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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------|
| 09/629,577  | 07/31/2000  | Fred B. Holt         | 030048003US                 | 4317             |
| 25096   | 7590        | 11/05/2003           | EXAMINER<br>LAZARO, DAVID R |                  |
| PERKINS COIE LLP<br>PATENT-SEA<br>P.O. BOX 1247<br>SEATTLE, WA 98111-1247 |             |                      | ART UNIT<br>2155            | PAPER NUMBER     |

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**EXHIBIT**  
**Ex. 1024**

# Office Action Summary

09/629,577

HOLT ET AL.

Examiner

Art Unit

David Lazaro

2155

-- 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 3 MONTH(S) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 19 June 2002.
- 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) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 9-30 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ 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 \_\_\_\_\_ 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).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13)  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.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1)  Notice of References Cited (PTO-892)    4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5)  Notice of Informal Patent Application (PTO-152)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5.                      6)  Other:

**DETAILED ACTION*****Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, drawn to a method for determining a diameter of a broadcast channel, classified in class 709, subclass 238.
  - II. Claims 9-30, drawn to a method and computer-readable medium for disconnecting a first computer from a second computer with the first and second computer being connected to a broadcast channel, classified in class 709, subclass 227.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as determining the broadcast channel diameter. Invention II has separate utility such as disconnecting a first computer from a second computer when they are connected to a broadcast channel. See MPEP § 806.05(d).
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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5. During a telephone conversation with Chun Ng of Perkins Coie LLP on 10/22/03 a provisional election was made without traverse to prosecute the invention of Group II, claims 9-30. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-8 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Papers Received***

7. Oath/Declaration, basic filing fee, additional claim fee and late filing fee/oath or declaration surcharge were received on 11/06/00.

#### ***Information Disclosure Statement***

8. IDS received on 4/23/02 has been considered by the examiner.

9. Supplemental IDS received on 6/19/02 has been considered by the examiner.

#### ***Specification***

10. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

**Claim Rejections - 35 USC § 103**

10. 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 negated by the manner in which the invention was made.

11. Claims 9, 10, 12, 15-18, 22-25 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,618,752 Moore et al. (Moore) in view of U.S. Patent 6,353,599 by Bi et al (Bi).

12. With respect to Claim 9, Moore teaches a method of disconnecting a first computer from a second computer, the first computer being connected to a broadcast channel, the method comprising when the first computer decides to disconnect from the second computer, the first computer sends a disconnect message to the second computer (Col. 10 lines 35-40). Moore does not disclose the second computer broadcasting a connection port search message to find a third computer to which it can connect. However it is well known in the art that a connection port search message can be broadcast to find a computer to connect to as shown by Bi (Col. 2, line 14-20, Bi) (Claim 13 lines 48-51). It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Moore and modify as indicated by Bi with the step of when the second computer receives the disconnect message from the first computer, the second computer broadcasts a connection port search message to find a third computer to which it can connect. One would be motivated to do this as it provides

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