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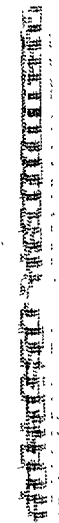
APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/000,034	02/09/2004	D467247	1200-02A	4231

7590 05/04/2004
Covington & Burling
1201 Pennsylvania Avenue NW
Washington, DC 20004-2401

EXAMINER	
ART UNIT	PAPER NUMBER
2911	6

DATE MAILED: 05/04/2004

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



CONTROL NO.	FILING DATE	PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
95/000,034			

EXAMINER	
Robin Taylor	
ART UNIT	PAPER
2911	6

DATE MAILED: 05/04/10

**ORDER GRANTING/DENYING REQUEST FOR
 INTER PARTES REEXAMINATION**

The request for *inter partes* reexamination has been considered. Identification of the claims, the references relied on, and the rationale supporting the determination are attached.

Attachment(s): PTO-892 PTO-1449 Other: _____

- The request for *inter partes* reexamination is GRANTED.
 - An Office action is attached with this order.
 - An Office action will follow in due course.

- The request for *inter partes* reexamination is DENIED.

This decision is not appealable. 35 U.S.C. 312(c). Requester may seek review of a denial by petition to the Director of the USPTO within ONE MONTH from the mailing date hereof. 37 CFR 1.927. EXTENSIONS OF TIME ONLY UNDER 37 CFR 1.183. In due course, a refund under 37 CFR 1.26(c) will be made to requester.

All correspondence relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Order.

1. A substantial new question of patentability affecting the claim of United States Patent Number D467,247 to Pentz is raised by the present request for *inter partes* reexamination.
2. Extensions of time under 37 CFR 1.136(a) will not be permitted in *inter partes* reexamination proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to the patent owner in a reexamination proceeding. Additionally, 35 U.S.C. 314(c) requires that *inter partes* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.937). Patent owner extensions of time in *inter partes* reexamination proceedings are provided for in 37 CFR 1.956. Extensions of time are not available for third party requester comments, because a comment period of 30 days from service of patent owner's response is set by statute. 35 U.S.C. 314(b)(3).
3. The patent owner is reminded of the continuing responsibility under 37 CFR 1.985(a), to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. D467,247 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.

4. The request indicates that the third party requester considers the design claim of the Pentz patent to be unpatentable over the Warther I (5,863,076) patent.

5. The request further indicates that the requester considers the design claim of the Pentz patent to be unpatentable over the Warther II (6,010,159) patent.

6. The request further indicates that the requester considers the design claim of the Pentz patent to be unpatentable over the Story (6,099,043) patent.

7. The patents to Warther I, Warther II and Story do not raise a substantial new question of patentability as to the design claim of the Pentz patent since their teachings are merely cumulative of the cards shown in the patents to Keller (6,196,594), Drexler (4,711,996), Benton et al (4,914,281) and Rinderknecht (5,096,228). Said patents were considered in the prosecution of the application that became the Pentz patent. The cards shown in the Warther I, Warther II and Story patents are no closer in overall appearance to the design claim of Pentz than the cards of Keller, Drexler, Benton et al and Rinderknecht. Thus, the examiner does not consider the teachings in said references important in deciding whether or not the claim is patentable.

8. The request indicates that the third party requester considers the design claim of the Pentz patent to be unpatentable over Keller (6,196,594) taken with Warther I.

9. The request further indicates that the requester considers the design claim of the Pentz patent to be unpatentable over Keller taken with Warther II.

10. The request further indicates that the requester considers the design claim of the Pentz patent to be unpatentable over Keller taken with Story.

11. As stated above, the patents to Warther I, Warther II and Story do not raise a substantial new question of patentability as to the design claim of the Pentz patent. However, it is agreed that the consideration of Keller raises a substantial new question of patentability as to the design claim of the Pentz patent because of the similarity in their overall appearances. A reasonable examiner would consider this teaching important in deciding whether or not the claim is patentable.

All correspondence relating to this *inter partes* reexamination proceeding should be directed:

By Mail to: Mail Stop *Inter Partes* Reexam
Central Reexamination Unit
Office of Patent Legal Administration
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX to: (703) 305-1013
Central Reexamination Unit

By hand: Central Reexamination Unit
Crystal Plaza Three-Four, 3D68
2201 South Clark Place
Arlington, VA

Art Unit: 2911

Any inquiry concerning this communication or earlier communications from the examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (703) 308-9692.

Robin Taylor
Primary Examiner
Art Unit 2911

WIRING INSTRUCTIONS