UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/400,533	04/08/2006	James J. Fallon	8011-1 CIP CON 3	2491

1473   7590   07/10/2007

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

EXAMINER
NGUYEN, LINH V

ART UNIT	PAPER NUMBER
2819	

MAIL DATE	DELIVERY MODE
07/10/2007	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.

	Application No.	Applicant(s)
Office Action Summary	11/400,533	FALLON, JAMES J.
	Examiner	Art Unit	
	Linh V. Nguyen	2819	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>08 April 2006</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-13</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) <u>12 and 13</u> is/are allowed.

6) ☒ Claim(s) <u>1-3,5-8,10 and 11</u> is/are rejected.

7) ☒ Claim(s) <u>4 and 9</u> is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>08 April 2006</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>4/8/06;11/9/06</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   This office action is in response to communication filed on 4/8/06. Claims 1 – 13

are pending on this application.

Double Patenting

2.   The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees.   A nonstatutory
obviousness-type double patenting rejection is appropriate where the conflicting claims
are not identical, but at least one examined application claim is not patentably distinct
from the reference claim(s) because the examined application claim is either anticipated
by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140
F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29
USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.
1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422
F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163
USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d)
may be used to overcome an actual or provisional rejection based on a nonstatutory
double patenting ground provided the conflicting application or patent either is shown to
be commonly owned with this application, or claims an invention made as a result of
activities undertaken within the scope of a joint research agreement.
        Effective January 1, 1994, a registered attorney or agent of record may sign a
terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with
37 CFR 3.73(b).

3.   Claims 1 – 3, 5 – 8 and 10 are rejected on the ground of nonstatutory

obviousness-type double patenting as being unpatentable over claims 6 and 4 of U.S.

Patent No. 7,161,506, in view of Hannon, Jr. U.S. patent No. 5,237,675

        Regarding claims 1 – 2, claim 6 (Claim 6 is a depended on claim 1; therefore all

the limitation of claim 1 is included in claim 7) of U.S patent No. "7,161,506" on Col. 27

lines 17 – 20 disclose a method of receiving a data block; determining whether or not a

data type is identified for said data block (lines 1 – 4 of claim 1); compressing, if said

data type is identified (lines 6 – 7 of claim 1), said data block with at least one encoder

associated to said data type to provide a compressed data block (lines 1 – 6 of claim 6);

compressing, if said data type is not identified, said data block with at least one encoder

associated to a non-identifiable data type to provide said compressed data block (lines

8 – 10 of claim 1). However, claim 6 of patent No. "7,161,506" does not explicitly

disclose storing compressed data block; and buffer said data block after said receiving

of said data block and before said compressing of said data block.

Fig. 1 of Hannon discloses a data compression method comprising: storing (11)

compressed data block (10); and buffer (14) a data block (22) after said receiving (17a)

of the data block and before said compressing (10) of said data block (22)

U.S. patent "7,161,506" and Hannon are common subject matter for data

compressing. Therefore, it would have been obvious to one having ordinary skill in the

art at the time the invention was made to incorporated Hannon into "7,161,506" for the

purpose of providing a way of storing compressed data information more efficiency

(Hannon's col. 2 lines 23 – 25).

Regarding claim 3, "7,161,506" as combined with Hannon et al. as applied to

claim 1 above, further discloses transmitting a data compression type descriptor,

indicative of the compression utilized to provide said compressed data block, with said

compressed data block (Claim 4 of U.S. patent No. "7,161,506").

Regarding claim 5, "7,161,506" as combined with Hannon et al. as applied to

claim 1 above, does not explicitly discloses wherein said compressing, if a data type is

not identified, occurs in real-time. However this is inherent to compression, because time is required for all compression.

Regarding claims 6 and 7, the claim incorporated similar subject matter as of claims 1 and 2 above; and rejected along the same rationale.

Regarding claim 8, the claim incorporated similar subject matter as of claim 3 above and rejected along the same rationale.

Regarding claim 10, "7,161,506" as combined with Hannon et al. as applied to claim 6 above, further discloses compression encoder is a lossless encoder (Claim 11 of U.S. patent No. "7,161,506").

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5.   Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Nieweglowski et al. U.S. patent No. 6,272,178.

Fig. 1 of Nieweglowski et al. discloses a method comprising: associating a first encoder (531) to a first data type (Col. 11 lines 35 – 37); associating a second encoder (532) to a second data type (Col. 11 lines 35 – 37); receiving a data block (En); determining (51) a data type of said data block (En); compressing (Col. 11 lines 62 – 67) said data block (En) with said first encoder (531) if said data type is the same as

said first data type (51 is a selection unit for error data frame to select 54 particular encoder associated with the type error data frame En); compressing (Col. 11 lines 62 – 67) said data block (En) with said second encoder (532) if said data type is the same as said second data type (51 is a selection unit for error data frame to select 54 particular encoder associated with the type error data frame En); and compressing (Col. 11 lines 62 – 67) said data block (En) with a third encoder (533) if said data type cannot be identified (if data error type En cannot identified as a error type for the first (531) and second (532) encoders) .

Allowable Subject Matter

6.   Claims 4 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Prior art does not teach: transmitting a data compression type descriptor, indicative of the compression utilized to provide said compressed data block, with said compressed data block; receiving said compressed data block and said data compression type descriptor; and decompressing said compressed data block based on said data compression type descriptor.

7.   Claims 12- 13 are allowed.

With respect to claim 12, in addition to other elements in the claim, prior art considered individual or combination does not teach method comprising: if a data type is not identified, said data block with said at least one second encoder to provide said compressed data block; and transmitting said compressed data block with a data

compression type descriptor indicative of the compression utilized to provide said compressed data type.

With respect to claim 13, in addition to other elements in the claim, prior art considered individual or combination does not teach method comprising: wherein said data compression type descriptor is either indicative of said determination not to compress or said determined one of said several compression techniques; and transmitting said data compression type descriptor with said compressed data type.
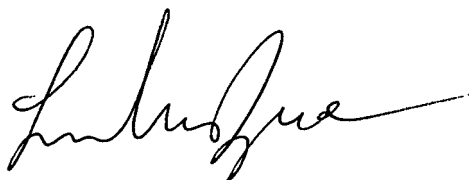
Contact Information

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh Van Nguyen whose telephone number is (571) 272-1810. The examiner can normally be reached from 8:30 – 5:00 Monday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rexford Barnie can be reached at (571) 272-7492. The fax phone numbers for the organization where this application or proceeding is assigned are (571-273-8300) for regular communications and (571-273-8300) for After Final communications.

LINH NGUYEN
PRIMARY EXAMINER

7/3/07

Linh Van Nguyen

Art Unit 2819