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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,878	05/24/2013	7868912	4079-117	3806

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EXAMINER

BASEHOAR, ADAM L

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
04/29/2014	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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**EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/012,878.

PATENT NO. 7868912.

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)).

<b>Notice of Intent to Issue Ex Parte Reexamination Certificate</b>	<b>Control No.</b> 90/012,878	<b>Patent Under Reexamination</b> 7868912	
	<b>Examiner</b> ADAM L. BASEHOAR	<b>Art Unit</b> 3992	<b>AIA (First Inventor to File) Status</b> 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: 16 April 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: 1-4 and 6-22.
    - (2) Patent claim(s) amended (including dependent on amended claim(s)): \_\_\_\_\_
    - (3) Patent claim(s) canceled: 5.
    - (4) Newly presented claim(s) patentable: 23-33 and 42-44.
    - (5) Newly presented canceled claims: 34-41.
    - (6) Patent claim(s)  previously  currently disclaimed: \_\_\_\_\_
    - (7) Patent claim(s) not subject to reexamination: \_\_\_\_\_.
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.

/ADAM L BASEHOAR/  
Primary Examiner, Art Unit 3992

cc: Requester (if third party requester)

The present application is being examined under the pre-AIA first to invent provisions.

### DETAILED ACTION

1. This Office action addresses original claims 1-22 and newly presented claims 23-44 of United States Patent Number 7,868,912 B2 (Venetianer et al), for which it has been determined in the Order Granting Ex Parte Reexamination (hereafter the "Order") mailed 06/20/2013 that a substantial new question of patentability was raised in the Request for Ex Parte reexamination filed on 05/24/2013 (hereafter the "Request"). Original dependent claim 5 was previously cancelled in this reexamination (see: "Amendment and Reply", p. 2, filed 10/30/2013).

2. This Office action is a response to the Patent Owner's (PO) After Final Amendment and Reply (hereafter the "Reply") filed 04/16/2014. PO's Reply, along with its accompanying amendments, has been entered and made of record. By virtue of PO's Reply: (1) newly presented independent claim 32 has been amended (see: Reply, p. 2); and (2) newly presented claims 34-41 have been cancelled (see: Reply, p. 2).

Regarding PO's amendment to newly presented independent claim 32, said amendment overcomes the objection to claim 32 indicated in the Final Action (see: Final Action, p. 12). Therefore, said objection has been withdrawn.

In view of PO's Reply, as previously indicated in the Final Action (see: Final Action, p. 14) and discussed below in the Statement of Reasons for Patentability and/or Confirmation section, original claims 1-4 and 6-22 are confirmed and newly presented claims 23-33 and 42-44 are found patentable.

### STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION

3. Claims 1-4, 6-33, and 42-44 are patentable and/or confirmed. The following is an Examiner's statement of reasons for patentability and/or confirmation of claims 1-4, 6-33, and 42-44 found in this reexamination proceeding. Claims 1-4, 6-33, and 42-44 are confirmed and/or patentable over the prior art that was explained in the Request and determined to raise a substantial new question of patentability in the Order granting reexamination and over the prior art that was applied and discussed by the Examiner in the present reexamination proceeding because of the following:

Regarding independent claim 1, as previously and more specifically discussed in the Final Action (see: Final Action, pp. 7-11), the proper proposed prior art combinations (i.e., Courtney, Olson, Brill, Day, and JP '783) do not teach the independence based claim elements of determining "a first event that is not one of the determined attributes" and "determines attributes independent of a selection of the first event."

Regarding additional independent claims 6, 9, 12, 18, and 23-33, the additional independent claims each recite at least one substantially similar limitation as discussed above with regard to independent claim 1 and are thus patentable and/or confirmable based on the same rationale.

Regarding dependent claims 2-4, 7, 8, 10, 11, 13-17, 19-22, and 42-44, the claims are dependent on patentable and/or confirmable claims, and are therefore also patentable and/or confirmed.

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