

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
John C. Harvey *et al.*

Application No.: 08/485,507

Filed: May 24, 1995

For: SIGNAL PROCESSING APPARATUS AND
METHODS

Confirmation No.: 5691

Art Unit: 2600

Examiner: Groody, James J.

SUPPLEMENTAL AMENDMENT

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

Dear Sir:

This application had been suspended since 2005 and held in abeyance from examination by the Office pending final action in a corresponding so-called "A" application, U.S. Patent Application, Serial No. 08/474,145. This suspension was based on an agreement made between Applicants and the Office to consolidate or group the claims of Applicants' then pending applications which had been filed prior to June 8, 1995, into a smaller number of applications. This so-called consolidation agreement resulted from a series of interviews conducted from November 1998 through June 1999 between Applicants' representatives and the Office. In those interviews, senior Office management suggested that further examination of this application and Applicants' other related applications could be expedited by reducing the number of pending applications. Accordingly, Applicants agreed to consolidate their claims into 56 subject matter groups and to reduce the number of pending applications accordingly. Applicants' agreement

was based on the Office's view that it would be helpful to the Office to examine the claims of the subject matter groups together.

For each subject matter group, the applications were separated based on whether priority was claimed to Applicants' initial 1981 Application (U.S. Serial No. 06/317,510) or their initial 1987 Continuation-in-Part Application (U.S. Serial No. 07/096,096). The claims from all applications in a group having the same priority claim were added to a single application designated an "A" application. The remaining applications were abandoned with the exception of one so-called "B" application corresponding to each "A" application.

Under this agreement, the PTO suspended prosecution in the "B" applications pending final action in the corresponding "A" applications. Further, the parties agreed to conduct interviews in the "A" applications so that the prosecution of those applications could be efficiently advanced. Under the agreement, subject matter not found to be allowable during prosecution of an "A" application may be further prosecuted in the "B" application while the "A" application would be allowed to issue. In good faith reliance on this consolidation agreement, Applicants abandoned 169 of their 329 pending applications and filed numerous amendments adding to the designated "A" applications various claims that had been pending in the abandoned applications and the designated "B" applications.¹

On May 9, 2000, Applicants amended the DECR 87 group "A" application, U.S. Patent Application Serial No. 08/474,145, in accordance with the aforementioned agreement. Claims from related DECR 87 applications were added to the DECR 87 group "A" application.

¹ As a result of the consolidation, Applicants paid excess claim fees for many of the claims that were added to the designated "A" applications, even though Applicants previously paid excess claim fees for those claims when they had been added to the abandoned applications and the designated "B" applications.

Applicants amended some of the “A” Claims on March 13, 2002 and January 31, 2003. In late 2002 and early 2003, reexamination requests were filed and granted as to Applicants’ seven previously issued patents. Subsequent to the initiation of these reexamination proceedings, the Director of Technology Center 2600 decided to suspend prosecution of this application and the related “A” application pending resolution of the reexamination proceedings for the issued patent and the prosecution to appeal to the Board of Patent Appeals and Interferences (“Board”) of two of Applicants’ pending applications, (1) the INTE application (U.S. Patent Application, Serial No. 08/470,571) and (2) the MULT application (U.S. Patent Application, Serial No. 08/487,526). As a result of this decision, the DECR 87 group “A” application (U.S. Patent Application, Serial No. 08/474,145) was suspended through a number of six month Suspension Notices until January 2009. Consequently, no formal response was made regarding the “A” Claims.

In 2009, as the reexamination proceedings for Applicants’ issued patents had been substantially completed and decisions had been issued by the Board in the INTE and MULT applications, Applicants requested that the suspension of their various applications be terminated.

This request was granted in the spring of 2009 and, as a result, applicants met with Examiner Minh Dieu T. Nguyen for a number of personal interviews in January 2010. An agreement was made to cancel or amend numerous of the “A” Claims so that the DECR 87 group “A” application (U.S. Patent Application Serial No.08/474,145) could issue.

In the instant application, DECR 87 group “B” (U.S. Patent Application Serial No. 08/485,507), Applicants filed a Supplemental Amendment Under 37 C.F.R. §1.115 on May 9,

2000. Applicants canceled all claims except for claim 3, which they amended. The Examiner then suspended the application according to the above mentioned consolidation agreement.

Consistent with the consolidation agreement between the Applicants and the Office, Applicants now wish to pursue the subject matter within the scope of the “A” claims of the DECR 87 group “A” application (U.S. Patent Application Serial No. 08/474,145) by claiming such subject matter that was not patented in the “A” application in the instant “B” application. Claims 33-63 correspond to various claims of the “A” application with additional amendments that Applicants believe place the claims in condition for allowance. In order to aid the Examiner in understanding the amendments to the claim, Applicants have attached a marked up copy of the claims (Appendix A) indicating the differences between the “A” Claims and the amended form submitted herein as claims 33-63.

Applicants believe that claims 33-63 overcome the prior art, and should place the above-identified patent application in condition for allowance. Applicants respectfully request favorable consideration of the above-identified patent application in view of the following remarks.

Claim 3 which is currently pending in this application will be cancelled.

Amendments to the claims begin on page 5.

Remarks begin on page 10.

AMENDMENT TO THE CLAIMS

Applicants request entering the below amendments to the claims. New claims 33-63 are added. Claim 3 is cancelled. Claims 33-63 are the only pending claims.

1 – 32. (Cancelled)

33. (New) A method of inhibiting piracy of information or enabling a presentation of programming at a subscriber station, said method comprising the steps of:

receiving an information transmission from a first remote station;

detecting instruct-to-sample instructions in the information transmission;

processing, under control of said instruct-to-sample instructions, a datum at said subscriber station;

comparing, under control of said instruct-to-sample instructions, selected comparison information of said instruct-to-sample instructions to a selected sample of preprogrammed operating information at said subscriber station, said selected comparison information and said selected sample of preprogrammed operating information being selected based on said step of processing, whereby a successful match indicates that said subscriber station is properly programmed and a failed match suggests that said preprogrammed operating information at said subscriber station has been tampered with; and

performing, under control of said instruct-to-sample instructions, at said subscriber station at least one of the steps of:

(1) disabling the functionality of some portion of said subscriber station (i) when said step of comparing results in a determination that said subscriber station has been tampered with or (ii) when an instruction is executed based on said step of comparing and said subscriber station fails to respond in a predetermined fashion or within a predetermined period of time;

(2) communicating appearance-of-tampering information to a second remote station when said step of comparing results in a determination that said subscriber station has been tampered with; and

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