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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes details for application 90/019,277 and examiner REICHLER, KARIN M.

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. 90/019,277 .

PATENT UNDER REEXAMINATION 8478245 .

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)).

Notice of Intent to Issue Ex Parte Reexamination Certificate	Control No. 90/019,277	Patent Under Reexamination 8478245	
	Examiner Karin M Reichle	Art Unit 3992	AIA 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: 06 June 2024.
 - (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: 1,4-5 and 16.
 - (2) Patent claim(s) amended (including dependent on amended claim(s)): _____
 - (3) Patent claim(s) canceled: _____.
 - (4) Newly presented claim(s) patentable: _____.
 - (5) Newly presented canceled claims: _____.
 - (6) Patent claim(s) previously currently disclaimed: _____
 - (7) Patent claim(s) not subject to reexamination: 2-3,6-15 and 17-33.
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.

/Karin Reichle/ Primary Examiner, Art Unit 3992	/JALATEE WORJLOH/ Primary Examiner, Art Unit 3992
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cc: Requester (if third party requester)
U.S. Patent and Trademark Office

Notice of Intent to Issue Reexamination Certificate

Reexamination was requested for claims 1, 4-5 and 16 of United States Patent No. 8,478,245 (hereinafter also referred to as '245 or Carion et al '245). The '245 patent was issued to Carion et al on July 2, 2013.

References Asserted in Request

(1) U.S. Patent Application No. 2006/0179118 to Stirbu (hereinafter also referred to as Stirbu or '118 (Exhibit 1004)) filed August 1, 2007 and published July 2, 2013

(2) U.S. Patent Application No. 2006/0136571 to Kloba et al (hereinafter also referred to as Kloba or '571 (Exhibit 1005)) filed January 11, 2006 and published June 22, 2006).

Other

The Declaration of Joseph C. McAlexander III, P.E. (Exhibit 1006), executed October 3, 2023 and filed October 13, 2023, and accompanying Exhibits 1007 and 1008.

June 6, 2024 Response-Arguments/Declaration/Exhibits

The June 6, 2024 response (i.e. arguments, Stuart Lipoff declaration, Exhibit A, and Exhibits B-E) was considered in its' entirety.

Concurrent Proceedings

See RXFILJKT accompanying this Notice. Note also TRAN.LET, **Information**

Disclosure Statement by Patent Owner, pages 2-3 of the June 6, 2024 response

Information Disclosure Statement

Various IDS were submitted by Patent Owner on June 6, 2024.

Prior art is evaluated in accordance with the policy of MPEP 2256, which states: "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. The initials of the examiner placed adjacent to the citations on the form PTO/SB/08A and O8B or its equivalent, without an indication to the contrary in the record, do not signify that the information has been considered by the examiner any further than to the extent noted above."

Claim Interpretation

As set forth in MPEP 2240, in making the determination of whether to order reexamination, the Office will determine the proper meaning of the patent claims by giving the claims their broadest reasonable interpretation consistent with the specification (see *In re Yamamoto*, 740 F.2d 1569 (Fed. Cir. 1984)), except in the case of an expired patent (in a reexamination involving claims of an expired patent, claim construction is pursuant to the principle set forth by the court in *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005) (words of a claim "are generally given their ordinary and customary meaning" as understood by a person of ordinary skill in the art in question at the time of the invention, see *Ex parte Papst-Motoren*, 1 USPQ2d 1655 (Bd. Pat. App. & Inter. 1986)).

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