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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
90/013,024 10/09/2013 7,394,432 B2 59749-00003.432 1387

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EDELL, SHAPIRO & FINNAN, LLC
9801 Washingtonian Blvd.
Suite 750
Gaithersburg, MD 20878

EXAMINER

NGUYEN, LINH M

ART UNIT PAPER NUMBER

3992

MAIL DATE DELIVERY MODE

03/13/2015

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.

Fractus S.A.



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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

NOVAK DRUCE & QUIGG, LLP

(NDQ REEXAMINATION GROUP)

1000 LOUISIANA STREET, FIFTY-THIRD FLOOR

HOUSTON, TX 77002

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/013,024.

PATENT NO. 7,394,432 B2 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)).

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Notice of Intent to Issue Ex Parte Reexamination Certificate	Control No. 90/013,024	Patent Under Reexamination 7,394,432 B2 E	
	Examiner Linh M. Nguyen	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 --

1. Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. Cf. 37 CFR 1.313(a). A Certificate will be issued in view of
 - (a) Patent owner's communication(s) filed: 17 December 2014.
 - (b) Patent owner's failure to file an appropriate timely response to the Office action mailed: _____.
 - (c) Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
 - (d) The decision on appeal by the Board of Patent Appeals and Interferences Court dated _____
 - (e) Other: _____.
2. The Reexamination Certificate will indicate the following:
 - (a) Change in the Specification: Yes No
 - (b) Change in the Drawing(s): Yes No
 - (c) Status of the Claim(s):
 - (1) Patent claim(s) confirmed: _____.
 - (2) Patent claim(s) amended (including dependent on amended claim(s)): 6
 - (3) Patent claim(s) canceled: _____.
 - (4) Newly presented claim(s) patentable: 7-13.
 - (5) Newly presented canceled claims: _____.
 - (6) Patent claim(s) previously currently disclaimed: 1-3
 - (7) Patent claim(s) not subject to reexamination: 4 and 5.
3. A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
4. Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
5. Note attached NOTICE OF REFERENCES CITED (PTO-892).
6. Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).
7. The drawing correction request filed on _____ is: approved disapproved.
8. Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the certified copies have
 - been received.
 - not been received.
 - been filed in Application No. _____.
 - been filed in reexamination Control No. _____.
 - been received by the International Bureau in PCT Application No. _____.

* Certified copies not received: _____.
9. Note attached Examiner's Amendment.
10. Note attached Interview Summary (PTO-474).
11. Other: _____.

All correspondence relating to this 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.

cc: Requester (if third party requester)

Art Unit: 3992

Notice of Intent to Issue Ex Parte Reexamination Certificate

This is an *ex parte* reexamination of claim 6 of United States Patent Number 7,394, 432 to Baliarda et al. (hereinafter “the ‘432 patent”), entitled "MULTILEVEL ANTENNA". Reexamination was additionally requested of claim 1. Claim 1, among others, was disclaimed by a statutory disclaimer filed 9/10/2013, published in the Official Gazette 10/8/2013, disclaiming claims 1-3. Note that a statutory disclaimer takes effect upon the time of its proper filing, and its effect is that the claims *never existed*. *Vectra Fitness Inc. v. TNWK Corp.*, 49 USPQ2d 1144, 1146-47 (Fed. Cir. 1998). Accordingly, claim 1 cannot be subject to reexamination and no determination is made as to claim 1.

Since requester did not request reexamination of claims 4-5 and did not assert the existence of a substantial new question of patentability (SNQ) for such claims, such claims will not be reexamined. See MPEP 2243.

Patent Owner filed an amendment on 12/17/2014, adding new claims 7-13; and canceling previously disclaimed claim 1. Note that claim 1 was already disclaimed; therefore, it is not cancelled now (cannot cancel a claim that does not exist).

Statement of Reasons for Patentability and/or Confirmation

Claims 6 and 7-13 are patentable.

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Art Unit: 3992

The examiner has no opinion as to the claims that were not reexamined. The following is an examiner's statement of reasons for patentability of the claim found confirmed/patentable in this reexamination proceeding:

There is not taught or disclosed in the prior art including a multi-band antenna having the first level of structural detail comprising the overall structure having the first geometry configured to operate at the first frequency band and the second level of structural detail within the first level of structural detail having a second geometry configured to operate at the second frequency band; and the perimeter of the multilevel structure having a different number of sides than each of the geometric elements that compose the multilevel structure, as called for in claim 6. Newly added claims 7-13 depending from claim 6; therefore, they're also patentable.

Remarks

The arguments presented in the Response and the Declarations submitted have been fully considered.

The examiner agrees with Patent Owner, as similarly indicated in the 12/09/2014 interview summary, that Yanagisawa does not meet the amended features reciting the first level of structural detail comprising the overall structure having the first geometry configured to operate at the first frequency band and the second level of structural detail within the first level of structural detail having a second geometry configured to operate at the second frequency band. In addition, it is agreed that Guo and Misra lack the feature of the perimeter of the multilevel structure having a different number of sides than each of the geometric elements that compose the multilevel structure.

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