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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes details for application 90/019,963 and 98618, inventor BrainSpark Associates, LLC, examiner POKRZYWA, JOSEPH R, art unit 3992, and mail date 07/08/2025.

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)

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4445 Willard Ave.
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Chevy Chase, MARYLAND 20815

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

REEXAMINATION CONTROL NO. 90/019,963 .

PATENT UNDER REEXAMINATION 8782282 .

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. 90/019,963	Patent Under Reexamination 8782282	
	Examiner JOSEPH R POKRZYWA	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 05/15/2025 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.

/JOSEPH R POKRZYWA/
Primary Examiner, Art Unit 3992

cc:Requester (if third party requester)

DETAILED ACTION

Brief Summary

1. The present application is being examined under the pre-AIA first to invent provisions.
2. Reexamination has been requested for claims 1-22 of U.S. Patent 8,782,282, issued to Eileen Zhou *et al.* (hereafter “the ‘282 Patent”).
3. A substantial new question affecting claims 1-22 of the ‘282 Patent is raised by the Third Party’s request for *ex parte* reexamination.
4. The ‘282 Patent originally issued on July 15, 2014, with patented claims 1-22, being filed as U.S. Patent Application 10/742,573 (hereafter “the original ‘573 Application”) on December 19, 2003.

Listing of Prior Art

5. In the Request for Reexamination filed May 15, 2025, the Third Party Requester alleges that claims 1-22 of the ‘282 Patent are unpatentable over the following reference:
 - a. U.S. Patent Application Publication 2004/0008717, with the inventor of Verma *et al.* (noted as “Verma”).

6. The Examiner notes that the reference of Verma was not cited in the record, nor discussed in the original prosecution that matured into the '282 Patent.

Requester's Position

7. The Request indicates that the Third Party Requester alleges that:

SNQ#1. A substantial new question of claims 1-22 of the '282 Patent is raised by the reference of Verma; and

SNQ#2. A substantial new question of claims 1-22 of the '282 Patent is raised as being obvious over the reference of Verma; and

Discussion of the Prosecution History and Patentable Subject Matter

8. Initially, it is noted that of the requested claims 1-22 of the '282 Patent, claims 1 and 3 are independent. Thus, the prosecution history of claims 1 and 3 of the '282 Patent will be analyzed to determine the perceived original patentable features during the original prosecution of these claims. Here, the requested independent claims 1 and 3 of the '282 Patent corresponds to application claims 18 and 28, respectively, of the original '573 Application, which were renumbered as claims 1 and 3 upon allowance of the application.

9. With this, looking into the prosecution history of the original '573 Application, a non-final Office action was mailed on July 5, 2013, which indicated that independent claims 18 and

28 were rejected as being obvious in view of a combination of references. In response, the Applicant filed an amendment dated September 25, 2013, which amended application claim 18 to include the limitation that states “in response to determining that the first application server instance has become disabled, facilitating establishing an association between the first adapter and a second application server instance of the plurality of application server instances and between the gateway device and the second application server instance”. Similarly, application claim 28 was similarly amended to recite the limitation “wherein, the first adapter and the gateway device are further configured to, in response to disablement of the first application server instance, establish an association with a second application server instance of the plurality of application server instances”.

10. Subsequently, a Notice of Allowability was mailed on February 3, 2014. In this regard, the original Examiner stated on page 2 of the Notice of Allowability dated February 3, 2014 that:

2. The Office deems Applicant’s latest claim amendments persuasive to overcome the rejection of the claims over the applied prior art references and/or any other candidate prior art, and the claims are accordingly considered in condition for allowance (MPEP § 1302.14).

In addition, Applicants remark and/or argument that the current prior art references do not sufficiently teach or disclose all of the recited limitations of the amended independent claims, and claim 1 in particular, including the recited feature of “in response to determining that the first application server instance has become disabled, facilitating establishing an association between the first adapter and a second application server instance of the plurality of application server instances and between the gateway device and the second application server instance...” as recited [Remarks: par 2, pg.9 & par 6, pg. 13], is also considered persuasive by the Office.

11. Thus, the perceived patentable features in the original prosecution of the application that matured into the '282 Patent appears to revolve around the features added in the amendment dated September 25, 2013. Particularly, with respect to independent claims 1 and 3 of the '282 Patent, in light of the original prosecution, the perceived allowable features in the original prosecution appear to be:

1. A method comprising:

receiving, at a first application server instance..., first adapter processed information from a first adapter, ...

sending by the first application server instance, the application processed information to a gateway device, ...

in response to determining that the first application server instance has become disabled, facilitating establishing an association between the first adapter and a second application server instance of the plurality of application server instances and between the gateway device and the second application server instance.

3. A system comprising:

a first application server instance configured to receive first adapter processed information from a first adapter process ...and send the application server processed information to a gateway device, ...

wherein, the first adapter and the gateway device are further configured to, in response to disablement of the first application server instance, establish an association with a second application server instance of the plurality of application server instances.

Discussion of Substantial New Question of Patentability

12. MPEP 2240 [R-07.2015] states, in part:

37 C.F.R. 1.515 Determination of the request for ex parte reexamination.

(a) Within three months following the filing date of a request for an *ex parte* reexamination, an examiner will consider the request and determine whether or not a substantial new question of patentability affecting any claim of the patent is raised by the request and the prior art cited therein, with or without consideration of other patents or printed publications. A statement and any accompanying information submitted pursuant to § 1.501(a)(2) will not be considered by the examiner when making a determination on the request. The examiner's determination will be based on the claims in effect at the time of the determination, will become a part of the official file of the patent, and will be given or mailed to the patent owner at the address provided for in § 1.33(c) and to the person requesting reexamination. [Emphasis added].

SNQ #1 and SNQ #2

13. With respect to the Third Party Requester's proposed SNQ#1, noted above, the Requester alleges that a substantial new question of claims 1-22 of the '282 Patent is raised by the reference of Verma. Further, with respect to the Third Party Requester's SNQ#2, noted above, the Requester alleges that a substantial new question of claims 1-22 of the '282 Patent is raised as being obvious over the reference of Verma. It is agreed that the reference of Verma, alone, raises a substantial new question of patentability as to at least independent claims 1 and 3 of the '282 Patent.

14. Particularly, with respect to independent *claim 1* of the '282 Patent, Verma discloses a method [see Abstract; also see paragraph 0012] comprising

receiving, at a first application server instance..., first adapter processed information from a first adapter [see paragraphs 0012-0013; also see paragraphs 0031-0033, wherein "The adaptor is a performance module, which is capable of receiving and distributing events at the rate of 8 x 15 million events per second or greater. The adaptor 105 interfaces with the network elements and distributes the events to one or more mediator for supporting higher traffic. ... The mediator systems receive distributed events based on load to each of the mediator systems."], ...

sending by the first application server instance, the application processed information to a gateway device [see Abstract; also see paragraphs 0013-0014; also see paragraph 0030, wherein "The adaptor 105 couples to a network 111, such as a wide area communication network, having network elements 113. Each of the network elements is the one commonly found in a typical telecommunication network. Such elements include, among others, Routers, Switches, Application Servers, Softswitches, Media gateways, and, Integrated Access Devices."; also see paragraphs 0032-0035; also see paragraph 0052; also see Figs. 1-3], ...

in response to determining that the first application server instance has become disabled, facilitating establishing an association between the first adapter and a second application server instance of the plurality of application server instances and between the gateway device and the second application server instance [see paragraphs 0013-0014; also see paragraph 0031, wherein "In the event of the failure of one mediator, adaptor distributes the load of the failed monitor among the active mediators. Adaptor is capable of collecting events from different network elements in different formats including batch transfer through files, CDRs and raw events. The adaptor distributes the load to the mediators evenly to avoid any over engineering and saves

costs in a preferred embodiment.”; also see paragraphs 0034-0035, wherein “If a mediator fails, the adaptor redistributes the information about the events, which were being processed by failing mediator to other active mediators. So other mediators retrieve the events from the database and reprocess them.”].

15. Similarly, with respect to independent claim 3 of the ‘282 Patent, Verma discloses a system [see Abstract; also see paragraphs 0012-0013] comprising:

a first application server instance configured to receive first adapter processed information from a first adapter process [see paragraphs 0012-0013; also see paragraphs 0031-0033, wherein “The adaptor is a performance module, which is capable of receiving and distributing events at the rate of 8 x 15 million events per second or greater. The adaptor 105 interfaces with the network elements and distributes the events to one or more mediator for supporting higher traffic. ... The mediator systems receive distributed events based on load to each of the mediator systems.”] ... and send the application server processed information to a gateway device [see Abstract; also see paragraphs 0013-0014; also see paragraph 0030, wherein “The adaptor 105 couples to a network 111, such as a wide area communication network, having network elements 113. Each of the network elements is the one commonly found in a typical telecommunication network. Such elements include, among others, Routers, Switches, Application Servers, Softswitches, Media gateways, and, Integrated Access Devices.”; also see paragraphs 0032-0035; also see paragraph 0052; also see Figs. 1-3], ...

wherein, the first adapter and the gateway device are further configured to, in response to disablement of the first application server instance, establish an association with a second application server instance of the plurality of application server instances [see paragraphs 0013-

0014; also see paragraph 0031, wherein “In the event of the failure of one mediator, adaptor distributes the load of the failed monitor among the active mediators. Adaptor is capable of collecting events from different network elements in different formats including batch transfer through files, CDRs and raw events. The adaptor distributes the load to the mediators evenly to avoid any over engineering and saves costs in a preferred embodiment.”; also see paragraphs 0034-0035, wherein “If a mediator fails, the adaptor redistributes the information about the events, which were being processed by failing mediator to other active mediators. So other mediators retrieve the events from the database and reprocess them.”].

16. Thus, the reference of Verma, in itself, appears to teach the elements deemed to be the patentable features in the original prosecution of the original ‘573 Application that matured into claims 1 and 3 the ‘282 Patent. Thus, for the reasons discussed above with respect to independent claims 1 and 3, the reference of Verma is seen to raise a substantial new question of patentability as to at least claims 1 and 3 of the ‘282 Patent, which question was not present in a previous examination of the ‘282 Patent. The reference of Verma was not utilized in any rejection, nor was the reference discussed in the original prosecution, individually or in combination with another reference. Thus, there is a substantial likelihood that a reasonable examiner would consider the teachings of the reference of Verma important in deciding whether or not at least independent claim 1 or independent claim 3 are patentable. Therefore, the reference of Verma is seen to raise a substantial new question of patentability as to at least independent claims 1 and 3 of the ‘282 Patent, as suggested in SNQs #1 and #2.

17. In addition, because dependent claims carry all of the limitations of the claims for which they depend on, for the same reasons as discussed above with respect to independent claims 1 and 3, the reference of Verma is also seen to raise a substantial new question of patentability as to dependent claims 2 and 4-22 of the '282 Patent, as suggested in SNQs #1 and #2.

35 U.S.C. 325(d)

18. A review of any post grant challenges for the '282 Patent indicates the patent has not been the subject of any prior *inter partes* reviews or post grant proceedings. With this, there has not been any discretionary denial under 35 U.S.C. §314(a), and additionally, there has not been any prior denial under 35 USC §325(d). Thus, based on the particular facts and circumstances in this instance, there is no basis to reject the request under 35 USC §325(d).

Conclusion

19. A substantial new question of patentability affecting claims 1-22 of U.S. Patent Number 8,782,282 is raised by the Request for *ex parte* reexamination. Thus, claims 1-22 of U.S. Patent Number 8,782,282 are subject to reexamination and will be reexamined in response to the Request.

20. 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)). Extension of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

21. 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 U.S. Patent 8,782,282 throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282, and 2286.

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

By Mail to: Mail Stop *Ex Parte* Reexam
 Central Reexamination Unit
 Commissioner for Patents
 United States Patent & Trademark Office
 P.O. Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Randolph Building
 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, Art Unit 3992
(571) 272-7410

Conferees:

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