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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/000,437	02/03/2009	7174661	051291.00218	8842

22908 7590 05/06/2010  
BANNER & WITCOFF, LTD.  
TEN SOUTH WACKER DRIVE  
SUITE 3000  
CHICAGO, IL 60606

**RECEIVED**

MAY 13 2010

BANNER & WITCOFF  
DOCKETING DEPT.

EXAMINER
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FOSTER, JIMMY G

ART UNIT	PAPER NUMBER
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3993

MAIL DATE	DELIVERY MODE
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05/06/2010

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.



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THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS  
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Date:

**MAILED**

**MAY 06 2010**

**CENTRAL REEXAMINATION UNIT**

**Transmittal of Communication to Third Party Requester  
Inter Partes Reexamination**

REEXAMINATION CONTROL NO. : 95000437  
PATENT NO. : 7174661  
TECHNOLOGY CENTER : 3999  
ART UNIT : 3992

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified Reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the inter partes reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an ex parte reexamination has been merged with the inter partes reexamination, no responsive submission by any ex parte third party requester is permitted.

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 the communication enclosed with this transmittal.

Art Unit: 3993

***Effect of Final Decision and Order by U.S. District Court regarding the Patent Claims***

A Decision and Order has been rendered on March 8, 2010 by the U.S. District Court for the Northern District of California, stating:

*Pursuant to joint motion and stipulation of the Plaintiff, ESCO Corporation and Defendant, Berkeley Forge & Tool, Inc., which includes the stipulation that this final decision should be entered, this Court enters this final decision that Berkeley Forge & Tool, Inc. has not sustained its burden of proving the invalidity of any patent claim of U.S. Patent No. 7,171,771 or U.S. Patent No. 7,174,661. This action is dismissed with prejudice. This decision is an Order of the Court which is final, enforceable and not appealable.*

(see NPL (03/12/2010)). Accordingly reexamination in this proceeding is not being maintained for patent claims 1-44; thus, claims 1-44 are no longer subject to reexamination in this proceeding.

***Amendments after ACP***

The amendments after ACP, filed November 25, 2009 (see RXPET. (11/25/2010)) and March 12, 2010 (see XI.A... (03/12/2010)), are entered for examination and are considered in this Right of Appeal Notice (RAN).

***Claim Status***

Claims Not Subject to Reexamination in this Proceeding: 1-44

Claims Examined and Allowed: 51-60, 62, 64-71, 74, 75, 77, 78, 82, 84 and 86

Canceled Claims: 45-50, 61, 63, 72, 73, 76, 79-81, 83 and 85

Rejected Claims: None