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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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EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/013,302*.

PATENT NO. *6,542,076 B1 E*.

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)).

The present application is being examined under the pre-AIA first to invent provisions.

DETAILED ACTION

Introduction

1. This Office Action addresses the *ex parte* reexamination of claim 3 of U.S. Patent No. 6,542,076 (hereinafter also referred to as '076) issued to Joao for which a Substantial New Question of Patentability has been deemed to exist. The status of the claims is as follows:

Claim 3 is rejected.

Patents, Non-Patent Literature, Other Evidence

Patents

-U.S. Patent 5,070,320 to Ramono, filed June 12, 1989 and issued December 3, 1991 (hereinafter also referred to as '320 or Ramono '320).

-U.S. Patent 5,113,427 to Ryoichi et al, filed August 24, 1990 and issued May 12, 1992 (hereinafter also referred to as '427 or Ryoichi '427).

-U.S. Patent 5,276,728 to Pagliaroli et al, filed November 6, 1991 and issued January 4, 1994 (hereinafter also referred to as '728 or Pagliaroli '728).

-U.S. Patent 5,081,667 to Drori et al, filed March 20, 1990 and issued January 14, 1992 (hereinafter also referred to as '667 or Drori '667).

-U.S. Patent 5,103,221 to Memmola, filed December 5, 1989 and issued April 7, 1992 (hereinafter also referred to as '221 or Memmola '221).

Claim Rejections

Claim Interpretation/Analysis:

As set forth in the 9/8/2014 Order and on page 14 of the Request, the '076 patent has expired. Therefore, see again page 9 of the Request as well as MPEP 2258, "[i]n a reexamination proceeding involving claims of an expired patent, claim construction pursuant to the principle set forth by the court in *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005) (words of a claim 'are generally given their ordinary and customary meaning' as understood by a person of ordinary skill in the art in question at the time of the invention) should be applied since the expired claim are not subject to amendment. See *Ex parte Papst-Motoren*, 1 USPQ2d 1655 (Bd. Pat. App. & Inter. 1986).

Furthermore, "means-plus function" language of a claim if meeting the 3-prong analysis set forth in MPEP 2181, I, "shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof", see MPEP 2181, II. As also set forth in 2181, II, "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language", i.e. sets forth the structure, materials, or acts corresponding to a means- (or step-) plus-function.

Specifically:

> …examiners will apply 35 U.S.C. 112(f) or pre-AIA 35 U.S.C. 112, sixth paragraph to a claim limitation if it meets the following 3-prong analysis:
>
> (A) the claim limitation uses the term "means" or "step" or a term used as a substitute for "means" that is a generic placeholder (also called a nonce term or a non-structural term having no specific structural meaning) for performing the claimed function;

(B) the term "means" or "step" or the generic placeholder is modified by functional language, typically, but not always linked by the transition word "for" (e.g., "means for") or another linking word or phrase, such as "configured to" or "so that"; and

(C) the term "means" or "step" or the generic placeholder is not modified by sufficient structure, material, or acts for performing the claimed function.

The language of claim 3 (e.g., "a first control device…at least one of generates a first signal and transmits a first signal for at least one of activating, de-activating, disabling, and re-enabling, [sic] at least one of a vehicle system, a vehicle equipment system, a vehicle component, a vehicle device, a vehicle equipment, and a vehicle appliance, [sic] of a vehicle", "wherein the first control device at least one of generates the first signal and transmits the first signal in response to a second signal, wherein the second signal is at least one of generated by a second control device and transmitted from a second control device,", "and further wherein the second control device at least one of generates the second signal and transmits the second signal in response to a third signal, wherein the third signal is at least one of generated by a third control device and transmitted from a third control device,…" does not meet the analysis and is not deemed to invoke 35 USC 112, sixth paragraph.

'076 Patent

See '076 at, e.g., Figures 1 and 9, elements 2, 3, 4, 15, 16, col. 21, line 7-col. 25, line 39 (i.e. "FIG. 1 illustrates a block diagram of the apparatus which is the subject of the present invention and which is denoted generally by the reference numeral 1. As illustrated in FIG. 1, the apparatus 1 includes a transmitter system 2, for transmitting an electrical, an electronic, an electromagnetic or other suitable signal, upon an activation by a motor vehicle owner or

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