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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/014,675	02/16/2021	8032278	CAAMP-001X	7247
27975	7590	04/14/2023	EXAMINER	
ADD+G - 27975			WASSUM, LUKE S	
1135 East State Road 434, Suite 3001				
Winter Springs, FL 32708				
			ART UNIT	PAPER NUMBER
			3992	
			MAIL DATE	DELIVERY MODE
			04/14/2023	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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***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/014,675 .

PATENT UNDER REEXAMINATION 8032278 .

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. 90/014,675	Patent Under Reexamination 8032278	
	Examiner Luke S Wassum	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: _____.
 - (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 01 December 2022
 - (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: 1-22.
 - (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: _____.
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.

	/LUKE S WASSUM/ Primary Examiner, Art Unit 3992
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cc: Requester (if third party requester)

***Ex Parte* Reexamination**

A request for *Ex Parte* Reexamination of claims 1-22 of United States Patent Number 8,032,278 (“the ‘278 patent”) was filed 16 February 2021 (“the Request”). The ‘278 patent issued to **Kenneth E. Flick** on 4 October 2011, from application number
5 11/773,272 (“the ‘272 application”), filed 3 July 2007.

The Office mailed a Decision granting reexamination of claims 1-22 on 25 March 2021.

Claims 1-22 are subject to reexamination.

10

Related Proceedings

The application which issued as the ‘278 patent was application no. 11/773,272 (“the ‘272 application”), filed 3 July 2007.

The ‘278 patent was the subject of four previous *Ex Parte* Reexamination proceedings; 90/013,587, filed 14 September 2014 (“**First Reexamination**”); 90/013,851,
15 filed 28 October 2016 (“**Second Reexamination**”); 90/014,309, filed 24 May 2019 (“**Third Reexamination**”); and 90/014,419, filed 11 December 2019 (“**Fourth Reexamination**”).

In the Fourth Reexamination, an Order denying the request was mailed on 27 January 2020. Third Party Requester Innova Electronics Corporation filed a petition to

review the examiner's decision to deny reexamination on 25 February 2020. There has been no decision on the petition.

Claim Interpretation

5 During reexamination, claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims (*In re Yamamoto*, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)).

10 Upon review of the original specification and prosecution history, the examiner has found no instance of lexicographic definitions, either express or implied, that are inconsistent with the ordinary and customary meaning of the respective terms. Therefore, for the purposes of claim interpretation, the examiner concludes that there are no claim terms for which Patent Owner is acting as their own lexicographer. See MPEP § 2111.01(IV).

15 The Office notes that there were several claim terms construed by the Patent Trial and Appeal Board (PTAB) in a decision¹ on appeal in the Second Reexamination. In the Decision, the PTAB also considered the construction of claim terms ordered in related

¹ Reexamination Proceeding 90/013,851, Decision on Appeal, 13 November 2018.

District Court litigation² involving several patents by inventor Kenneth E. Flick, including the '278 patent.

The construed claim terms are as follows:

Multi-Vehicle Compatible Controller, construed as “electronic circuitry that

5 performs one or more control functions, and can operate with more than one vehicle.”

Different Vehicles, construed as “vehicles from different manufacturers, different models, or different trim levels of the same make or model, but having different electronics.”

Enabling Data, construed as “data related to the at least one corresponding

10 vehicle device code for use by said multi-vehicle compatible controller, and which enables the controller to use a *particular* vehicle device code from among plural such codes for different vehicles by providing either (1) the code itself to the controller, or (2) data that otherwise enables the controller to select or generate the code.”

15 The Court’s construction of these claim terms is consistent with the broadest reasonable interpretation and is adopted for the purposes of the instant reexamination proceeding.

² *Omega Patents, LLC v. CalAmp Corp.*, No. 6:13-cv-1950-Orl-40DAB (M.D. Fla.), Claim Construction Order, 20 February 2015.

The Office also notes that the PTAB construed the claimed Vehicle Device Codes as “signal from a vehicle device”. However, in light of the disclosure at col. 23, line 67 through col. 24, line 3, that “[t]he corresponding vehicle [device] code may be for reading from the vehicle device **121**. Similarly, the corresponding vehicle [device] code may be additionally or alternatively for writing to the vehicle device **121**”, for the purposes of the instant reexamination proceeding, the term Vehicle Device Codes will be construed as “signal *to or* from a vehicle device.”

10

Priority

The '278 patent is a continuation-in-part of application 11/076,259, filed 9 March 2005, now U.S. Patent 7,720,597, which is a continuation of application 10/383,496, filed 7 March 2003, now U.S. Patent 7,149,623, which is a continuation of application 09/859,972 (“**972 application**”), filed 17 May 2001, now U.S. Patent 6,606,561.

15

The '278 patent also claimed priority under 35 U.S.C. § 119(e) to the following provisional applications:

60/264,811, filed 29 January 2001;

60/258,005, filed 22 December 2000;

60/251,552, filed 6 December 2000;

20

60/252,125, filed 20 November 2000;

60/246,463³, filed 7 November 2000;
60/236,890, filed 29 September 2000;
60/222,777, filed 3 August 2000; and
60/205,178, filed 17 May 2000.

5

As a continuation-in-part, the '278 patent is entitled to a priority date earlier than the actual filing date of the '272 application only for those claims that are fully supported by the earlier cited applications.

The Office notes that each of the independent claims of the '278 patent includes
10 several features that were not disclosed in the earlier cited applications, including the fact that the tracking unit and its components are *multi-vehicle compatible*, that the vehicle includes a *vehicle data bus* that extends throughout the vehicle to facilitate communication between the controller and *at least one vehicle device* using at least one corresponding *vehicle device code*, and that the tracking unit includes *a downloading*
15 *interface* for permitting *downloading of enabling data* related to the at least one corresponding vehicle device code.

³ The Office notes that the serial number of this provisional application contains a typographical error; the provisional application presumably intended in the priority claim was actually 60/246,436.

Since each of the independent claims of the '278 patent includes subject matter not supported by its parent application, the patent is entitled only to a priority date of 3 July 2007, the actual application date of the '272 application.

5 **Decision on Appeal**

The PTAB issued a Decision on Appeal on 1 December 2022, reversing the rejection of claims 1, 4-11, and 18-22. Claims 2, 3, and 12-17 had previously been indicated as confirmed.

10 **Allowable Subject Matter**

Claims 1-22 are confirmed.

STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION

15 The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding:

Regarding claims 1-22, the reasons for confirmation of these claims was set forth by the PTAB in the Decision on Appeal mailed 1 December 2022.

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.

5

Conclusion

The Patent Owner is reminded of the continuing responsibility under 37 CFR 1.565(a), to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving U.S. Patent No. 8,032,278 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

The Patent Owner is reminded that any proposed amendment to the specification and/or claims in the reexamination proceeding must comply with the provisions of 37 C.F.R. § 1.530(d)-(j), must be formally presented pursuant to 37 C.F.R. § 1.52(a) and (b), and must include any fees required by 37 C.F.R. § 1.20(c). See MPEP § 2250(IV) for examples to assist in the preparation of proper amendments in reexamination proceedings.

Any document filed by the Patent Owner must be served on the third party requester (or requesters in a merged proceeding) in the reexamination proceeding in the manner provided by 37 C.F.R. § 1.248. See 37 C.F.R. § 1.550(f) and MPEP § 2266.03.

All correspondence relating to this *ex parte* reexamination proceeding should be directed:

By EFS-Web: Registered Users may submit correspondence via EFS-Web, at
<https://efs.uspto.gov/efile/myportal/efs-registered>.

By Mail to: Mail Stop *Ex Parte* Reexam
Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft-scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submission after the "soft scanning" process is complete.

Any inquiry concerning this communication should be directed to the Central Reexamination Unit at telephone number 571-272-7705.

/LUKE S WASSUM/
Primary Examiner, Art Unit 3992

Conferees:

/Stephen J. Ralis/
Primary Examiner, Art Unit 3992

/Michael Fuelling/
Supervisory Patent Examiner
Art Unit 3992

5 lsw
29 March 2023