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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/008,474	01/30/2007	5809336		2845

40972 7590 04/05/2007
HENNEMAN & ASSOCIATES, PLC
714 W. MICHIGAN AVENUE
THREE RIVERS, MI 49093

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 04/05/2007

Please find below and/or attached an Office communication concerning this application or proceeding.



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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

Daniel B. Ravicher
Public Patent Foundation
1375 Broadway, Suite 600
New York, NY 10018

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/008,474.

PATENT NO. 5809336.

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 / Denying Request For Ex Parte Reexamination	Control No. 90/008,474	Patent Under Reexamination 5809336	
	Examiner Joseph R. Pokrzywa	Art Unit 3992	

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

The request for *ex parte* reexamination filed 30 January 2007 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).**

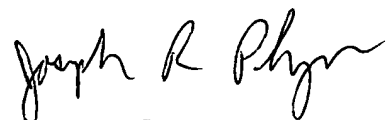
For Requester's Reply (optional): **TWO MONTHS** from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

2. The request for *ex parte* reexamination is DENIED.

This decision is not appealable (35 U.S.C. 303(c)). Requester may seek review by petition to the Commissioner under 37 CFR 1.181 within **ONE MONTH** from the mailing date of this communication (37 CFR 1.515(c)). **EXTENSION OF TIME TO FILE SUCH A PETITION UNDER 37 CFR 1.181 ARE AVAILABLE ONLY BY PETITION TO SUSPEND OR WAIVE THE REGULATIONS UNDER 37 CFR 1.183.**

In due course, a refund under 37 CFR 1.26 (c) will be made to requester:

- a) by Treasury check or,
- b) by credit to Deposit Account No. _____, or
- c) by credit to a credit card account, unless otherwise notified (35 U.S.C. 303(c)).



Joseph R. Pokrzywa
Primary Examiner
Art Unit: 3992

cc:Requester (if third party requester)

DETAILED ACTION

Response to Request for *ex parte* Reexamination

1. Reexamination has been requested for claims 1-10 of U.S. Patent Number 5,809,336 ('336 Patent).
2. A substantial new question of patentability affecting claims 1-10 of United States Patent Number 5,809,336 is raised by the request for *ex parte* reexamination.
3. A prior art patent or printed publication raises a substantial new question of patentability where there is:
 - (A) a substantial likelihood that a reasonable Examiner would consider the prior art patent or printed publication important in deciding whether or not the claim is patentable, MPEP §2242 (I) and,
 - (B) the same question of patentability as to the claim has not been decided in a previous or pending proceeding or in a final holding of invalidity by a federal court. See MPEP §2242 (III).

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4. The '336 Patent is currently assigned to:

Patriot Scientific Corporation

10989 Via Frontera

San Diego, California 92127

5. The '336 Patent application issued on Sep. 15, 1998, with a filing date of Jun. 7, 1995, being a division of U.S. Appl. No. 07/389,334, filed on Aug. 3, 1989, now U.S. Patent No. 5,440,749.

6. The '336 Patent is the subject of the litigation *Technology Properties Limited, Inc. v. Fujitsu Limited et al.*, No. 2:05-CV-00494-TJW, Federal District Court for the Eastern District of Texas, Marshall Division.

Discussion of References

7. In the request for reexamination, the third party requester alleges that the '336 Patent **claims 1-10** are anticipated and/or rendered obvious in light of the following references:

- a. U.S. Patent No. 4,691,124, issued to Ledzius *et al.* (hereafter Ledzius)
- b. U.S. Patent No. 4,718,081, issued to Brenig (hereafter "Brenig")
- c. Mostek Corp., Mostek 1981 3870/F8 Microcomputer Data Book, Feb. 1981, pp. III-76 through III-77, III-100 through III-129 and VI-1 through VI-11 (hereafter "Mostek")
- d. Mostek Corp., EDN, Nov. 20, 1976, Advertising (hereafter "EDN")

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- e. United Technical Publications, IC Master, 1980, pp. 1 and 2016-2040 (hereafter "IC Master")
- f. U.S. Patent No. 4,710,648, issued to Hanamura *et al.* (hereafter "Hanamura")
- g. Guttag, K.M., "The TMS34010: An Embedded Microprocessor", IEEE Micro, Vol. 8, No. 3, pp. 39-52 (1988), published as the May/June 1988 volume (hereafter "Guttag")
- h. U.S. Patent No. 4,660,155, issued to Thaden *et al.* (hereafter "Thaden")
- i. Hitachi America LTD., 8-bit Single Chip Microcomputer Data Book, July 1985, Table of Contents, pp. 251-279 (hereafter "Hitachi")
- j. U.S. Patent No. 4,334,268, issued to Boney *et al.* (hereafter "Boney")

8. The aforementioned newly cited references are not of record in the file of the '336 Patent and are not cumulative to the art of record in the original file.

9. The prior art reference of Ledzius was previously deemed to raise a substantial new question of patentability in a copending reexamination (90/008,306). Thus, the discussion of the teachings of Ledzius, and the corresponding proposed rejections using Ledzius, which are noted as Ledzius in view of Mostek, Ledzius in view of Guttag, and Ledzius in view of Thaden, would not be considered as raising a substantial *new* question for this request. The references of Guttag and Thaden alone, both teach portions of the limitations, as noted by the Third Party Requester.

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However, Gutttag and Thaden, alone do not raise a SNQ of patentability to the claims of the '336 Patent.

10. Contrarily, it is agreed that the reference of Mostek would have been considered important by a reasonable examiner in deciding whether or not at least independent **claim 6** was patentable, for the reasons discussed *infra*.

11. Particularly, Mostek teaches of a microprocessor and clock being constructed on the same IC using the same process technology [see pages III-77 and III-105], and that the on-chip oscillator frequency varies due to changes in manufacturing process, supply voltage, and temperature [see page III-118]. With this, Mostek is seen as teaching of a central processing unit disposed upon an integrated circuit substrate, and varying the processing frequency of a first plurality of electronic devices and the clock rate of a second plurality of electronic devices in the same way as a function of parameter variation in one or more fabrication or operational parameters associated with said integrated circuit substrate. Further Mostek can be interpreted as teaching of an on-chip input/output interface [see page III-105], and an external clock, independent of said oscillator, connected to the input/output interface [see pages III-114 and III-115].

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12. Further, it is also agreed that the combination of references of Hitachi and Boney would have been considered important by a reasonable examiner in deciding whether or not at least independent **claim 1** was patentable, for the reasons discussed *infra*.

13. Specifically, Hitachi teaches of an integrated circuit that includes an oscillator entirely on-chip, therein being constructed of the same processing technology, having corresponding manufacturing variations [see pages 251 and 262]. Further Hitachi teaches that the HD6805 chip includes an input/output interface [see page 259] and an external timer, being independent of the ring oscillator variable speed clock [seen as Timer 2 on page 259]. The reference of Boney teaches of utilizing an entire ring oscillator variable speed system clock in a single integrated circuit [see Figs. 1 and 7F, and col. 7, lines 14-23].

14. Thus, the references of Mostek, Hitachi, and Boney, introduced by the Third Party requester, would likely have been important to a reasonable examiner in deciding whether or not the claims were patentable. The above discussed teachings were not present during the prosecution of the application which became the '336 Patent. Thereby, the references raise a substantial new question regarding at least independent claim 1 and/or independent claim 6 of the instant '336 Patent.

Conclusion

15. **Claims 1-10** for U.S. Patent Number 5,809,336 are subject to reexamination.

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16. 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).

17. 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. 5,809,336 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.

18. ALL correspondence relating to this *ex parte* reexamination proceeding should be directed as follows:

Please mail any communications to:

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

Please FAX any communications to:

(571) 273-9900
Central Reexamination Unit

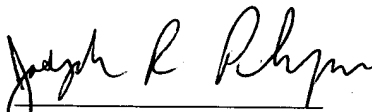
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Please hand-deliver any communications to:

Customer Service Window
Attn: Central Reexamination Unit
Randolph Building, Lobby Level
401 Dulany Street
Alexandria, VA 22314

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


Signed:



JOSEPH R. POKRZYWA
PRIMARY EXAMINER

Joseph R. Pokrzywa
Central Reexamination Unit 3992
(571) 272-7410

Conferees :



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CRU EXAMINER-AU 3992



Melas
RQAS