

Exhibit 3



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,732	06/30/2006	Klaus Finkenzeller	FINK3001/JJC/PMB	1969
23364	7590	01/05/2010	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314-1176			TUN, NAY L	
			ART UNIT	PAPER NUMBER
			2612	
			MAIL DATE	DELIVERY MODE
			01/05/2010	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.

Office Action Summary	Application No. 10/565,732	Applicant(s) FINKENZELLER, KLAUS	
	Examiner NAY TUN	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10/09/2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10/09/2009 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claims status

1. In the amendment filed on October 10, 2009, claim 1 has been amended. Therefore, claims 1-16 are currently pending for examination.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

3. The substitute specification filed 10 June 2009 has NOT been entered because it does not conform to 37 CFR 1.125(b) and (c) because: a clean copy has not been provided.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

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Drawings

4. Objections to drawings from previous office action are withdrawn and substitute drawings filed on 10/09/2009 are entered.

Claim Rejections - 35 USC § 103

5. Claims 1-6, 8-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Schuermann** (U. S. Patent No. 5,287,112) in view of **Charrat** et al. (hereinafter "**Charrat**" - U.S. Patent No. 6,905,074).

Regarding claim 1, **Schuermann** discloses a communication apparatus for setting up a data connection between intelligent devices, comprising:

- a transmission oscillator (resonant circuit 28) for carrying out a contactless data exchange, said oscillator including a coil (Column 4 Lines 42-44 and 50-52);
- a communication element (control circuit 16) which is connected to the coil and the data processing component of an intelligent device and which emits search signals via the coil to receive a response from another intelligent device (Column 3 Lines 46-54);

Schuermann does not disclose:

- a measuring device for monitoring a property of the transmission oscillator which outputs a control signal when ascertaining a change of the monitored property; and
- a switching apparatus which is connected to the measuring device and the communication element and which switches on the communication element when it has received a control signal from the measuring device.

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