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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,485	11/12/2010	7043543	57058.0148	8636
26582	7590	10/24/2013	EXAMINER	
HOLLAND & HART, LLP P.O BOX 8749 DENVER, CO 80201			LEE, CHRISTOPHER E	
			ART UNIT	PAPER NUMBER
			3992	
			MAIL DATE	DELIVERY MODE
			10/24/2013	PAPER

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.

Division - Server Technology

**Right of Appeal Notice
(37 CFR 1.953)**

Control No.	Patent Under Reexamination	
95/001,485	7043543	
Examiner	Art Unit	
Christopher E. Lee	3992	

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

Responsive to the communication(s) filed by:
Patent Owner on 22 July, 2013
Third Party(ies) on 21 August, 2013

Patent owner and/or third party requester(s) may file a notice of appeal with respect to any adverse decision with payment of the fee set forth in 37 CFR 41.20(b)(1) within **one-month or thirty-days (whichever is longer)**. See MPEP 2671. In addition, a party may file a notice of **cross** appeal and pay the 37 CFR 41.20(b)(1) fee **within fourteen days of service** of an opposing party's timely filed notice of appeal. See MPEP 2672.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

If no party timely files a notice of appeal, prosecution on the merits of this reexamination proceeding will be concluded, and the Director of the USPTO will proceed to issue and publish a certificate under 37 CFR 1.997 in accordance with this Office action.

The proposed amendment filed 22 July, 2013 will be entered will not be entered*

*Reasons for non-entry are given in the body of this notice.

- 1a. Claims 1-62 are subject to reexamination.
- 1b. Claims _____ are not subject to reexamination.
- 2. Claims 27 have been cancelled.
- 3. Claims _____ are confirmed. [Unamended patent claims].
- 4. Claims 28,32,35,36,38,44,45,49 and 51-62 are patentable. [Amended or new claims].
- 5. Claims 1-26,29-31,33,34,37,39-43,46-48 and 50 are rejected.
- 6. Claims _____ are objected to.
- 7. The drawings filed on _____ are acceptable. are not acceptable.
- 8. The drawing correction request filed on _____ is approved. disapproved.
- 9. Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d) or (f). The certified copy has:
 been received. not been received. been filed in Application/Control No. _____.
- 10. Other _____

Attachments

- 1. Notice of References Cited by Examiner, PTO-892
- 2. Information Disclosure Citation, PTO-1449 or PTO/SB/08
- 3. _____

DETAILED ACTION***Inter Partes Reexamination***

1. This is an *Inter Partes* Reexamination of United States Patent Number US 7,043,543 B2, which issued to Ewing et al. [hereinafter '543 Patent].

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Receipt Acknowledgement

2. Receipts are acknowledged of Patent Owner's response filed on July 22nd, 2013 (hereinafter "the Response") and Third Party requester's written comments filed on August 21st, 2013 (hereinafter "the Comments") to the *Inter Partes* REX Action Closing Prosecution mailed on June 21st, 2013 (hereinafter "the previous Office action (6/21/13)").

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Claims 28, 44, 45, and 53 have been amended; no claim has been canceled; and no claim has been newly added since the previous Office action (6/21/13) was mailed¹. Currently, the claims 1-26 and 28-62 are subject to reexamination in this *inter partes* reexamination.

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Information Disclosure Statement

3. The Patent Owner files the information disclosure statements on July 22nd, 2013 and on August 5th, 2013, however, they fail to comply with the provisions of 37 CFR §§ 1.97, 1.98 and MPEP § 609 because of the inclusion of the court proceedings. Nevertheless, the court proceedings listed in the information disclosure statements have been given due consideration.

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Consideration by the Examiner of the information submitted in an information disclosure statement means nothing more than considering 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. See MPEP § 609.

The Patent Owner is advised that the date of any re-submission of any item of information contained in these information disclosure statements or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR § 1.97(e). See MPEP § 609.05(a).

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In order to expedite issuance of reexamination certificates, the Office eliminates printing of the listing of documents on reexamination certificates (See Official Gazette of the USPTO

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¹ The original claims 1-23 have not been amended since the instant *inter partes* reexamination request was filed on November 12th, 2010.

issued on October 11th, 2011, vol. 1371, Number 2, page 95 - "Elimination of the Listing of Prior Art Documents on Reexamination Certificate").

Summary of Inter Partes Reexamination Prosecution

5 4. In the original Third Party requester's request filed on November 12th, 2010 (hereinafter "the Request"), the following references, either by itself or in combination with one or more additional references, were alleged to render at least some of the claims unpatentable.

The references cited by the Third Party requester are

- MasterSwitch™ VM User Guide (hereinafter "MSVM User Guide")
- 10 • MasterSwitch™ VM Power Distribution Unit Installation and Quick Start Manual (hereinafter "MSVM Quick Start Manual")
- PowerNet® SNMP Management Information Base (MIB) v3.1.0 Reference Guide (hereinafter "MSVM PowerNet Guide")
- Download of www.BayTech.net from web.archive.org (hereinafter "BayTech Website")
- 15 • Owner's Manual for BayTech Remote Power Control Unit (hereinafter "BayTech Manual")
- M2 Communications Ltd., "BayTech," M2 Presswire, Bay St. Louis, Mississippi, U.S.A., November 19, 1999 (hereinafter "BayTech Article")
- Power Administrator™ 800 User Guide (hereinafter "PA-800")
- 20 • McNally et al., U.S. Patent No. 6,741,442 (hereinafter "McNally")
- Lee, U.S. Patent No. 5,650,771 (hereinafter "Lee")
- Liu, U.S. Patent No. 6,476,729 (hereinafter "Liu")
- Ewing et al., U.S. Patent No. 5,949,974 (hereinafter "Ewing '974")
- Wiebe, U.S. Patent No. 5,595,494 (hereinafter "Wiebe")
- 25 • a press release announcing the BayTech RPC 7 and 21 products dated October 13, 1999 (hereinafter "BayTech Front Webpage")
- a section of the BayTech website describing generally the RPC line of products dated October 6, 2000 (hereinafter "BayTech RPC Series Webpage")
- a section of the BayTech website describing specifically the RPC 22 product dated
- 30 November 1, 2000 (hereinafter "BayTech RPC-22 Webpage")
- Betty Yuan, "Remote Control Equals Power," February 2000, Teleconnect (hereinafter "Betty")

- Philips 87LPC762 Microcontroller Data Sheet, dated August 27, 1999 (hereinafter "Philips 87LPC762")
- Allegro Technical Paper STP 98-1, "Non-Intrusive Hall Effect Current-Sensing Techniques Provide Safe, Reliable Detection and Protection for Power Electronics," by Paul Emerald, dated May 6, 1998 (hereinafter "Paul")
- I2C Bus Specification, dated December, 1998 (hereinafter "I2C Specification")

Here is the reexamination prosecution history of the '543 Patent listed in chronological.

5/9/06 The original '543 Patent was issued.

11/12/10 The Third Party requester filed a request for *inter partes* reexamination of the '543 Patent.

11/23/10 The Third Party requester was notified the filing date 11/12/10.

1/15/11 a) The Third Party requester's reexamination request was granted, and the original claims 1-23 were determined to be subject to reexamination.

b) The First Action on the Merits (FAOM) was issued with the original claims 1-3, 6, 9, 10, 15-17, 20, and 21 under rejection and the original claims 4, 5, 7, 8, 11-14, 18, 19, 22, and 23 being confirmed.

2/22/11 The Patent Owner filed a petition under 37 CFR § 1.956 "requesting extension of time for one month to respond to an Office action," and it was granted on 2/24/11.

3/31/11 The Patent Owner filed a petition under 37 CFR § 1.956 "requesting extension of time for 45 days to respond to an Office action," and it was dismissed on 4/1/11.

4/6/11 The Patent Owner filed a petition under 37 CFR § 1.956 "requesting reconsideration of the petition for extension of time filed on 3/31/11," and it was denied on 4/12/11.

4/15/11 The Patent Owner filed the response to the FAOM mailed on 1/15/11, however it was not entered according to the notification of defective paper in a reexamination mailed on 6/03/11.

5/9/11 The Patent Owner filed a petition under 37 CFR § 1.182 to suspend *inter partes* reexamination proceeding, and it was dismissed on 7/18/11.

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