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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/013,124	01/21/2014	6,438,180 B1	ABYZ-501	1041

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K&L GATES LLP-Pittsburgh
210 SIXTH AVENUE
PITTSBURGH, PA 15222-2613

EXAMINER

NGUYEN, LINH M

ART UNIT	PAPER NUMBER
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3992

MAIL DATE	DELIVERY MODE
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01/05/2015

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)

ROPE & GRAY LLP

PRUDENTIAL TOWER

800 BOYLSTON STREET - IPRM -FLOOR 43

BOSTON, MA 02199-3600

***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/013,124.

PATENT NO. 6,438,180 B1 E.

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. 90/013,124	Patent Under Reexamination 6,438,180 B1 E	
	Examiner Linh M. Nguyen	Art Unit 3992	AIA (First Inventor to File) 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: 28 October 2014.
 - (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: 1 and 2.
 - (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: 3-27.
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)

Art Unit: 3992

Notice of Intent to Issue Ex Parte Reexamination Certificate

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

This is a reexamination of United States Patent Number 6,438,180 to Kavcic et al. (hereinafter "the '180 patent"), entitled "SOFT AND HARD SEQUENCE DETECTION IN ISI MEMORY CHANNELS". A substantial new question of patentability was raised as to Claims 1 and 2 by the request filed 1/21/2014 ("Request"). Since requester did not request reexamination of claims 3-27 and did not assert the existence of a substantial new question of patentability (SNQ) for such claims, such claims will not be reexamined. See MPEP 2243.

Information Disclosure Statement

The IDS submissions filed by Patent Owner on 9/10/2014 have been considered. It is to be noted, however, that where patents, publications, and other such items of information are submitted by a patent owner/requester in compliance with the requirements of the rules, **the requisite degree of consideration to be given to such information will be limited by the degree to which the patent owner/requester has explained the content and relevance of the information.** In instances where no explanation of citations (items of information) is required and none is provided for an information citation, only a cursory review of that information is required. The examiner need only perform a cursory evaluation of each unexplained item of information, to the extent that he/she needs in order to determine whether he/she will evaluate the item further. If the cursory evaluation reveals the item not to be useful, the examiner may

Art Unit: 3992

simply stop looking at it. This review may often take the form of considering the documents in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search. **The initials of the examiner, in this proceeding, placed adjacent to the citations on the PTO-1449 or PTO/SB/08A and 08B or its equivalent, without an indication in the record to the contrary in the record, do not signify that the information has been considered by the examiner any further than to the extent noted above.** See MPEP 609, seventh paragraph, Revision 5, Aug. 2006 [page 600-141].

Statement of Reasons for Patentability and/or Confirmation

Claims 1 and 2 are confirmed.

The examiner has no opinion as to the claims that were not reexamined. The following is an examiner's statement of reasons for patentability of the claim found confirmed in this reexamination proceeding:

There is not taught or disclosed in the prior art including a method of determining branch metric values in a detector having the step of receiving a plurality of time variant signal samples, the signal samples having one of signal-dependent noise, correlated noise, and both signal dependent and correlated noise associated therewith, as called for in claim 1.

Art Unit: 3992

Remarks

The arguments presented in the Response and the Declarations submitted have been fully considered.

The examiner agrees with Patent Owner that Zeng's Thesis does not anticipate either claims 1 or 2 of the '180 patent because Section 4.4 and 5.2 of Zeng's Thesis are not enabling. Moreover, a person having ordinary skill in the art would not have been motivated to modify the detectors in Sections 4.4 and 5.2 of Zeng's Thesis based on Lee's Thesis to arrive at the subject matter of claims 1 and 2. Zeng's Thesis is nonenabling and Lee's Thesis does not remedy those flaws in Zeng's Thesis, and a person having ordinary skill in the art would not have been able to, let alone motivated to, modify Zeng's nonenabled detectors. Neither the Requester nor Dr. Lee describe any rationale for modifying Zeng's nonenabled detectors to arrive at the subject matter of claims 1 and 2, and numerous technical reasons weigh against any such combination. *See Response* at p. 3. Furthermore on claim 2, as stated by Patent Owner, in connection with the *ex parte* reexamination of claim 4 of a related patent, U.S. Patent 6,201,839, the Office has already determined that Zeng's Thesis does not disclose or suggest "a set of signal-dependent branch metric functions. *Response* at p. 2. Consequently, the rejections are withdrawn.

Art Unit: 3992

Conclusion

All correspondence relating to this *ex parte* reexam proceeding should be directed as follows:

By U.S. Postal Service Mail to:

Mail Stop *Ex Parte* Reexam
ATTN: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

By hand to: Customer Service Window
Randolph Building
401 Dulany St.
Alexandria, VA 22314

Registered users of EFS-Web may alternatively submit correspondence via the electronic filing system at <https://efs.uspto.gov/efile/myportal/efs-registered>

Any inquiry concerning this communication or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

Signed:

/Linh M. Nguyen/
Primary Examiner, Art Unit 3992

Conferees:

/James Menefee/

Primary Examiner, Art Unit 3992

/JENNIFER MCNEIL/

Supervisory Patent Examiner, Art Unit 3992