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EXAMINER

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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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EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/012,987.

PATENT NO. 7765482.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Decision

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 09/10/2013 was filed after the mailing date of the instant Reexam Application on 09/10/2013. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the IDS has been considered by the Examiner.

Prior Art Proposed by the Requester

A substantial new question of patentability of claims 38, 40, 44-46 and 49 is proposed by the following:

1. Claims 38, 40, 44-46 and 49 are anticipated under 35 USC 102(e) by US Patent No. 6,930,709 to Creamer et al (the Creamer patent);
2. Claims 38, 40, 44-46 and 49 are anticipated under 35 USC 102(e) by US Patent No. 6,038,295 to Mattes (the Mattes 295 patent);
3. Claim 46 is obvious under 35 USC 103 over Mattes in view of Creamer;
and
4. Claims 38, 40, 44-46 and 49 are invalid for nonstatutory obvious-type double patenting based upon US Patent No. 6,895,557 (the Wood 557 patent).

The Wood 557 patent was filed on July 21, 1999. The Wood 482 patent was filed on October 8, 2004. The Wood 482 patent claims priority to the Wood 557 patent, but the Wood 482 patent is not subject to any terminal disclaimer.

Accordingly, the Wood 557 patent is available as a prior art reference against the

Art Unit: 3992

Wood 482 patent under the doctrine of nonstatutory obviousness-type double patenting MPEP 2258.I.D; *In re Lonardo*, 119 F.3d 960 (Fed. Cir. 1997). Due to a term extension under 35 U.S.C. 154(b), the term of the Wood 482 patent currently extends 737 days past the expiration of the Wood 557 patent. The Wood 557 patent is cited in the examination of the Wood 482 patent, but was never discussed by the Examiner or the applicant in the context of any rejection. Accordingly, the Wood 557 patent is presented here in a new light. MPEP 2258.01.

Prosecution History

The Wood 482 patent is based upon US Application 10/961,720 which issued as US Patent 7,765,482. Of the 51 claims allowed, only Claims 38, 40, 44-46 and 49 are requested for reexamination. Claim 38 is the only independent claim, and is addressed to a computer method for pre-processing digital content in a client device for subsequent electronic distribution.

As noted by the Requester in **Section IIIA.** appearing on pages 2- 4 of the Request, Claim 38 has basically three steps, a client device receives the pre-processing parameters from "another device" that is "separate from said client device." (step a.) In the preferred embodiment, the client device is the user's computer, which receives the pre-processing parameters from the real estate web server when the user's computer accesses the web page and downloads the ActiveX component or JAVA applet.

Art Unit: 3992

Then, the client device pre-processes the image to a "server device" that is "separate from the client device." (step b.). In the preferred embodiment, the user's computer compresses the image and sends the image to the web server. Thus, in the preferred embodiment, the "another device" from which the parameters are received is the same device as the "server device" to which the compressed image is transmitted.

Finally, the "server device" makes the image available (transmits) to "one or more remote devices" (step c.). In the preferred embodiment, the web server makes the compressed image available to any member of the public who uses their computer to access the web page.

Prior Art Rejections

In **Sections B.1, B.2** appearing on pages 5-6 of the Request (incorporated herein by reference), the Requester sets out the Examiner's prior art rejections and the Applicant's response thereto. Basically, Applicant argued that the applied prior art, (Hui et al. US Patent 6,237,010 in view of Yokamizo et al. US Patent 6,522,418) did not: 1) process actual image data, and 2) use pre-processing parameters received from a remote device.

Claims 38, 40, 44-46 and 49 (claims requested for reexamination) correspond to new claims 86, 88, 92-94 and 97 added in the 03/26/2010 amendment of the 10/961,720 application. These claims were not commented upon by the applicant or the examiner during the prosecution of the application.

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