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EXAMINER
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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. 90/019,662 .

PATENT UNDER REEXAMINATION 8407722 .

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. 90/019,662	Patent Under Reexamination 8407722	
	Examiner Woo H Choi	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 09/16/2024 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.

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cc:Requester (if third party requester)

DECISION GRANTING EX PARTE REEXAMINATION

The Request filed on August 28, 2024 alleges that a substantial question of patentability (SNQ) affecting claims 1, 6, 7, 14-17, 20-23, 26-29, and 32-35 of the U.S. Patent Number 8,407,722 (“the ‘722 patent”) are raised by the following prior art references:

- U.S. Pat. No. 6,999,991 (“Ikeda”);
- U.S. Pat. No. 6,480,883 (“Tsutsumitake”);
- U.S. Pat. No. 6,990,591 (“Pearson”);
- European Pat. App. No. EP1043671 (“Bird”).

Brief Overview of the ‘722 Patent and its Prosecution History

The ‘722 patent is directed to a routing network and method of routing update messages containing updates to properties of live objects from input sources to clients having the object. When clients receive live objects, the clients identify the object IDs associated with the object and registers the object IDs for updates with the routing network. The routing network is adapted to selectively send update messages to nodes the network, based on a mapping of a category of updated messages to a node type, and the nodes forwards the messages to the client. See Abstract.

The ‘722 patent issued from the application serial no. 11/396,251 (“the ‘251 application”) filed on March 30, 2006. After several rounds of rejections and amendments, on June 22, 2011, Applicant amended the claims to recite the limitations “identifying a category of the update message based on the input source” or “a category of the updated message is identified based on the input source”. After another round of rejection and amendments, on December 30, 2012, the examiner issued a Final Office action rejecting all pending claims as obvious over Chandra (US 6,091,724), Stocker (US 6,510,323), and Trenbeath (US 6,324,568). On February 9, 2012,

Applicant filed a request for reconsideration presenting arguments that the references applied in the Final Rejection do not teach the limitation “identifying a category of the update message based on the input source”. The examiner was not persuaded by Applicant’s arguments and issued an Advisory action indicating that the request for reconsideration does not place the application in condition for allowance. Applicant filed a Notice of Appeal on March 28, 2012 and an Appeal Brief on May 31, 2012 (“the Brief”). In the Brief, Applicant argued that Chandra teaches identifying categories based on category/topic of the message content, but does not teach identifying a category of the update message based on the input source, and that other references do not cure the deficiencies of Chandra. On August 13, 2012, the examiner issued a Notice of Allowance stating “As Applicants pointed out in the Brief, the prior art of record (Chandra in view of Stocker and Trendbeath) does not disclose and/or fairly suggest at least claimed limitations recited in such manner in independent claim 1 and similarly recited in such manner in other independent claims 33, 39, 45, 51, and 57”.

The prosecution history indicates that the limitation “**identifying a category of the update message based on the input source**” was the allowable subject matter when considered in combination with other limitations.

SNQs Alleged in the Request

The request presents the following issue:

- **Issue 1:** Whether an SNQ as to claims 1, 6, 7, 14-17, 20-23, 26-29, and 32-35 is raised by Ikeda, Tsutsumitake, and Bird
- **Issue 2:** Whether an SNQ as to claims 1, 6, 7, 14-17, 20-23, 26-29, and 32-35 is raised by Ikeda, Tsutsumitake, and Pearson

Discussion of SNQs

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).

For any reexamination ordered on or after November 2, 2002, reliance on previously cited/considered art, i.e., "old art," does not necessarily preclude the existence of a substantial new question of patentability that is based exclusively on that old art. Rather, determinations on whether a substantial new question of patentability exists in such an instance shall be based upon a fact-specific inquiry done on a case-by-case basis. See MPEP 2242.

Issue 1

The Examiner **agrees** that the request based on Ikeda, Tsutsumitake, and Bird raises an SNQ as to claims 1, 6, 7, 14-17, 20-23, 26-29, and 32-35.

Ikeda teaches a push service system comprising a content server that posts information about updating information (i.e., notice of update) in storage system to an agent, an agent that posts the notice of update to registered user terminals, and users that receive the update notice and can access updated information. See Ikeda, Title and Abstract. Tsutsumitake teaches a real time information transmission system that can immediately transmit information updated on a

server to a client. See Tsutsumitake, Abstract. The Request argues that while Ikeda does not expressly teach that the category of update message is based on input source, Ikeda as modified by Bird renders obvious the limitation “identifying a category of the update message based on the input source”.

Bird teaches a message broker and a method of processing message content with a publish/subscribe message distribution service. See Bird, Abstract. Bird teaches, at paragraph [0044], that “a message analysis component 60 within the broker first investigates 180 the message header for a topic or subject identifier and/or identification of the sender, as known in the art” and that the “The message broker includes a rules engine 40 which compares 210 any topic identifier and sender identifier retrieved from the message header of a published message with a list of subscriber’s information requirement to identify which subscriber wishes to receive this message.” Thus, Bird teaches identifying a subscriber to send a message based on either a topic or identification of the sender or both. Bird’s teaching of identifying a subscriber to route a message based on a topic and/or sender (i.e., input source) is closely related to the allowable subject matter, “identifying a category of the update message based on the input source” for determining a client and routing the message to the client. A reasonable examiner would consider a reference or a combination of references that teaches subject matter that is closely related to the allowable subject matter and may render obvious a claim limitation argued by Applicant to be patentable important in determining the patentability of a claim.

There’s a substantial likelihood that a reasonable examiner would consider the teaching of Ikeda, Tsutsumitake, and Bird important in determining the patentability of claims 1, 6, 7, 14-17, 20-23, 26-29, and 32-35 of the ‘722 patent. Ikeda, Tsutsumitake, and Bird were not considered during the prosecution of the ‘722 patent and was not subject to a final holding of

invalidity by a federal court. Accordingly, Ikeda, Tsutsumitake, and Bird raise a substantial new question of patentability of claims 1, 6, 7, 14-17, 20-23, 26-29, and 32-35 of the '722 patent.

Issue 2

The Examiner **does not agree** that the request based on Ikeda, Tsutsumitake, and Pearson raises an SNQ as to claims 1, 6, 7, 14-17, 20-23, 26-29, and 32-35.

Requester argues that while Ikeda does not expressly teach that the category of update message is based on input source, Ikeda as modified by Pearson renders obvious the limitation “identifying a category of the update message based on the input source”.

Requester asserts that Pearson teaches determining a category of data based on an input source at 18:41-19:18 and 20:5-16. At 20:5-16, Pearson discloses “the intrusion detector 160 compares the communication’s header information with entries in the list 170 of attack signature, and passes to decision block 910. If the information in the incoming communication does not match an entry in the list 170 (e.g., the port number of the communication), control passes to step 912 and the communication is routed to its intended destination. ...” Pearson teaches categorizing a message and routing the message based on entries in the list 170. List 170 is shown in FIG. 9. The list 170 comprises header 810 and body 820. Header 810 comprises IP address 812 and Port # 814. Pearson discloses that the IP address 812 is the destination address of the communication device. See 18:62-64. Thus, Pearson teaches identifying a category of a message based on the destination, not the input source as Requester alleges.

A reasonable examiner would not find a reference that does not teach at least an aspect of the patentable subject matter important in determining the patentability of a claim. Accordingly,

Art Unit: 3992

Ikeda, Tsutsumitake, and Pearson do not raise a substantial question of patentability of claims 1, 6, 7, 14-17, 20-23, 26-29, and 32-35 of the '722 patent.

35 USC 325(d)

A review of the post grant history for the underlying patent indicates that there have been no other Office post grant challenges made to the patent (Reexamination Proceedings or *Inter Partes* Review, Post Grant Review, Covered Business Method trials). Accordingly, a discretionary denial of reexamination pursuant to 35 USC 325(d) is not applicable.

Conclusion

Request for reexamination of claim 1, 6, 7, 14-17, 20-23, 26-29, and 32-35 of the '722 patent is **granted**. Claims 1, 6, 7, 14-17, 20-23, 26-29, and 32-35 are subject to reexamination.

All correspondence relating to this *ex parte* reexamination 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

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.

/Woo H. Choi/
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