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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/015,063	06/23/2022	7233790	22104.12R	8395

22913 7590 06/20/2023
Workman Nydegger
60 East South Temple
Suite 1000
Salt Lake City, UT 84111

EXAMINER

HENEGHAN, MATTHEW E

ART UNIT	PAPER NUMBER
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3992

MAIL DATE	DELIVERY MODE
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06/20/2023

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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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

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SUITE 400
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***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/015,063 .

PATENT UNDER REEXAMINATION 7233790 .

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. 90/015,063	Patent Under Reexamination 7233790	
	Examiner MATTHEW E HENEGHAN	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: 05 June 2023.
 - (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: 2,4 and 9.
 - (2) Patent claim(s) amended (including dependent on amended claim(s)): 1 and 8
 - (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: 3,5-7 and 10-14.
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.

cc: Requester (if third party requester)	/MATTHEW E HENEGHAN/ Primary Examiner, Art Unit 3992
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NOTICE OF INTENT TO REISSUE A REEXAMINATION CERTIFICATE

Notice of Pre-AIA or AIA Status

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

Ex Parte Reexamination

A third party, Unified Patents, LLC, has requested *ex parte* reexamination of claims 1, 2, 4, 8, and 9 of U.S. Patent No. 7,233,790.

A substantial new question of patentability affecting claims 1, 2, 4, 8, and 9 of United States Patent Number 7,233,790 is raised by the request for *ex parte* reexamination. See Order Granting *Ex Parte* Reexamination, mailed 17 August 2022.

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 Patent No. 7,233,790 (hereinafter the '790 patent) 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.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extensions of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

In response to the previous office action, claims 1 and 8 have been amended. Claims 1, 2, 4, 8, and 9 have been examined.

References

The following references have been supplied by the third party requester for proposed grounds of rejection:

U.S. Patent Application Publication No. 2002/0078178 to Senoh (hereinafter (Senoh)

U.S. Patent No. 6,035,339 to Agraharam et al. (hereinafter Agraharam)

U.S. Patent No. 6,421,726 to Kenner et al. (hereinafter Kenner)

U.S. Patent No. 6,345,279 to Li et al. (hereinafter Li)

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 13 April 2023 was filed after the mailing date of the final rejection on 10 April 2023. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner to the extent that the pertinence of the references therein has been explained by the Patent Owner.

Allowable Subject Matter

Claims 2, 4, and 9 are confirmed.

Claims 1 and 8 are patentable as amended.

The following is a statement of reasons for the indication of confirmed subject matter:

Regarding claims 1, 2, 8, and 9, the only primary reference considered, Senoh, explicitly teaches away from “selecting a portion of the product catalog to be presented to the subscriber, based on device capabilities of the wireless device used by the subscriber; and presenting the selected portion of the product catalog to the subscriber via a wireless network, such that the selected portion, as presented to the subscriber, provides only a single description of each item of digital content in said portion, regardless of the number of implementations of each said item,” as recited in claims 2

and 9. Senoh specifically states that it is an objective to enable a viewer terminal to enjoy content in the format of a display device that is different from the specifications of the user terminal (see paragraphs 8 and 15). Neither Kenner nor Li have been presented in such a way that one skilled in the art would be motivated to modify Senoh in a manner that would completely teach to the claimed inventions, as they would remove this critical functionality from Senoh's invention.

Claim 4 is confirmed based upon its dependence upon base claim 2.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW E HENEGHAN whose telephone number is (571)272-3834. The examiner can normally be reached M-F 8-5.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Fuelling can be reached on (571)270-1367. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of published or unpublished applications may be obtained from Patent Center. Unpublished application information in Patent Center is

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available to registered users. To file and manage patent submissions in Patent Center, visit: <https://patentcenter.uspto.gov>. Visit <https://www.uspto.gov/patents/apply/patent-center> for more information about Patent Center and <https://www.uspto.gov/patents/docx> for information about filing in DOCX format. For additional questions, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MATTHEW E HENEGHAN/

Primary Examiner, Art Unit 3992

Conferees:

/DEANDRA M HUGHES/

Reexamination Specialist, Art Unit 3992

/MICHAEL FUELLING/

Supervisory Patent Examiner, Art Unit 3992