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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,612	01/04/2013	7,030,781 B2		4525

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THOMAS | HORSTEMEYER, LLP  
400 INTERSTATE NORTH PARKWAY SE  
SUITE 1500  
ATLANTA, GA 30339

EXAMINER

BASEHOAR, ADAM L

ART UNIT                      PAPER NUMBER

3992

MAIL DATE                      DELIVERY MODE

06/12/2013

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.

**Notice of Intent to Issue  
Ex Parte Reexamination Certificate**

<b>Control No.</b> 90/012,612	<b>Patent Under Reexamination</b> 7,030,781 B2 E
<b>Examiner</b> ADAM BASEHOAR	<b>Art Unit</b> 3992

**-- 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: 03 May 2013.
  - (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: 5 and 11.
    - (2) Patent claim(s) amended (including dependent on amended claim(s)): \_\_\_\_\_
    - (3) Patent claim(s) canceled: 1-4, 6-10 and 12-14.
    - (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.  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."
4.  Note attached NOTICE OF REFERENCES CITED (PTO-892).
5.  Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).
6.  The drawing correction request filed on \_\_\_\_\_ is:  approved  disapproved.
7.  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: \_\_\_\_\_.
8.  Note attached Examiner's Amendment.
9.  Note attached Interview Summary (PTO-474).
10.  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.

/Adam L Basehoar/  
Primary Examiner, Art Unit 3992

cc: Requester (if third party requester)

### DETAILED ACTION

1. This Office action addresses claims 1-14 of United States Patent Number 7,030,781 B2 (Jones), for which it has been determined in the Order Granting Ex Parte Reexamination (hereafter the "Order") mailed 02/01/2013 that a substantial new question of patentability was raised in the Request for *Ex Parte* reexamination filed on 01/04/2013 (hereafter the "Request"). This action is a response to Patent Owner's (PO) response filed on 05/03/2013. Additionally, in view of a telephone interview held on 05/23/2013 which discussed that the Jones '781 patent being reexamined had expired during the pendency of the present reexamination proceeding, an Examiner's Amendment is shown below cancelling original patent claims 1-4, 6-10, and 12-14. Also as shown by way of the Examiner's Amendment, original dependent patent claims 5 and 11 are originally presented. Therefore, claims 5 and 11 are allowable and/or confirmed and claims 1-4, 6-10, and 12-14 are cancelled.

### EXAMINER'S AMENDMENT

2. An Examiner's Amendment to the record appears below. The Examiner's Amendment cancels original claims 1-4, 6-10, and 12-14 as well as leaves original dependent claims 5 and 11 originally presented. As the patent being reexamined has expired during the pendency of the present reexamination proceeding, all amendments made during the proceeding are improper, and are hereby expressly withdrawn. Moreover, no amendment, other than the cancellation of claims, will be incorporated into the patent by a certificate issued after the expiration of the patent. The changes made by this Examiner's Amendment will be reflected in the reexamination

Art Unit: 3992

certificate to issue in due course. Authorization for this Examiner's Amendment was given in a telephone interview with Scott A. Horstemeyer on 05/23/2013.

**Please present the claims as follows:**

Claims 1-4 (Cancelled)

5. (Original) The method of claim 1, wherein the route has a plurality of vehicle stops and wherein the comparing step is performed based upon the vehicle's progress along the stops of the route.

Claims 6-10 (Cancelled)

11. (Original) The system of claim 2, wherein the route has a plurality of vehicle stops and wherein the means for comparing analyzes the vehicle's progress along the stops of the route.

Claims 12-14 (Cancelled)

**STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION**

3. Claims 5 and 11 are allowable and/or confirmed.

Art Unit: 3992

The following is an examiner's statement of reasons for patentability and/or confirmation for claims 5 and 11. Dependent claims 5 and 11 are confirmed over the prior art that was explained in the Request and determined to raise a substantial new question of patentability in the Order granting reexamination and over the prior art that was applied and discussed by the examiner in the present reexamination proceeding because of the following:

Regarding dependent claim 5, the proposed prior art (i.e., SOTA92) teaches wherein a given route could have a plurality of stops (SOTA92: Page 47: "route structure and schedule are pre-loaded into a memory module on-board the bus"; Pages 25-27: "computer display devices located at transit stations and/or enroute stops...provide real-time information to travelers at bus stops and transfer stations"), but does not specifically teach wherein the comparing step is performed/analyzed based on the vehicle's progress along the stops for said given route. SOTA92 teaches that as a vehicle proceeds along its route a comparison is made between its current position and its expected position (SOTA92: see, Page 47: "Exception Reporting"). However, SOTA92 teaches that the comparison step appears to be done either based on a near continuous comparison or more likely at regular synchronized intervals in order to communicate its position to a central dispatch (SOTA92: Page 47: "memory module on-board the bus...it compares its current position to its expected position on-board...at regular intervals...if the bus deviates from its route or schedule, the bus immediately communicates its true position to dispatch"; Page 48: "Poll - Tie between polls (seconds)"). The Jones '781 patent teaches the above mentioned near continuous comparison (Jones '781: column 7, line 65-column 8, line 10: "determination of whether a bus 19 is early or late can occur at any time during a bus route and can occur as many times as desired...where the bus 19 is situated on earth at any given time");

Art Unit: 3992

column 8, lines 45-67: "determines, continuously"), but the Jones '781 patent also teaches that the preferred embodiment taught the comparing step being performed specifically in relation to the bus stops along a given route (Jones '781: column 7, lines 49-56: "In the preferred embodiment, determining the status (i.e., early, on time, late) of a bus 19 is accomplished by comparing the time at which a bus 19 actually departs from a stop to the scheduled time of departure"; column 8, line 66-column 9, line 2: "periodically...VCU 12 at least compares its elapsed time with the its scheduled time"; column 11, lines 2-9). Therefore, the various embodiments disclosed in SOTA92 do not appear to explicitly teach that comparing the current position and its expected position is achieved specifically based on the plurality of stops along the route as claimed and described in the Jones '781 patent.

System based (means-for) dependent claim 11 is substantially similar to method based dependent claim 5 and as such is confirmed based on the same rationale.

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.

#### **CONCLUSION**

4. All correspondence relating to this ex parte reexamination proceeding should be directed as follows:

By U.S. Postal Service Mail to:

Art Unit: 3992

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

By EFS-Web:

Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at

<https://efs.uspto.gov/efile/myportal/efs-registered>

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

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.

/Adam L Basehoar/

Primary Examiner, Art Unit 3992

Application/Control Number: 90/012,612

Page 7

Art Unit: 3992

/JDC/

/Alexander J Kosowski/

Supervisory Patent Examiner, Art Unit 3992



<b>Ex Parte Reexamination Interview Summary</b>	<b>Control No.</b> 90/012,612	<b>Patent Under Reexamination</b> 7,030,781 B2 E
	<b>Examiner</b> ADAM BASEHOAR	<b>Art Unit</b> 3992

All participants (USPTO personnel, patent owner, patent owner's representative):

- |                          |                                 |
|--------------------------|---------------------------------|
| (1) <u>ADAM BASEHOAR</u> | (3) <u>Alex Kosowski</u>        |
| (2) <u>Josh Campbell</u> | (4) <u>Scott A. Horstemeyer</u> |

Date of Interview: 23 May 2013

Type: a)  Telephonic    b)  Video Conference  
c)  Personal (copy given to: 1)  patent owner    2)  patent owner's representative)

Exhibit shown or demonstration conducted: d)  Yes    e)  No.  
If Yes, brief description: \_\_\_\_\_

Agreement with respect to the claims f)  was reached. g)  was not reached. h)  N/A.  
Any other agreement(s) are set forth below under "Description of the general nature of what was agreed to..."

Claim(s) discussed: 5 and 11.

Identification of prior art discussed: N/A.

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:  
See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims patentable, if available, must be attached. Also, where no copy of the amendments that would render the claims patentable is available, a summary thereof must be attached.)

**A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION MUST INCLUDE PATENT OWNER'S STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. (See MPEP § 2281). IF A RESPONSE TO THE LAST OFFICE ACTION HAS ALREADY BEEN FILED, THEN PATENT OWNER IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO PROVIDE THE MANDATORY STATEMENT OF THE SUBSTANCE OF THE INTERVIEW (37 CFR 1.560(b)). THE REQUIREMENT FOR PATENT OWNER'S STATEMENT CAN NOT BE WAIVED. EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

/Adam L Basehoar/  
Primary Examiner, Art Unit 3992

/AJK/

cc: Requester (if third party requester)

Continuation of Description of the general nature of what was agreed to if an agreement was reached, or any other comments: The Examiner noted that the patent term for the Jones '781 patent expired (see: MPEP 2701) on 05/18/2013 and that in reexamination no amendment may be proposed for entry in an expired patent. Moreover, no amendment, other the cancellation of claims, will be incorporated into the patent by a certificate issued after the expiration of the patent (see: 37 CFR 1.530(j)). Further, the Examiner noted that there is no requirement in reexamination for dependent claims to be rewritten in independent form in order to place them in condition for allowance. Thus, an Examiner's Amendment was proposed cancelling claim 1-4, 6-10, and 12-14 as well as leaving claims 5 and 11 as originally presented so that they could be confirmed via a reexamination certificate. Said Examiner's Amendment was agreed to by PO's representative.