

EXHIBIT B

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(Also referred to as FORM PTO-1465)

REQUEST FOR *EX PARTE* REEXAMINATION TRANSMITTAL FORM

Address to:

**Mail Stop *Ex Parte* Reexam
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**Attorney Docket No.: 2525.993REX0Date: May 15, 2020

1. This is a request for *ex parte* reexamination pursuant to 37 CFR 1.510 of patent number 8,213,970 B2 issued July 3, 2012. The request is made by:
 patent owner. third party requester.
2. The name and address of the person requesting reexamination is:
Jonathan Tuminaro
Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue, N.W., Suite 600, Washington, DC 20005
3. Requester asserts small entity status (37 CFR 1.27) or certifies micro entity status (37 CFR 1.29). Only a patent owner requester can certify micro entity status. Form PTO/SB/15A or B must be attached to certify micro entity status.
4. This request is accompanied by payment of the reexamination fee as set forth in:
 37 CFR 1.20(c)(2); or
 37 CFR 1.20(c)(1). **In checking this box for payment of the fee set forth in 37 CFR 1.20(c)(1), requester asserts that this request has forty (40) or fewer pages and complies with all other requirements of 37 CFR 1.20(c)(1).**
Payment of the reexamination fee is made by the method set forth below.
a. A check in the amount of \$ _____ is enclosed to cover the reexamination fee;
b. The Director is hereby authorized to charge the reexamination fee to Deposit Account No. _____;
c. Payment by credit card. Form PTO-2038 is attached; or
d. Payment made via EFS-Web.
 In addition, the Director is hereby authorized to charge any fee deficiencies to Deposit Account No. 19-0036.
5. Any refund should be made by check or credit to Deposit Account No. 19-0036. 37 CFR 1.26(c). If payment is made by credit card, refund must be to credit card account.
6. A copy of the patent to be reexamined having a double column format on one side of a separate paper is enclosed. 37 CFR 1.510(b)(4).
7. CD-ROM or CD-R in duplicate, Computer Program (Appendix) or large table
 Landscape Table on CD

[Page 1 of 3]

This collection of information is required by 37 CFR 1.510. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) a request for reexamination. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 18 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop *Ex Parte* Reexam, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/014,507	05/15/2020	8213970	2525.993REX0	6188
22235	7590	07/27/2020	EXAMINER	
Malin Haley DiMaggio & Bowen, P.A. Spectrum Office Building 4901 NW 17th Way, Suite 308 FORT LAUDERDALE, FL 33309			KISS, ERIC B	
			ART UNIT	PAPER NUMBER
			3992	
			MAIL DATE	DELIVERY MODE
			07/27/2020	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.

Control Number: 90/014,507
Art Unit: 3992

Page 4

Applicant responded by amending claims 2, 3, and 7. Applicant again contended, *inter alia*, that Keating did not disclose a forced message alert system. See '122 App., Remarks, Sep. 9, 2011, p. 7.

The examiner subsequently allowed claims 2-14 upon entry of an Examiner's Amendment removing references to a "PC" in all pending claims. '122 App., Examiner's Amendment, Apr. 25, 2012.

The examiner provided the following statement of reasons for allowance of the amended claims:

[C]laims 2-14 have been found to be novel and the inventive because prior art record fails to show or teach means for attaching a forced message alert software packet to a voice or text message creating a forced message alert that is transmitted by said sender PDA/cell phone to the recipient PDA/cell phone, said forced message alert software packet containing a list of possible required responses and requiring the forced message alert software on said recipient PDA/cell phone to transmit an automatic acknowledgment to the sender PDA/cell phone as soon as said forced message alert is received by the recipient PDA/cell phone; means for requiring a required manual response from the response list by the recipient in order to clear recipient's response list from recipient's cell phone display; means for receiving and displaying a listing of which recipient PDA/cell phones have automatically acknowledged the forced message alert and which recipient PDA/cell phones have not automatically acknowledged the forced message alert.

Id. at 9.

Priority Date

The Request contends that the '970 patent is not entitled to priority to any of the earlier-filed applications in its continuity chain, and is instead entitled to a priority date of only November 26, 2008 — its actual filing date, (Request at 17-20).

Upon review, the examiner agrees with the contentions and evidentiary support in the Request, (*see id.*), that none of the earlier-filed applications provide sufficient written description support for at least a forced-message alert software-application program, as required by each independent claims of the '970 patent. Accordingly, the examiner agrees that the '970 patent is entitled to a priority date of November 26, 2008.

Control Number: 90/014,507
Art Unit: 3992

Page 6

printed publication important in deciding whether or not the claim is patentable, unless the same question of patentability has already been decided as to the claim in a final holding of invalidity by the Federal court system or by the Office in a previous examination. MPEP § 2242.

B. Kubala and Hammond (SNQ 1)

The request asserts that a substantial new question of patentability as to claims 2 and 10-13 of the '970 patent is raised by Kubala and Hammond, (Request at 7). The examiner agrees.

Neither Kubala nor Hammond were considered by the examiner during the prosecution of the application that matured into the '970 patent.

As described in the Request, Kubala discloses PDAs that send and receive mandatory-response messages, (see Request at 32-35 (citing Kubala at Abstract, FIGS. 2, 9, 11A, 11C, ¶¶ 22, 32, 33, 35, 36, 50, 51, 57, and 61)).

As described in the Request, Hammond discloses tracking acknowledgements of and responses to mandatory-response messages, (see Request at 35-37 (citing Hammond at 1:13-16, 1:21-26, 3:1-5, 3:31-43, 6:3-19, 6:56-8:45, 10:5-11:48; FIGS. 2, 4, 5A, 5B)).

Because these new and non-cumulative technical teachings appear to be relevant to the specific features cited by the examiner as being absent from the prior art during prosecution of the '970 patent, there is a substantial likelihood that a reasonable examiner would consider these teachings important in deciding whether claims 2 and 10-13 of the '970 patent are patentable. Accordingly, Kubala and Hammond raise a substantial new question of patentability as to these claims.

C. Hammond, Johnson, and Pepe (SNQ 2)

The request asserts that a substantial new question of patentability as to claims 2 and 10-13 of the '970 patent is raised by Hammond, Johnson, and Pepe, (Request at 8-9). The examiner agrees.

Hammond, Johnson, and Pepe were not considered by the examiner in the application that matured into the '970 patent.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.