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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/010,416	02/17/2009	6108704	2655-0188	1061
42624	7590	05/11/2010	EXAMINER	
DAVIDSON BERQUIST JACKSON & GOWDEY LLP 4300 WILSON BLVD., 7TH FLOOR ARLINGTON, VA 22203			ART UNIT	PAPER NUMBER

DATE MAILED: 05/11/2010

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

PTO-90C (Rev. 10/03)



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**EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/010,416.

PATENT NO. 6108704.

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)).

PTOL-465 (Rev.07-04)

<b>Office Action in Ex Parte Reexamination</b>	Control No. 90/010,416	Patent Under Reexamination 6108704	
	Examiner ALEXANDER J. KOSOWSKI	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 27 November 2009.      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 1-7 and 10-44 are subject to reexamination.  
1b.  Claims 8 and 9 are not subject to reexamination.  
2.  Claims 10 and 21 have been canceled in the present reexamination proceeding.  
3.  Claims 1-7, 11-20, 22-42 are patentable and/or confirmed.  
4.  Claims 43 and 44 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)

### DETAILED ACTION

1) This Office action addresses claims 1-7 and 10-44 of United States Patent Number 6,108,704 (Hutton et al), for which it has been determined in the Order Granting Ex Parte Reexamination (hereafter the "Order") mailed 3/11/09 that a substantial new question of patentability was raised in the Request for *Ex Parte* reexamination filed on 2/17/09 (hereafter the "Request"). Claims 8-9 are not subject to reexamination. This is a final office action in response to the amendment filed 11/27/09. The rejection of claims 44-45 is maintained below. All other previously rejected claims are confirmed below.

### IDS

2) With regard to the IDS's filed 12/14/09, 12/21/09, 1/26/10, 2/24/10, 3/5/10, 5/6/10:

Where the IDS citations are submitted but not described, the examiner is only responsible for cursorily reviewing the references. The initials of the examiner on the PTO-1449 indicate only that degree of review unless the reference is either applied against the claims, or discussed by the examiner as pertinent art of interest, in a subsequent office action. See Guidelines for Reexamination of Cases in View of *In re Portola Packaging, Inc.*, 110 F.3d 786, 42 USPQ2d 1295 (Fed. Cir. 1997), 64 FR at 15347, 1223 Off. Gaz. Pat. Office at 125 (response to comment 6).

Consideration by the examiner of the information submitted in an IDS means that the examiner will consider the documents in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search. The initials of the examiner placed adjacent to the citations on the PTO-1449 or PTO/SB/08A and 08B or its equivalent mean that the information has been considered by the examiner to the extent noted above.

Regarding IDS submissions MPEP 2256 recites the following: "Where patents, publications, and other such items of information are submitted by a party (patent owner or requester) in compliance with the requirements of the rules, the requisite degree of consideration to be given to such information will be normally limited by the degree to which the party filing the information citation has explained the content and relevance of the information."

Accordingly, the IDS submissions have been considered by the Examiner only with the scope required by MPEP 2256, unless otherwise noted.

In addition, that which are not either prior art patents or prior art printed publications have been crossed out so as not to appear reprinted on the front page of the patent.

***Claim Rejection Paragraphs***

3) ***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.

***Issue 1***

4) Claims 43-44 are rejected under 35 U.S.C. 102(b) as being unpatentable by NetBIOS  
(See claim mapping chart in Exhibit M, pages 36-40, incorporated by reference).

***Issue 2***

5) Examiner notes the following will represent the Etherphone references utilized for the rejection below (All considered a single reference as published together):

*"Zellweger"*: An Overview of the Etherphone System and its Applications

*"Swinehart"*: Telephone Management in the Etherphone System

*"Terry"*: Managing Stored Voice in the Etherphone System

*"Swinehart 2"*: System Support Requirements for Multi-media Workstations

*"Zellweger 2"*: Active Paths through Multimedia Documents

6) Claims 43-44 are rejected under 35 U.S.C. 102(b) as being unpatentable by Etherphone  
(See claim mapping chart in Exhibit N, pages 33-35, incorporated by reference).

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