



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,926	03/02/2012	7161506 .	20132.0005.RX506	5983

26111 7590 08/16/2013
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

LEUNG, CHRISTINA Y

ART UNIT	PAPER NUMBER
----------	--------------

3992

MAIL DATE	DELIVERY MODE
-----------	---------------

08/16/2013

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.

Transmittal of Communication to Third Party Requester <i>Inter Partes</i> Reexamination	Control No.	Patent Under Reexamination	
	95/001,926	7161506	
	Examiner	Art Unit	
	Christina Y. Leung	3992	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

NOVAK DRUCE + QUIGG LLP 2ND REEXAM GROUP
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

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.

<i>Right of Appeal Notice (37 CFR 1.953)</i>	Control No.	Patent Under Reexamination
	95/001,926	7161506
	Examiner	Art Unit
	Christina Y. Leung	3992

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --

Responsive to the communication(s) filed by:

Patent Owner on 05 April, 2013

Third Party(ies) on _____

Patent owner and/or third party requester(s) may file a notice of appeal with respect to any adverse decision with payment of the fee set forth in 37 CFR 41.20(b)(1) within **one-month or thirty-days (whichever is longer)**. See MPEP 2671. In addition, a party may file a notice of **cross** appeal and pay the 37 CFR 41.20(b)(1) fee **within fourteen days of service** of an opposing party's timely filed notice of appeal. See MPEP 2672.

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 Office action.

If no party timely files a notice of appeal, prosecution on the merits of this reexamination proceeding will be concluded, and the Director of the USPTO will proceed to issue and publish a certificate under 37 CFR 1.997 in accordance with this Office action.

The proposed amendment filed 05 April, 2013 ☒ will be entered ☐ will not be entered*

*Reasons for non-entry are given in the body of this notice.

- 1a. ☒ Claims 91,97 and 99-105 are subject to reexamination.
- 1b. ☒ Claims See Continuation Sheet are not subject to reexamination.
2. ☒ Claims See Continuation Sheet have been cancelled.
3. ☐ Claims _____ are confirmed. [Unamended patent claims].
4. ☒ Claims 91,97 and 99-105 are patentable. [Amended or new claims].
5. ☐ Claims _____ are rejected.
6. ☐ Claims _____ are objected to.
7. ☐ The drawings filed on _____ ☐ are acceptable. ☐ are not acceptable.
8. ☐ The drawing correction request filed on _____ is ☐ approved. ☐ disapproved.
9. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d) or (f). The certified copy has:
☐ been received. ☐ not been received. ☐ been filed in Application/Control No. _____.
10. ☐ Other _____

Attachments

1. ☐ Notice of References Cited by Examiner, PTO-892
2. ☐ Information Disclosure Citation, PTO/SB/08
3. ☐ _____

Continuation of 1b. Claims not subject to reexamination are: 10,12-15,18,19,24-26,28-38,40,44-68,74-78,80,83 and 92-95.

Continuation of 2. Claims have been canceled are: 1-5,8,9,11,17,20-23,27,39,43,69-73,79,81,82,84-90,96 and 98.

DETAILED ACTION

Reexamination

1. **Claims 91, 97, 99-105** of **Fallon** (US 7,161,506 B2) are being reexamined. Claims 1-5, 8, 9, 11, 17, 20-23, 27, 39, 43, 69-73, 79, 81, 82, 84-90, 96, and 98 were canceled at the conclusion of previous reexamination 95/000,479. Claims 10, 12-15, 18, 19, 24-26, 28-38, 40, 44-68, 74-78, 80, 83, and 92-95 are not subject to reexamination.
2. Patent Owner's response, including amendments to claims 91, 97, 99-105, filed 05 April 2013 to the Action Closing Prosecution mailed 05 March 2013, is acknowledged and entered. Third-Party Requester did not timely file a response.

References and Documents Cited in this Action

Fallon (US 7,161,506 B2)

Sebastian (US 6,253,264 B1)

Kawashima (US 5,805,932 A)

Franaszek (US 5,870,036 A)

PO Response (response to the ACP filed by Patent Owner on 05 April 2013)

Patentable Claims

3. **Claims 91, 97, 99-105** are patentable. In view of PO Response, the rejections of the claims are withdrawn and no longer adopted. The prior art of record, including Sebastian, Franaszek, and Kawashima, does not specifically disclose or fairly teach a method including all of the limitations and steps recited in claims 91, 97, 99-105, particularly including analyzing data within the data block to identify one or more data types of the data with the data block, wherein the analyzing of the data within the data block to identify one or more data types excludes

Art Unit: 3992

analyzing based only on a descriptor that is indicative of the data type of the data within the data block.

4. PO's amendment has also overcome the previous 35 U.S.C. 112 rejections of claims 100-105, and Examiner finds support for amended claims 91, 97, 99-105 in Fallon. These sections of Fallon specification describe analyzing data within the data block to identify one or more data types of the data with the data block, wherein the analyzing of the data within the data block to identify one or more data types excludes analyzing based only on a descriptor that is indicative of the data type of the data within the data block:

“In another aspect, the step of analyzing the data block comprises analyzing the data block to recognize one of a data type, data structure, data block format, file substructure, and/or file types. A further step comprises maintaining an association between encoder types and data types, data structures, data block formats, file substructure, and/or file types.” (column 4, lines 39-45)

“A content dependent data recognition module 1300 analyzes the incoming data stream to recognize data types, data structures, data block formats, file substructures, file types, and/or any other parameters that may be indicative of either the data type/content of a given data block or the appropriate data compression algorithm or algorithms (in serial or in parallel) to be applied. Optionally, a data file recognition list(s) or algorithm(s) 1310 module may be employed to hold and/or determine associations between recognized data parameters and appropriate algorithms. Each data block that is recognized by the content data compression module 1300 is routed to a content dependent encoder module 1320, if not the data is routed to the content independent encoder module 30.” (column 16, lines 29-42)

“More specifically, a content dependent data recognition and or estimation module 1700 is utilized to analyze the incoming data stream for recognition of data types, data structures, data block formats, file substructures, file types, or any other parameters that may be indicative of the appropriate data compression algorithm or algorithms (in serial or in parallel) to be applied. Optionally, a data file recognition list(s) or algorithm(s) 1710 module may be employed to hold associations between recognized data parameters and appropriate algorithms. If the content data compression module recognizes a portion of the data, that portion is routed to the content dependent encoder module 1320, if not the data is routed to the content independent encoder module 30. It is to be appreciated that process of recognition (modules 1700 and 1710) is not limited to a deterministic recognition, but may further comprise a probabilistic estimation of which encoders to select for compression from the set of encoders of the content dependent module 1320 or the content independent module 30. For example, a method may be employed to

Art Unit: 3992

compute statistics of a data block whereby a determination that the locality of repetition of characters in a data stream is determined is high can suggest a text document, which may be beneficially compressed with a lossless dictionary type algorithm. Further the statistics of repeated characters and relative frequencies may suggest a specific type of dictionary algorithm. Long strings will require a wide dictionary file while a wide diversity of strings may suggest a deep dictionary. Statistics may also be utilized in algorithms such as Huffman where various character statistics will dictate the choice of different Huffman compression tables. This technique is not limited to lossless algorithms but may be widely employed with lossy algorithms. Header information in frames for video files can imply a specific data resolution. The estimator then may select the appropriate lossy compression algorithm and compression parameters (amount of resolution desired). As shown in previous embodiments of the present invention, desirability of various algorithms and now associated resolutions with lossy type algorithms may also be applied in the estimation selection process.” (column 23, lines 28-67)

5. **Sebastian** does not specifically disclose or fairly teach analyzing data with the data block to identify one or more data types of data within the data block, wherein the analyzing of the data within the data block to identify one or more data types excludes analyzing based only on a descriptor that is indicative of the data type of data within the data block. Specifically, with respect to determining a data type of a data block, Sebastian discloses

“The selection criteria 12x, determined by the file format specification, includes information needed to recognize files served by the filter 10x such as byte values at the beginning of the file or file title suffices [sic].” (column 4, lines 47-50).

Although Sebastian discloses determining a data type of a data block, Sebastian specifically discloses that the data types are recognized by included information such as “byte values at the beginning of the file or file title suffi[xes].” In other words, Sebastian discloses determining a data type based on examining a data type descriptor associated with the data block.

6. **Franaszek** does not specifically disclose or fairly teach analyzing data with the data block to identify one or more data types of data within the data block, wherein the analyzing of the data within the data block to identify one or more data types excludes analyzing based only

Art Unit: 3992

on a descriptor that is indicative of the data type of data within the data block. Specifically, with respect to determining a data type of a data block, Franaszek discloses

“In this embodiment, the uncompressed data blocks 210 that can optionally contain type information 205. The type information can be, for examples, image data encoded in a given format, source code for a given programming language, etc.” (column 4, lines 30-34).

“In step 414, it is determined if a data type is available (i.e., the block includes a ‘data type’ entry in the type field 205)” (column 6, lines 1-2).

Although Franaszek discloses determining a data type of a data block, Franaszek specifically discloses that the data blocks “contain type information” or that the block “includes a ‘data type’ entry.” In other words, Franaszek discloses determining a data type based on examining a data type descriptor associated with the data block.

7. **Kawashima** does not specifically disclose or fairly teach analyzing data with the data block to identify one or more data types of data within the data block, wherein the analyzing of the data within the data block to identify one or more data types excludes analyzing based only on a descriptor that is indicative of the data type of data within the data block. Specifically, with respect to determining a data type of a data block, Kawashima discloses

“For transmitting data, it is customary to add a header containing information which represents the type of the data, the data length, etc. to the beginning of the data” (column 28, lines 52-55)

“The type of data contained in the header of pre-compression data transferred from the data source 2 is referred to...” (column 36, lines 23-25)

Although Kawashima discloses determining a data type of a data block, Kawashima discloses determining a data type based on examining a data type descriptor associated with the data block.

Conclusion

8. **This is a RIGHT OF APPEAL NOTICE (RAN);** see MPEP § 2673.02 and § 2674. The decision in this Office action as to the patentability or unpatentability of any original patent claim, any proposed amended claim and any new claim in this proceeding is a FINAL DECISION.

No amendment can be made in response to the Right of Appeal Notice in an *inter partes* reexamination. 37 CFR 1.953(c). Further, no affidavit or other evidence can be submitted in an *inter partes* reexamination proceeding after the right of appeal notice, except as provided in 37 CFR 1.981 or as permitted by 37 CFR 41.77(b)(1). 37 CFR 1.116(f).

Each party has a **thirty-day or one-month time period, whichever is longer**, to file a notice of appeal. The patent owner may appeal to the Board of Patent Appeals and Interferences with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent by filing a notice of appeal and paying the fee set forth in 37 CFR 41.20(b)(1). The third party requester may appeal to the Board of Patent Appeals and Interferences with respect to any decision favorable to the patentability of any original or proposed amended or new claim of the patent by filing a notice of appeal and paying the fee set forth in 37 CFR 41.20(b)(1).

In addition, a patent owner who has not filed a notice of appeal may file a notice of cross appeal within **fourteen days of service** of a third party requester's timely filed notice of appeal and pay the fee set forth in 37 CFR 41.20(b)(1). A third party requester who has not filed a notice of appeal may file **a notice of cross appeal within fourteen days of service** of a patent owner's timely filed notice of appeal and pay the fee set forth in 37 CFR 41.20(b)(1).

Art Unit: 3992

Any appeal in this proceeding must identify the claim(s) appealed, and must be signed by the patent owner (for a patent owner appeal) or the third party requester (for a third party requester appeal), or their duly authorized attorney or agent.

Any party that does not file a timely notice of appeal or a timely notice of cross appeal will lose the right to appeal from any decision adverse to that party, but will not lose the right to file a respondent brief and fee where it is appropriate for that party to do so. If no party files a timely appeal, the reexamination prosecution will be terminated, and the Director will proceed to issue and publish a certificate under 37 CFR 1.997 in accordance with this Office action.

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

By mail to: Mail Stop *Inter Partes* Reexam
 Attn: Central Reexamination Unit
 Commissioner of Patents
 United States Patent & Trademark Office
 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 examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

/Christina Y. Leung/

Primary Examiner, Art Unit 3992

Application/Control Number: 95/001,926

Page 8

Art Unit: 3992

Conferees:

/D.M.H./, PE AU3992

/Sudhanshu C Pathak/

Supervisory Patent Examiner, Art Unit 3992