

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reexamination Application of:  
John C. Harvey et al.

Patent No. 5,335,277

Control Nos.: 90/006,563  
90/006,698

Filed: March 14, 2003  
July 7, 2003

For: SIGNAL PROCESSING APPARATUS AND  
METHODS

Confirmation No.: 7085

Art Unit: 3992

Examiner: Ovidio Escalante

**REPLY BRIEF**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

As permitted under § 41.41, this brief is filed within two months of the date of the Examiner's Answer mailed September 24, 2008. Appellant noticed this appeal over two years ago on June 16, 2006. An Appeal Brief was filed August 16, 2006. An Examiner's Answer was not received until October 2, 2007. A Reply Brief was filed December 3, 2007. The Reply Brief was acknowledged and jurisdiction was transferred to the Board on December 19, 2007. Over seven months later, on July 30, 2008, the Board issued an Order Returning Undocketed Appeal which returned jurisdiction to the Examiner. The Examiner issued a new Examiner's Answer on September 24, 2008. Due to the extraordinarily long pendency of this appeal, Appellant filed a Supplemental Appeal Brief on September 30, 2008, to provide the Board with a update status of the related appeals cited in the previously filed briefs.

The Order Returning Undocketed Appeal identified several inconsistencies in the grounds of rejection as stated in the Final Office Action, the Appeal Brief and the original Examiner's Answer. These inconsistencies were addressed and corrected in the new Examiner's

PMC-003REX7-0000

Answer mailed September 24, 2008. However, even with these corrections, the status of claim 34 was not consistently addressed in or clear from the Final Office Action, the Advisory Action or the new Examiner's Answer. Appellant's representative brought this matter to the attention of the Examiner in a telephone interview on October 24, 2008. The Examiner mailed a communication clarifying the status of claim 34 on October 31, 2008. Appellant summarizes the substance of the interview in the arguments with respect to claim 34 below. This Reply Brief responds to the Examiner's Answer mailed September 24, 2008, and the supplemental communication mailed October 31, 2008. This Reply Brief, along with the Supplemental Appeal Brief filed September 30, 2008, supplements the Appeal Brief.

**1. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS**

Since the Supplemental Brief was filed September 30, 2008, the following actions have occurred in the related appeals listed in the Appeal Brief:

In reexamination Control No. 90/006,838, regarding related U.S. Patent 5,109,414, Appeal No. 2008-4864, an Oral Hearing has been set for November 19, 2008.

In reexamination Control No. 90/006,688, regarding related U.S. Patent 5,887,243, Appeal No. 2008-4816, an Oral Hearing has been set for November 19, 2008.

## 2. STATUS OF CLAIMS

U.S. Patent 5,335,277 issued with claims 1-56. These claims are subject to reexamination. The Examiner confirmed claims 1, 5, 8, 9, 16, 21, 24-26, 29, 31, 36, 37, 39, 40, 43, 53 and 54 in the final Office action mailed March 16, 2006 (Final Office Action). The Examiner rejected claims 2-4, 6, 7, 10-15, 17-20, 22, 23, 27, 28, 30, 32, 33-35, 38, 41, 42, 44-52, 55 and 56 in the Final Office Action. In the Advisory Action mailed July 21, 2006, the Examiner withdrew the rejection of and confirmed claim 3. Appellant appeals the final rejections of claims 2, 4, 6, 7, 10-15, 17-20, 22, 23, 27, 28, 30, 32, 33 - 35, 38, 41, 42, 44-52, 55 and 56.

### 3. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellant finds error in each of the outstanding rejections in the Final Office Action maintained in the Examiner's Answer. Appellant requests that the each of the following rejections presented in the Final Office Action and maintained in the Examiner's Answer be reviewed.

1. Claim 2 stands rejected:
  - under 35 U.S.C. §103(a) as being unpatentable over GB #1,556,366 to Betts in view of JP #56-8975 to Okada et al. (Appeal Brief, at p. 51; Answer, at p. 157; Reply Brief, at p. 21); and
  - under 35 U.S.C. §102(b) as being anticipated by each of the following:
    - “A Television Facsimile System” by Soejima (Appeal Brief, at p. 51; Answer, at p. 32; Reply Brief, at p. 22),
    - U.S. Patent No. 4,042,958 to Saylor et al. (Appeal Brief, at p. 51; Answer, at p. 33; Reply Brief, at p. 22), and
    - U.S. Patent No. 4,135,213 to Wintfeld et al. (Appeal Brief, at p. 51; Answer, at p. 157; Reply Brief, at p. 22).
2. Claim 4 stands rejected under §103(a) as being unpatentable over U.S. Patent No. 4,306,250 to Summers et al. in view of JP #51-138317 to Ikeda et al. (Appeal Brief, at p. 53; Answer, at p. 173; Reply Brief, at p. 24).
3. Claim 6 stands rejected:
  - under §102(b) as being anticipated by U.S. Patent No. 3,848,082 to Summers (Appeal Brief, at p. 54; Answer, at p. 40; Reply Brief, at p. 25), and
  - under §102(b) or (e) as being anticipated by U.S. Patent No. 4,295,223 to Shutterly (Appeal Brief, at p. 54; Answer, at p. 37; Reply Brief, at p. 27).
4. Claim 7 stands rejected:
  - under §103(a) as being unpatentable over Summers (Appeal Brief, at p. 56; Answer, at p. 190; Reply Brief, at p. 30) and “Broadcast Text Information in France” by Marti (Appeal Brief, at p. 56; Answer, at p. 166; Reply Brief, at p. 30);
  - under §102(b) or (e) as being anticipated by Shutterly (Appeal Brief, at p. 56;

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.