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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER LAROSE, COLIN M	
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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. 90/019,119.

PATENT UNDER REEXAMINATION 8223117.

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)).

Order Granting Request For Ex Parte Reexamination	Control No. 90/019,119	Patent Under Reexamination 8223117	
	Examiner Colin LaRose	Art Unit 3992	AIA (FITF) Status No

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

The request for *ex parte* reexamination filed 10/07/2022 has been considered and a determination has been made. An identification of the claims, the references relied upon, and the rationale supporting the determination are attached.

Attachments: a) ☐ PTO-892, b) ☒ PTO/SB/08, c) ☐ Other: _____

1. ☒ The request for *ex parte* reexamination is GRANTED.

RESPONSE TIMES ARE SET AS FOLLOWS:

For Patent Owner's Statement (Optional): TWO MONTHS from the mailing date of this communication (37 CFR 1.530 (b)). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

For Requester's Reply (optional): TWO MONTHS from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

/COLIN M LAROSE/
Primary Examiner, Art Unit 3992

cc:Requester (if third party requester)

ORDER GRANTING REEXAMINATION OF U.S. PATENT 8,223,117

TABLE OF CONTENTS

I. Acknowledgement of Request for Reexamination	2
II. Prosecution History of the ‘117 Patent	3
III. IPR PROCEEDINGS INVOLVING the ‘117 Patent	5
IV. Substantial New QuestionS of Patentability	6
V. 35 USC 325(d)	10
VI. Only Claims 1-7, 9, and 15-18 Are Subject to Reexamination	14
VII. Patent Owner Statement (Optional)	14
VIII. Waiver of Right to File Patent Owner Statement	15
IX. Notice of Other Proceedings.....	16
X. NOTICE RE PATENT OWNER'S CORRESPONDENCE ADDRESS	16
XI. Conclusion	17

I. ACKNOWLEDGEMENT OF REQUEST FOR REEXAMINATION

An *ex parte* request for reexamination (hereinafter “Request”) of claims 1-7, 9, and 15-18 of U.S. Patent 8,223,117 (“’117 Patent”) was received on October 7, 2022, based on the following prior art patents and/or publications:

U.S. Patent 7,110,062 (“Whitted”);

U.S. Patent 5,270,818 (“Ottenstein”);

U.S. Patent 4,386,345 (“Narveson”);

Japanese Patent Application Publication No. 1999-316566 (“Pioneer”); and

European Patent Office Publication No. 0 570 037 (“Godwin”).

Narveson and Ottenstein were cited and considered during the initial examination of the '117 Patent and therefore, constitute "old art."

Whitted, Ottenstein, Pioneer, and Godwin were not cited or considered during the initial examination of the '117 Patent.

II. PROSECUTION HISTORY OF THE '117 PATENT

The Request's summary of the prosecution history of the '117 patent appears to be accurate (see Request, pp. 18-19). Notably, during prosecution of the '117 patent, Patent Owner presented claim 21:

A brightness control circuit with selective ambient light correction comprising:
a first input configured to receive a user signal indicative of a user selectable brightness setting;
a light sensor configured to sense ambient light and to output a sensing signal indicative of the ambient light level;
a multiplier configured to selectively generate a combined signal based on both the user signal and the sensing signal; and
a dark level bias configured to adjust the combined signal to generate a brightness control signal that is used to control a brightness level of a visible display.¹

The Examiner rejected claim 21, *inter alia*, as being anticipated by Narveson (U.S. 4,386,345).²

In response to the rejection, Patent Owner amended claim 21 as follows:

¹ See non-provisional patent application serial no. 12/336,990, Supplemental Preliminary Amendment dated May 20, 2009

² See *id.*, Non-Final Rejection dated November 7, 2011.

A brightness control circuit with selective ambient light correction comprising:

a first input configured to receive a user signal indicative of a user selectable brightness setting;

a light sensor configured to sense ambient light and to output a sensing signal indicative of the ambient light level;

a multiplier configured to selectively generate a combined signal based on both the user signal and the sensing signal; and

a dark level bias configured to adjust the combined signal to generate a brightness control signal that is used to control a brightness level of a visible display such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero.³

In the accompanying remarks, Patent Owner argued that claim 21 was patentable over Narveson because Narveson allegedly did not teach the dark level bias being configured “such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero,” as claimed.⁴ Independent claim 35 (now patent claim 15) was amended and argued in a similar manner as claim 21.⁵

In response to Patent Owner’s claim amendments and corresponding arguments, the Examiner subsequently allowed claims 21 and 35 (now patent claims 1 and 15, respectively) without comment.⁶

³ See *id.*, Applicant’s Response dated January 23, 2012.

⁴ See *id.*, at pp. 7-8.

⁵ See *id.*, at p. 9.

⁶ See *id.*, Notice of Allowance and Fees Due dated March 21, 2012.

III. IPR PROCEEDINGS INVOLVING THE ‘117 PATENT

The Request's summary of the *Inter Partes* Review (IPR) proceedings involving the ‘117 patent appears to be accurate (see Request, pp. 19-24). Notably, the ‘117 patent has been the subject of four separate IPR petitions, all of which were denied institution because the Patent Trial and Appeal Board (PTAB) determined that three of the petitions did not present a reasonable likelihood of prevailing on the merits and for the fourth proceeding (IPR2020-00043), the Board used its discretion to deny institution in view of ongoing litigation:

IPR case #	Petitioner	Date Filed	Claims Challenged	Prior Art Cited
2018-01262	Samsung	June 15, 2018	1, 2, 4-7, 9, 13-16 and 18-20	Thayer (U.S. 5,554,912) Godwin (EP 0 570 037) Toffolo (U.S. 6,337,675) Morris (U.S. 6,657,663)
2020-00043	Vizio	October 15, 2019	1, 2, 4-7, 9, 13-16 and 18	Oki (JP 2003-150291) Morris (U.S. 2003/0112353) Weindorf (U.S. 2002/0118182) Toffolo Bruning (U.S. 2002/0070914)
2020-01283	LG and Hisense	July 16, 2020	1, 2, 4-7, 9, 15 and 16	Yanagiuchi (JP H10-122071) Toffolo Fujimaki (JP H11-004005) Ottenstein (U.S. 5,270,818) Henry (U.S. 6,198,234)
2020-01337	LG and Hisense	July 21, 2020	1, 2, 4-7, 9, 15, 16 and 18	Oki Henry Toffolo

IV. SUBSTANTIAL NEW QUESTIONS OF PATENTABILITY

The Request alleges the following substantial new questions of patentability (SNQs) based on the above-identified prior art:

SNQ A—Pioneer for claims 1, 2, 4-7, and 15-18 (see Request at pp. 43-47);

SNQ B—Pioneer for claim 3 (see Request at pp. 47-48);

SNQ C—Pioneer and Ottenstein for claims 1-7, 9, and 15-18 (see Request at pp. 48-49);

SNQ D—Narveson, Whitted, and Ottenstein for claims 1-7, 9, and 15-18 (see Request at pp. 49-51); and

SNQ E—Whitted, Godwin, and Ottenstein for claims 1-7, 9, and 15-18 (see Request at pp. 51-52).

SNQ A—Pioneer for claims 1, 2, 4-7, and 15-18

The Request (pp. 43-47) alleges that Pioneer, which is directed to an information display device, raises a substantial new question of patentability for claims 1, 2, 4-7, and 15-18. Specifically, the Request identifies Pioneer as teaching the limitations that previously distinguished the claims from Narveson during the initial examination, viz., “the dark level bias being configured to adjust the combined signal to generate a brightness control signal that is used to control a brightness level of a visible display such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero” (claim 1) and “adjusting the combined signal with a dark level bias to generate a brightness control signal for controlling brightness of a visible display such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero” (claim 15).

As explained on pp. 44-47 of the Request, Pioneer allegedly discloses a method of controlling the brightness of a display based on an ambient light level (x_n). At paragraph [0146] of Pioneer, Equation 2 is used to generate a brightness control signal (y_n) of a display when the ambient light level (x_n) is low. A dark level bias (S1) is allegedly used for maintaining a minimum brightness level of the display when the ambient light level (x_n) decreases to approximately zero.

It is believed that a reasonable examiner would have considered these teachings in Pioneer important in determining the patentability of claims 1, 2, 4-7, and 15-18, since similar limitations rendered these claims patentable during the previous examination of the '117 Patent, and Pioneer was not previously considered during the initial examination or any of the subsequent IPR proceedings, and the same question of patentability was not the subject of a final holding of invalidity by a court.

Accordingly, Pioneer does raise a substantial new question of patentability for claims 1, 2, 4-7, and 15-18.

SNQ B—Pioneer for claim 3

Since the teachings of Pioneer are considered to a substantial new question of patentability for independent claims 1 and 15, as explained above for SNQ A, Pioneer is also considered to raise a bona fide substantial new question of patentability for claim 3 (SNQ B), for the same reasons as given above for SNQ A.

SNQ C—Pioneer and Ottenstein for claims 1-7, 9, and 15-18

Since the teachings of Pioneer are considered to a substantial new question of patentability for independent claims 1 and 15, as explained above for SNQ A, the combination of Pioneer and Ottenstein is also considered to raise a bona fide substantial new question of patentability for claims 1-7, 9, and 15-18 (SNQ C) for the same reasons as given above for SNQ A.

SNQ D—Narveson, Whitted, and Ottenstein for claims 1-7, 9, and 15-18

The Request (pp. 49-50) alleges that Narveson and Ottenstein, in combination with Whitted, which is directed to a liquid crystal display with power saving features, raises a substantial new question of patentability for claims 1-7, 9, and 15-18. Specifically, the Request identifies Whitted as teaching the limitations that previously distinguished the claims from Narveson during the initial examination, viz., “the dark level bias being configured to adjust the combined signal to generate a brightness control signal that is used to control a brightness level of a visible display such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero” (claim 1) and “adjusting the combined signal with a dark level bias to generate a brightness control signal for controlling brightness of a visible display such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero” (claim 15).

As explained on pp. 49-50 of the Request, Whitted allegedly discloses a method of controlling the brightness of a display to include a dark level bias that is used for maintaining a minimum brightness level of the display when the ambient light level decreases to approximately zero. Whitted teaches that if the output of a photo-sensor indicates little or no incident light, then

the display device does not lower the power output of the backlight below a preselected threshold, to insure that in dark conditions the images on the display panel will remain visible (see Whitted at column 8:19-35). This minimum threshold level allegedly corresponds to the claimed dark level bias that maintains the brightness control signal above a predetermined level when the ambient light level decreases to approximately zero

It is believed that a reasonable examiner would have considered these teachings in Whitted important in determining the patentability of claims 1-7, 9, and 15-18, since similar limitations rendered these claims patentable during the previous examination of the '117 Patent, Whitted was not previously considered during the initial examination or any of the subsequent IPR proceedings, and the same question of patentability was not the subject of a final holding of invalidity by a court.

Accordingly, the combination of Narveson, Whitted, and Ottenstein does raise a substantial new question of patentability for claims 1-7, 9, and 15-18.

SNQ E—Whitted, Godwin, and Ottenstein for claims 1-7, 9, and 15-18

Since the teachings of Whitted, in combination with Narveson and Ottenstein, are considered to a substantial new question of patentability for independent claims 1 and 15, as explained above for SNQ D, the combination of Whitted, Godwin, and Ottenstein is also considered to raise a bona fide substantial new question of patentability for claims 1-7, 9, and 15-18 (SNQ E) for the same reasons as given above for SNQ D.

V. 35 USC 325(D)

35 USC 325(d) states in part that “In determining whether to institute or order a proceeding under this chapter, chapter 30, or chapter 31, the Director may take into account whether, and reject the petition or request because, the same or substantially the same prior art or arguments previously were presented to the Office.”. Thus, in order for the Director to exercise discretion in as to whether to Order a reexamination proceeding under chapter, 30, the request must first be determined to be based on the same or substantially the same prior art or arguments previously were presented to the Office.

A review of the post grant history of the ‘117 patent indicates that the patent was the subject of four prior Office post grant challenges.

On June 15, 2018, Petitioner Samsung filed a petition seeking *inter partes* review of claims 1, 2, 4, 5-7, 9, 13-16 and 18-20 asserting the following grounds as raising a reasonable likelihood in prevailing (RLP) in showing the unpatentability of these claims (IPR2018-01262).

- RLP 1 – Thayer and Godwin for claims 1, 2, 4-7, 15, 16, 18 and 19
- RLP 2 – Thayer, Godwin and Toffolo for claims 9 and 20
- RLP 3 – Thayer, Godwin and Morris for claims 13 and 14

On January 17, 2019, the Patent Trial and Appeal Board (PTAB) issued a decision on the merits pursuant to 35 USC 314(a) denying *inter partes* review holding that the petition failed raise an RLP because the petition failed to demonstrate that the prior art disclosed the claimed limitation of “dark level bias” limitation recited in claim 1.

On October 15, 2019, Petitioner Vizio filed a petition seeking *inter partes* review of claims 1, 2, 4-7, 9, 13-16 and 18 asserting the following grounds as raising a reasonable likelihood in prevailing (RLP) in showing the unpatentability of these claims (IPR2020-00043).

- RLP 1 – Oki for claims 1, 2, 4-7, 9, 15, 16 and 18
- RLP 2 – Oki for claims 1, 2, 4-7, 9, 15, 16 and 18

RLP 3 – Oki and Morris for claim 13
RLP 4 – Oki, Morris and Weindorf for claim 14
RLP 5 – Toffolo for claims 1, 2, 4-7, 9, 15, 16 and 18
RLP 6 – Toffolo for claims 1, 2, 4-7, 9, 15, 16 and 18
RLP 7 – Toffolo and Bruning for claim 6
RLP 8 – Toffolo and Morris for claim 13
RLP 9 – Toffolo, Morris and Weindorf for claim 14
RLP 10 – Toffolo and Weindorf for claim 7

On May 4, 2020 the Patent Trial and Appeal Board (PTAB) issued a decision pursuant to 35 USC 314(a) discretionarily denying institution of *inter partes* review citing *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019 and *NHK Spring co., Ltd. v. Intri-Plex Tech., Inc.*, IPR2018-00752 based on the advanced state of a California District Court Proceeding. The Board did not address the Vizio petition on the merits.

On July 16, 2020, Petitioners LG and Hisense filed a petition seeking *inter partes* review of claims 1, 2, 4-7, 9, 15 and 16 asserting the following grounds as raising a reasonable likelihood in prevailing (RLP) in showing the unpatentability of these claims (IPR2020-01283).

RLP 1 – Yanagiuchi for claims 1, 2, 4, 5, 7, 15 and 16
RLP 2 – Yanagiuchi and Toffolo for claims 1, 2, 4, 5, 7, 9, 15 and 16
RLP 3 – Fujimaki for claims 1, 2, 4, 5, 7, 15 and 16
RLP 4 – Ottenstein and Fujimaki for claims 1, 2, 7, 9, 15 and 16
RLP 5 – Yanagiuchi and Henry for claim 6
RLP 6 – Yanagiuchi, Toffolo and Henry for claim 6
RLP 7 – Fujimaki and Henry for claim 6

On March 9, 2021 the PTAB issued a decision pursuant to 35 USC 314(a) denying institution on the merits holding that the petition failed to raise an RLP. In particular, the PTAB held that the petition failed to demonstrate: A) that the Yanagiuchi reference discloses limitations 1[A] (“a first input configured to receive a user signal indicative of a user selectable brightness setting”) and 1[D] (“a dark level bias configured to adjust the combined signal to generate a brightness control signal that is used to control a brightness level of a visible display such that the brightness control signal is maintained above a pre-determined level when the ambient light

level decreases to approximately zero”) of independent claims 1 and 15, B) that the Fujimaki reference fails to disclose the limitation of 1[C] (“a multiplier configured to selectively generate a combined signal based on both the user signal and the sensing signal”), C) that the Ottenstein reference fails to disclose limitation 1[D]. Thus, the PTAB held that the petition failed to raise an RLP for any of the challenged claims.

On July 21, 2020, Petitioners LG and Hisense filed a petition seeking *inter partes* review of claims 1, 2, 4-7, 9, 15, 16 and 18 asserting the following grounds as raising a reasonable likelihood in prevailing (RLP) in showing the unpatentability of these claims (IPR2020-01337).

- RLP 1 – Oki for claims 1, 2, 4, 5, 7, 15, 16 and 18
- RLP 2 – Oki for claims 1, 2, 4, 5, 7, 9, 15, 16 and 18
- RLP 3 – Oki and Henry for claim 6
- RLP 4 – Oki and Toffolo for claim 9

On March 9, 2021 the PTAB issued a decision pursuant to 35 USC 314(a) denying institution on the merits holding that the petition failed to raise an RLP. In particular, the PTAB held that the petition failed to demonstrate that the Oki prior art reference failed to disclose limitations 1[A] (“a first input configured to receive a user signal indicative of a user selectable brightness setting”) and 1[D] (“a dark level bias configured to adjust the combined signal to generate a brightness control signal that is used to control a brightness level of a visible display such that the brightness control signal is maintained above a pre-determined level when the ambient light level decreases to approximately zero”) of independent claims 1 and 15. Thus, the PTAB held that the petition failed to raise an RLP for any of the challenged claims.

A comparison between the prior art and arguments presented in the instant Request for *ex parte* reexamination of the ‘117 patent indicates that the neither prior arguments are the same or substantially the same as the arguments presented in any of the four prior denied *inter partes* review petitions. As an initial matter none of the grounds asserting a substantial new question of

patentability (SNQ) presented in the Request are the same as any of the grounds presented in the four prior denied petitions. Each of the grounds presented in the Request rely on Primary references Pioneer (SNQs A-C), Naverson (SNQ D) and Whitehead (SNQ D). None of these prior art references were presented in any of the prior petitions. Thus, no ground asserting an SNQ in the Request is the same as any ground presented in the prior petitions. Further, a review of the Request indicates that the third party requester points to newly cited Pioneer and Whitted as disclosing a “dark level bias being configured to adjust the combined signal to generate a brightness control signal that is used to control a brightness level of a visible display such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero” (claim 1) and “adjusting the combined signal with a dark level bias to generate a brightness control signal for controlling brightness of a visible display such that the brightness control signal is maintained above a predetermined level when the ambient light level decreases to approximately zero” (claim 15).

Thus, because the arguments in the Request cite to newly presented prior art as meeting the teachings of the limitations held to be missing from the prior denied IPR petitions, neither the prior art nor arguments presented in the Request are the same or substantially as those that were previously presented to the Office. Accordingly, the Request does not meet the threshold for a discretionary denial of reexamination pursuant to 35 USC 325(d).

Thus, the Request to reexamine claims 1-7, 9, and 15-18 of the ‘117 patent is **GRANTED** in view of the determination above that the Request raises a substantial new question of patentability (SNQ) as to the requested claims.

VI. ONLY CLAIMS 1-7, 9, AND 15-18 ARE SUBJECT TO REEXAMINATION

Since requestor did not request reexamination of claims 8, 10-14, 19, and 20 and did not assert the existence of a substantial new question of patentability (SNQ) for such claims (See 35 U.S.C. §31 l(b)(2); See also 37 CFR 1.915b and 1.923), such claims will not be reexamined. This matter was squarely addressed in *Sony Computer Entertainment America Inc., et al. v. Jon W. Dudas*, Civil Action No. 1:05CV1447 (E.D.Va. May 22, 2006), Slip Copy, 2006 WL 1472462. The District Court upheld the Office's discretion to not reexamine claims in an *inter partes* reexamination proceeding other than those claims for which reexamination had specifically been requested. The Court stated:

"To be sure, a party may seek, and the PTO may grant, *inter partes* review of each and every claim of a patent. Moreover, while the PTO in its discretion may review claims for which *inter partes* review was not requested, nothing in the statute compels it to do so. To ensure that the PTO considers a claim for *inter partes* review, 35 U.S.C. § 31 l(b)(2) requires that the party seeking reexamination demonstrate why the PTO should reexamine each and every claim for which it seeks review. Here, it is undisputed that Sony did not seek review of every claim under the '213 and '333 patents. Accordingly, Sony cannot now claim that the PTO wrongly failed to reexamine claims for which Sony never requested review, and its argument that AIPA compels a contrary result is unpersuasive."

VII. PATENT OWNER STATEMENT (OPTIONAL)

In response to this Order for Reexamination, the Patent Owner is given a two (2) month period to file an optional Patent Owner Statement in accordance with 37 C.F.R. 1.530(b) and (c). The Patent Owner Statement must clearly point out why the patent claims are believed to be patentable, considering the cited prior art patents or printed publications alone or in any

reasonable combination. In addition, the Patent Owner may utilize the Patent Owner Statement to introduce amendments. A copy of the Patent Owner Statement must be served on the Third Party Requester. See MPEP § 2249.

If a Patent Owner Statement is timely filed and served on the Third Party Requester, the Third Party is given the opportunity to reply within two (2) months from the date of service in accordance with 37 C.F.R. 1.535. The reply need not be limited to the issues raised in the Patent Owner Statement and may include additional prior art patents and printed publications as well as any issue appropriate for reexamination. A copy of the reply must be served on the Patent Owner. If no Patent Owner Statement is filed, no reply is permitted from the Third Party Requester. See MPEP § 2251.

VIII. WAIVER OF RIGHT TO FILE PATENT OWNER STATEMENT

In a reexamination proceeding, Patent Owner may waive the right under 37 C.F.R. 1.530 to file a Patent Owner Statement for the purposes of expediting prosecution; see MPEP § 2249. The document should contain a statement that Patent Owner waives the right under 37 C.F.R. 1.530 to file a Patent Owner Statement and proof of service in the manner provided by 37 C.F.R. 1.248, if the request for reexamination was made by a third party requester; see 37 C.F.R. 1.550(f). The Patent Owner may consider using the following statement in a document waiving the right to file a Patent Owner Statement:

WAIVER OF RIGHT TO FILE PATENT OWNER STATEMENT

Patent Owner hereby waives the right under 37 C.F.R. 1.530 to file a Patent Owner Statement.

IX. NOTICE OF OTHER PROCEEDINGS

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. 8,223,117 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.

X. NOTICE RE PATENT OWNER'S CORRESPONDENCE ADDRESS

37 C.F.R. § 1.33(c) states:

(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination or supplemental examination proceeding will be directed to the correspondence address in the patent file.

The correspondence address for any pending reexamination proceeding not having the same correspondence address as that of the patent is, by way of this revision to 37 CFR 1.33(c), automatically changed to that of the patent file as of the effective date.

This change is effective for any reexamination proceeding which is pending before the Office as of May 16, 2007, including the present reexamination proceeding, and to any reexamination proceeding which is filed after that date.

Parties are to take this change into account when filing papers, and direct communications accordingly.

In the event the patent owner's correspondence address listed in the papers (record) for the present proceeding is different from the correspondence address of the patent, it is strongly encouraged that the patent owner affirmatively file a Notification of Change of Correspondence Address in the reexamination proceeding and/or the patent (depending on which address patent owner desires), to conform the address of the proceeding with that of the patent and to clarify the record as to which address should be used for correspondence.

Telephone Numbers for reexamination inquiries:

Reexamination (571) 272-7703

Central Reexam Unit (CRU) (571) 272-7705

XI. CONCLUSION

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 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). See MPEP § 2265.

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

By Mail to: Mail Stop *Ex Parte* Reexam
Attn: 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

By EFS: Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at

<https://efs.uspto.gov/efile/myportal/efs-registered>

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 submissions after the “soft scanning” process is complete.

For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) state that correspondence (except for a request for reexamination and a corrected replacement request for reexamination) will be considered timely if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) it includes a certificate of transmission for each piece of correspondence stating the date of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Colin LaRose whose telephone number is 571-272-7423.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew J. Fischer can be reached at 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-9900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/COLIN M LAROSE/
Primary Examiner, Art Unit 3992

Conferees:

/YUZHEN GE/
Primary Examiner, Art Unit 3992

/HETUL B PATEL/
Supervisory Patent Examiner, Art Unit 3992