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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes application details for 95/001,789 and examiner information for FOSTER, ROLAND G.

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.

EXHIBIT 1009

Black Swamp IP, LLC v. VirnetX, Inc.

Transmittal of Communication to Third Party Requester <i>Inter Partes</i> Reexamination	Control No.	Patent Under Reexamination	
	95/001,789	7921211	
	Examiner	Art Unit	
	ROLAND FOSTER	3992	

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

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

SIDLEY AUSTIN LLP
2001 Ross Avenue, Suite 3600
Dallas, TX 75201

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

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 the communication enclosed with this transmittal.

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

Control No.	Patent Under Reexamination
95/001,789	7921211
Examiner	Art Unit
ROLAND FOSTER	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 26 December, 2012
Third Party(ies) on 23 January, 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 _____ will be entered will not be entered*

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

- 1a. Claims 1-60 are subject to reexamination.
- 1b. Claims _____ are not subject to reexamination.
2. Claims _____ have been cancelled.
3. Claims _____ are confirmed. [Unamended patent claims].
4. Claims _____ are patentable. [Amended or new claims].
5. Claims 1-60 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/SB/08
3. _____

SUPPLEMENTAL RIGHT OF APPEAL NOTICE

1. Introduction

This Office action addresses claims 1-60 of United States Patent No. 7,921,211 B2 (the "Larson" patent), for which reexamination was granted in the Order Granting *Inter Partes* Reexamination (hereafter the "Order"), mailed January 18, 2012 in response to a Request for *Inter Partes* Reexamination, filed October 18, 2011 (the "Request").

An Action Closing Prosecution ("ACP") mailed September 26, 2012 rejected all original claims 1-60 of the Larson patent.

The patent owner responded by filing arguments and associated evidence on December 26, 2012 (the "Response").

The third party requester responded by filing Comments on the Patent Owner's Response on January 23, 2013 (the "Comments").

The patent owner also filed a supplemental declaration of Angelos D. Keromytis, Ph.D on December 26, 2012 (the "Supplemental Keromytis Declaration"), which is entered into the record and considered in this Office action in accordance with the Petition Decision mailed February 27, 2014. As indicated in the prior Right of Appeal Notice (page 3), the Examiner previously reviewed the Supplemental Keromytis Declaration. Because this Declaration is now

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of record, the Examiner's prior review of the Supplemental Keromytis Declaration is made explicit in this Office action.

Conclusion

The examiner has fully considered the arguments and evidence of record provided in the patent owner's Response, the third party requester's Comments, and the Supplemental Keromytis Declaration. Based on consideration of the entire record, the third party requester's arguments and evidence are deemed more persuasive. *See* the "Response to Arguments" section for further explanation. All prior rejections are maintained. Accordingly, this Office action is made a Right of Appeal Notice, which is a final Office action. *See* MPEP § 2673.01, .02. *See also* the "conclusion" section to this Office action.

Submissions after the Action Closing Prosecution (ACP)

Said Response, Comments and Supplemental Keromytis Declaration (which was previously reviewed) were submitted after the ACP, all of which have been entered for the reasons discussed above.

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