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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,302	07/21/2014	6,542,076 B1		2538

7590 07/31/2015
RAYMOND A. JOAO ESQ.
122 BELLEVUE PLACE
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EXAMINER

REICHLER, KARIN M

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
07/31/2015	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.



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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

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NEWYORK, NY 10004

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)).

Ex Parte Reexamination Advisory Action Before the Filing of an Appeal Brief	Control No. 90/013,302	Patent Under Reexamination 6,542,076 B1 E	
	Examiner Karin Reichle	Art Unit 3992	AIA (First Inventor to File) Status No

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

THE PROPOSED RESPONSE FILED 20 July 2015 FAILS TO OVERCOME ALL OF THE REJECTIONS IN THE FINAL REJECTION MAILED 22 May 2015.

1. Unless a timely appeal is filed, or other appropriate action by the patent owner is taken to overcome all of the outstanding rejection(s), this prosecution of the present *ex parte* reexamination proceeding WILL BE TERMINATED and a Notice of Intent to Issue *Ex Parte* Reexamination Certificate will be mailed in due course. Any finally rejected claims, or claims objected to, will be CANCELLED.

THE PERIOD FOR RESPONSE IS EXTENDED TO RUN TWO MONTHS FROM THE MAILING DATE OF THE FINAL REJECTION. Extensions of time are governed by 37 CFR 1.550(c).

NOTICE OF APPEAL

2. An Appeal Brief is due two months from the date of the Notice of Appeal filed on _____ to avoid dismissal of the appeal. See 37 CFR 41.37(a). Extensions of time are governed by 37 CFR 1.550(c). See 37 CFR 41.37(e).

AMENDMENTS

3. The proposed amendment(s) filed after a final action, but prior to the date of filing a brief, will not be entered because:
- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) They raise the issue of new matter (see NOTE below);
 - (c) They are not deemed to place the proceeding in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____ (See 37 CFR 1.116 and 41.33(a)).

4. Patent owner's proposed response filed _____ has overcome the following rejection(s): _____
5. The proposed new or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. For purposes of appeal, the proposed amendment(s) a) will not be entered, or b) will be entered and an explanation of how the new or amended claim(s) would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) patentable and/or confirmed: _____
Claim(s) objected to: _____
Claim(s) rejected: _____
Claim(s) not subject to reexamination: _____

AFFIDAVIT OR OTHER EVIDENCE

7. A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because patent owner failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence fails to overcome all rejections under appeal and/or appellant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached page.
12. Note the attached Information Disclosure Statement(s), PTO/SB/08, Paper No(s) 7/16/15,7/20/15.
13. Other: _____

/Karin Reichle/ Primary Examiner, Art Unit 3992	/WILLIAM H WOOD/ Primary Examiner, Art Unit 3992	/WHC/
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The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Patent Owner's arguments are not persuasive. First, the claim construction set forth in the Office Actions is proper and applies the "ordinary and customary meaning" standard while taking into consideration the Specification of the patent. It is noted that the portion of the MPEP 2111.01 cited by the Patent Owner explicitly states, "The ordinary and customary meaning of a term may be evidenced by a variety of sources, including 'the words of the claims themselves, the remainder of the specification ...". The Specification never defines the terms "first control device" or "second control device", nor does the Patent Owner now cite a definition. Patent Owner's arguments and citations are completely exemplary, illustrative and non-limiting. (Attention is also reinvited to MPEP 2111.01, i.e. Section II.) Not only are the actual claim terms not defined, the phrases, such as "separate and distinct", which Patent Owner now wishes to read into the claim are not described in the same manner as Patent Owner now uses them, for example in relation to a "first control device" and a "vehicle component". The claim terms "first control device" and "second control device" are broad and citing to specific, but non-limiting, examples in the specification does not redefine the terms. Nothing in the Specification contradicts the claim construction used in the Office Actions. The Final Office Action uses terms such as "may be", "might be", and "may actually be" to indicate the breadth of the claims and specification cited by Patent Owner and to point out that both the "ordinary and customary meaning" of the claims and specification read upon the cited prior art. Finally, in response to Patent Owner's arguments, all of the Final Office Action mailed 05/22/2015 is incorporated herein by reference. Patent Owner has not presented a substantially new argument in the response after final and therefore a interview is deemed unnecessary for advancement of the proceedings.

IDS Submissions

Regarding IDS submissions attention is also reinvited to MPEP 2256 which 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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)		Complete if Known			
		Application Number	90/013,302		
		Filing Date	JULY 21, 2014		
		First Named Inventor	RAYMOND A. JOAO		
		Art Unit	3992		
		Examiner Name	K. REICHLÉ		
Sheet	2	of	2	Attorney Docket Number	REEXAM-6542076

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		FUHR, et al., "Remote Monitoring of Instrumented Structures Using the INTERNET Information Superhighway", Paper presented at the Second European Conf. on (Continued)	
		FUHR, continued) Smart Structures and Materials, Glasgow 1994, Session 3.	
		SHENG, et al., "A Portable Multimedia Terminal", IEEE Communications Magazine, December 1992.	
		ZUECH, "The EDC-1000 Electronic Imaging System," published by NASA Astrophysics Data System in I.A.P.P.P. Communications, 39 (March 1990) at 1-2	
		US Application Serial No. 08/681,172 filed by Nathan Polish on July 22, 1996, now abandoned.	
		Provisional Application No. 60/014,427 filed DiRienzo on March 28, 1995	

Examiner Signature	/Karin Reichle/	Date Considered	07/29/2015
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.
 1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.
 This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO:
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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