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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 12/543,910 | 08/19/2009 | Gordon F. Bremer | REMB-0109 | 8306 |

23377      7590      09/01/2010
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| EXAMINER |
|---|
| HA, DAC V |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/01/2010 | 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.

PTOL-90A (Rev. 04/07)

| | Application No. | Applicant(s) |
| **Office Action Summary** | 12/543,910 | BREMER, GORDON F. |
| | Examiner | Art Unit | |
| | Dac V. Ha | 2611 | |

*-- 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>*19 August 2009*</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) *1-100* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *19, 21-27, 29-35, 58, 60-66, 68-69, 72, 74-80, 83, 86, 88-94, 96-99* is/are rejected.

7) ☒ Claim(s) *1-18,20,28,36-57,59,67,70,71,73,81,84,85,87,95 and 100* 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>*19 August 2009*</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 _____.

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

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Objections*

1.    **Claims 1-18, 37-57, 96-100** are objected to because of the following

informalities:

Claim 1, line 9, "the first data sequence" should be changed to i.e. "a first data

sequence" to avoid potential antecedent basis problem.

Similar problem exists in claim 37.

Claims 96-100 seem to have incorrect dependency (i.e. should be depending

from claims 86 on).

Appropriate correction is required.


### *Claim Rejections - 35 USC § 102*

2.    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.

3.    **Claims 19, 21, 23-27, 29, 34, 86, 88-94, 96** are rejected under 35 U.S.C. 102(b)

as being anticipated by Siwiak (US 5,537,398).

**Re claim 19**, Siwiak discloses:

"a processor" (Fig. 6, elements 606, 610);

"transmission of first data with a first modulation method followed by second data

with a second modulation method, wherein the first modulation method is different than

the second modulation method, and wherein the first data comprises an indication of an

impending change from the first modulation method to the second modulation method"

in Fig. 2; col. 3, line 61 to col. 4, line 2; col. 4, lines 31-39; abstract.

Further, even though Siwiak does not explicitly disclose "a memory having stored

therein executable instructions for execution by the processor", it should be inherent

that the "processor" of Siwiak must have some associate memory with instruction

information stored therein for execution by such processor.

**Re claim 86**, see similar subject matter in claim 19 above, wherein elements

606, 610 teach all first, second and third logic.

**Re claim 21**, Siwiak further discloses "wherein the first modulation method is a

frequency shift keying modulation" in col. 6, lines 25-29.

**Re claim 23**, Siwiak further discloses "wherein the second modulation method is

different than the first modulation method in performance" in col. 6, lines 23-29.

**Re claim 24**, Siwiak further discloses "wherein the first modulation method has a

lower performance than the second modulation method" in col. 6, lines 23-29.

**Re claim 25**, Siwiak further discloses "wherein the second modulation method is

different than the first modulation in data rate" in col. 6, lines 23-29.

**Re claim 26**, Siwiak further discloses "wherein the first modulation method has a

lower data rate than the second modulation method" in col. 6, lines 23-29.

**Re claim 27**, Siwiak further discloses "wherein transmission of the second data

is according to a specific time interval" in Fig. 2; col. 3, line 61 to col. 4, line 2.

**Re claim 29**, Siwiak further discloses "transmitter configured to transmit the first data and the second data" in Fig. 5, 2; col. 3, lines 45-48; col. 4, lines 31-39.

**Re claim 34**, Siwiak further discloses "the first data comprises an address" in col. 4, lines 31-39; Fig. 2.

**Re claims 88-94, 98**, see similar claimed subject matter in claims 21-27, 34, respectively.

## *Claim Rejections - 35 USC § 103*

4.    The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.    **Claims 30-33, 96, 97** are rejected under 35 U.S.C. 103(a) as being unpatentable over Siwiak.

**Re claim 30**, Siwiak discloses all claimed subject matter of claim 30, as stated above, except for "the memory has stored therein program code for the first modulation method and the second modulation method".  However, it would have been easily understood by one skilled the art that, for software implementation standpoint, the (associate) memory would have stored therein information in the form of program code for execution by the processor.

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