#5 GW 10/11 Amdt/A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Bremer

Serial No.: 09/205,205

Filed: 12/04/98

For: **System And Method Of Communication Via Embedded Modulation**

Group Art Unit: 2631

Examiner: P. Phu

Docket No. 61606-1770

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Washington D.C. 20231, on

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Signature

FIRST AMENDMENT AND RESPONSE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The Office Action mailed June 28, 2001 (Paper No. 4) has been carefully considered. In response thereto, please enter the following amendments and consider the following remarks.

AUTHORIZATION TO DEBIT ACCOUNT

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow

1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to Paradyne Corporation's Deposit Account No. 16-0255.

AMENDMENTS

Please amend the application as indicated hereafter.

In the Claims

Please cancel claims 27 and 28 without prejudice.

Please substitute the following clean copy text for the pending claims of the same number.

22. (Once Amended) A computer readable medium having a program for controlling a second tributary transceiver using a secondary modulation method in a multipoint communication system, said communication system including a first tributary transceiver using a primary modulation method for communication and a master transceiver, said program comprising:

first logic configured to receive information transmitted using said secondary modulation method; and

second logic configured to ignore transmissions on said communication medium using said primary modulation method.

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23. (Once Amended) A multi-point communication system, comprising:

a first transceiver capable of transmitting and receiving a plurality of modulation methods; and

at least two additional transceivers, each being capable of transmitting and receiving at least one of said plurality of modulation methods to the exclusion of at least one of the modulation methods transmitted and received by the other one of said two transceivers.

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25. (Once Amended) A master transceiver for use in a multi-point communication system, comprising:

logic configured to enable the master transceiver to communicate over the multi-point communication system using a plurality of modulation methods; and

a remote transceiver comprising:

a logic configured to enable the remote transceiver to communicate over the multi-point communication system using at least one of the modulation methods to the exclusion of others of said modulation methods.

REMARKS

The allowability of claims 1 through 21 is noted with appreciation. In addition, claim 22 has been indicated as being allowable if amended to correct on apparent error therein. Accordingly, claim 22 has been amended as suggested by the Examiner and it, too, is now allowable.

Claims 23 through 28 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. patent 5,999,563 to Polley *et al.*, with particular reference to Figs. 2a and 5a of the patent as well as column 9, line 16 through column 10, line 52, thereof. In view of the rejection, claims 23, 24, 25, and 26 have been thus indirectly amended and claims 27 and 28 have been canceled. It is believed that claims 23 through 26 are now allowable over the reference for the following reasons.

Polley *et al.* shows a system wherein a multi-mode transceiver connects to a second transceiver capable of receiving and transmitting the plurality of modulation methods transmitted and received by the first transceiver. Polley does not describe a multipoint system (as in the present invention) nor in any way describes "embedded modulations" as used in the present invention and as claimed, although not in those words. Polley describes a point-to-point-only two modem system in which each modem may host two transceivers (or a single transceiver capable of communicating via one of two modulations) and a rate negotiating means to select which modulation is to be used, such negotiation occurring at the beginning of a communication session. This is completely different from "embedded modulations, which provides for true multipoint communication (a master on two or more

session using two or more modulations. In essence, such an arrangement as shown by Polley *et al.* is discussed in some detail in the Background of the Invention portion of the present application, see, for example, page 1, lines 19 through 30 and page 2, lines 1 through 8. See also, page 5, lines 8 through 30 and page 6, lines 1 through 26. Thus, the Polley *et al.* disclosure is prior art and is acknowledged as such, although not specifically, and does not disclose a multipoint system as claimed by applicant..

The present invention is directed to the use of differing transceivers responsive to different modulation methods to the exclusion of other modulation methods, which clearly is not shown in Polley *et al.* Accordingly, claim 23 has been amended to call for two additional transceivers, instead of one, each being capable of receiving and transmitting at least one of the modulation methods of a first transceiver to the exclusion of the modulation method transmitted and received by another one of the transceivers. Clearly, Polley *et al.* does not disclose such an arrangement and claim 23, as amended, is, therefore, believed to be allowable.

In a similar manner, claim 25 has been amended to include the remote transceiver of claim 27 and the added limitation that the remote transceiver does not transmit and receive all of the modulation methods of the master transceiver. This is apparently not shown or suggested by Polley *et al.*, hence amended claim 25 is believed to be allowable.

In view of the combining of claims 25 and 27, claims 27 and 28 have been canceled without prejudice.

The drawings will be amended to include the legend "Prior Art" with Fig. 2. A copy of Fig. 2 marked up with red permanent ink is attached hereto.

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