Claims 3, 4, 6-8, 11, 13-15, 17, 18 and 21-29 are presented for reexamination. All amendments must be made pursuant to 37 CFR 1.530(d)-(j) (See MPEP 2250).

Due to the rather lengthy number of references and the involved prosecution of this case in which claims have been amended, added, combined and canceled, the claim chart has been used in a limited fashion since it has been difficult to follow the proposed line of reasoning for the numerous rejections (of which many of the rejections were based upon canceled and/or amended claims). The Patent Owner's Statement has been used as much as possible.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 23 is rejected under 35 U.S.C. 112, second paragraph since it is not understood what is meant by "and the cross sectional area of each of the first and second electrically-conductive lines is defined by a width of the corresponding via". Where is this described in the specification and what does it mean? For example, how does this relate to the cross-sectional area of the recited cut-link pad? At present, this limitation is unclear as to what is meant, and therefore, indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Nishimura.

The limitations of Claim 11 are disclosed as proposed by the Claim Chart on page 36-37 of the Request, which is incorporated herein by reference. The P/O's argument that Nishimura is "silent as to the thermal conductivity of the high absorbing portion 2c and/or the low absorbing portions 2d" are not well taken. That is, it is viewed that "high absorbing" for the fuse translates to "greater thermal conductivity" for the fuse since the object with both is to break (blow) the fuse. See col. 7, line 51 of Nishimura. Thus, this claim is anticipated by Nishimura.

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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 negated by the manner in which the invention was made.

Claims 3, 4, 6, 7, 8, 11, 23, 25, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koyou, of record in view of Wada, of record.

Regarding Claim 3, pages 44-46 of the Claim Chart indicate that Koyou discloses the basic features of Claim 3 (which includes the features of Claim 1) except for “the cut-link pad having substantially less thermal resistance per unit length than each of the first and second lines”; and “wherein the width of the cut-link pad is at least ten percent greater than the width of each of the first and second electrically-conductive lines”. Those portions of the Claim Chart directed to features of Claim 3 admitted as disclosed by Koyou are incorporated by reference.

However, those features quoted above alleged as missing in Koyou are disclosed by Wada in the Claim Chart on pages 40-41. See paragraphs 10-12 of Wada, and pages 40-41 of the Claim Chart, which are incorporated by reference. It would have been obvious to apply the teachings of Wada to Koyou for the reason that both Koyou and Wada are directed to common objectives employing common structure, namely, providing a cut-link pad that is “fusible with an energy beam having lower energy” for a fuse device/method (Abstract of Wada and Abstract of Koyou).

Answer to P/O's Arguments in Statement regarding Claim 3

The Patent Owner has asserted that "the material of the fuse pad 1 [Figs 1a and 1b in Koyou] is greater than the width of contact holes 2a and 2b and of the interconnection lines 3a, 3b." And, that "the material of the fuse pad 1 is continuous with and formed at the same time as the material in the contact holes 2a - 2b, so material in the contact holes 2a and 2b is within the laser spot (note the depressions in fuse member 1 in the regions of the contact holes 2a-2b)". And therefore, "the material in each of contact holes 2a, 2b is part of the fuse..." (Statement page 3)

In other words, because the material in the contact holes 2a and 2b has a greater thermal resistance than the material of fuse 1, and is continuous with (and therefore part of) fuse 1, the Patent Owner alleges that the thermal resistance of fuse 1 is "either equal to or greater than the thermal resistance of interconnect lines 3a and 3b" (P/O Statement, page 3).

This reading of Koyou is deemed unduly narrow, selective and therefore, erroneous. First of all, looking at the Fig. 2 embodiment of Koyou, it is only fuse member 10 that is identified in Koyou as the fuse member having substantially less thermal resistance per unit length, not the end portions 10a and 10b that interconnect with respective electrically-conductive lines 11a and 11b (para. 15-16 of Koyou). Even if fuse member 10 includes end portions 10a and 10b, there is no requirement in the claims of Bernstein '221 to have the entire fuse member to have the claimed thermal resistance per unit length. To disqualify Koyou based upon the material in the contact holes in Koyou (when this material is not even part of the fuse member) is an unduly

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