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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/000,479	05/28/2009	7161506	080272-0012	2572

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ROPES & GRAY LLP  
PATENT DOCKETING 39/361  
1211 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036-8704

EXAMINER
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LEUNG, CHRISTINA Y

ART UNIT	PAPER NUMBER
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3992

MAIL DATE	DELIVERY MODE
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12/15/2009

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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WASHINGTON, D.C. 20005-3096

Date MAILED

DEC 15 2009

CENTRAL REEXAMINATION UNIT

**Transmittal of Communication to Third Party Requester  
Inter Partes Reexamination**

REEXAMINATION CONTROL NO. : 95000479  
PATENT NO. : 7161506  
TECHNOLOGY CENTER : 3999  
ART UNIT : 3992

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.

PTOL-2070(Rev.07-04)

<b>OFFICE ACTION IN INTER PARTES REEXAMINATION</b>	Control No.	Patent Under Reexamination	
	95/000,479	7161506	
	Examiner	Art Unit	
	Christina Y. Leung	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 \_\_\_\_\_  
 Third Party(ies) on 28 May 2009

**RESPONSE TIMES ARE SET TO EXPIRE AS FOLLOWS:**

*For Patent Owner's Response:*

2 MONTH(S) from the mailing date of this action. 37 CFR 1.945. EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.956.

*For Third Party Requester's Comments on the Patent Owner Response:*

30 DAYS from the date of service of any patent owner's response. 37 CFR 1.947. NO EXTENSIONS OF TIME ARE PERMITTED. 35 U.S.C. 314(b)(2).

**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.

This action is not an Action Closing Prosecution under 37 CFR 1.949, nor is it a Right of Appeal Notice under 37 CFR 1.953.

**PART I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

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

**PART II. SUMMARY OF ACTION:**

- 1a.  Claims See Continuation Sheet are subject to reexamination.
- 1b.  Claims See Continuation Sheet are not subject to reexamination.
2.  Claims \_\_\_\_\_ have been canceled.
3.  Claims \_\_\_\_\_ are confirmed. [Unamended patent claims]
4.  Claims \_\_\_\_\_ are patentable. [Amended or new claims]
5.  Claims See Continuation Sheet 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). The certified copy has:  
 been received.  not been received.  been filed in Application/Control No 95000479.
10.  Other \_\_\_\_\_

**Continuation Sheet (PTOL-2064)**

**Control No. 95/000,479**

Continuation of SUMMARY OF ACTION: 1a. Claims subject to reexamination are 1-9,11,16,17,20-23,27,39,41-43,69-73,79,81,82,84-90,96 and 98.

Continuation of SUMMARY OF ACTION: 1b. Claims not subject to reexamination are 10,12-15,18,19,24-26,28-38,40,44-68,74-78,80,83,91-95,97 and 99.

Continuation of SUMMARY OF ACTION: 5. Claims rejected are 1-9,11,16,17,20-23,27,39,41-43,69-73,79,81,82,84-90,96 and 98.

## DETAILED ACTION

### *Reexamination*

1. **Claims 1-9, 11, 16, 17, 20-23, 27, 39, 41-43, 69-73, 79, 81, 82, 84-90, 96, and 98** of Fallon (US 7,161,506 B2) are being reexamined.

### *Priority*

2. Fallon, US 7,161,506 B2, is a continuation of application number 10/016,355 (US 6,624,761 B2 filed on 29 October 2001, which is a continuation-in-part of application number 09/705,446 (US 6,309,424 B1) filed on 03 November 2000, which is a continuation of application 09/210,491 (US 6,195,024 B1) filed on 11 December 1998.

3. Claims 1-9, 11, 16, 17, 20-23, 27, 39, 41-43, 69-73, 79, 81, 82, 84-90, 96, and 98 are supported for purposes of 35 U.S.C. 112 by Figures 13-18 and the additional disclosure that first appeared in application number 10/016,355. Therefore, claims 1-9, 11, 16, 17, 20-23, 27, 39, 41-43, 69-73, 79, 81, 82, 84-90, 96, and 98 are entitled to a priority date of 29 October 2001.

### *Claim Rejections - 35 USC § 102*

4. 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.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 69-73, 79, 81, 84-90, 96, and 98** are rejected under 35 U.S.C. 102(b) as being anticipated by **French** (French et al., US 5,794,229 A).

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