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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/709,300	05/11/2015	Barry SANDREW	LF-P0066	3862
36067	7590	07/16/2015	EXAMINER	
ARC PATENTS 7744 Herschel Ave LA JOLLA, CA 92037			JONES, HEATHER RAE	
			ART UNIT	PAPER NUMBER
			2481	
			NOTIFICATION DATE	DELIVERY MODE
			07/16/2015	ELECTRONIC

**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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@arciplaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 14/709,300	<b>Applicant(s)</b> SANDREW ET AL.	
	<b>Examiner</b> HEATHER JONES	<b>Art Unit</b> 2481	<b>AIA (First Inventor to File) Status</b> No

-- 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 MONTHS 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 11 May 2015.  
 A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on \_\_\_\_\_.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4)  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\***

- 5)  Claim(s) 1-20 is/are pending in the application.  
5a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 6)  Claim(s) \_\_\_\_\_ is/are allowed.
- 7)  Claim(s) 1-20 is/are rejected.
- 8)  Claim(s) \_\_\_\_\_ is/are objected to.
- 9)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

\* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see [http://www.uspto.gov/patents/init\\_events/pph/index.jsp](http://www.uspto.gov/patents/init_events/pph/index.jsp) or send an inquiry to [PPHfeedback@uspto.gov](mailto:PPHfeedback@uspto.gov).

**Application Papers**

- 10)  The specification is objected to by the Examiner.
- 11)  The drawing(s) filed on 11 May 2015 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).

**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).

**Certified copies:**

- a)  All    b)  Some\*\*    c)  None of the:
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)  Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
- 3)  Interview Summary (PTO-413) Paper No(s)/Mail Date. \_\_\_\_\_

## DETAILED ACTION

### ***Notice of Pre-AIA or AIA Status***

1. The present application is being examined under the pre-AIA first to invent provisions.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory double patenting rejection is appropriate where the claims at issue are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the reference application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of

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activities undertaken within the scope of a joint research agreement. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO internet Web site contains terminal disclaimer forms which may be used. Please visit <http://www.uspto.gov/forms/>. The filing date of the application will determine what form should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal Disclaimers, refer to <http://www.uspto.gov/patents/process/file/efs/guidance/eTD-info-I.jsp>.

3. Claims 1-20 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 7,333,670. Although the claims at issue are not identical, they are not patentably distinct from each other because claims 1-29 of Patent No. 7,333,670 contains every element of claims 1-20 of the instant application and thus anticipate the claim(s) of the instant application. Claims 1-20 of the instant application therefore is/are not patently distinct from the earlier patent claims and as such is/are unpatentable over obvious-type double patenting. A later application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

Regarding claim 1,

Instant Application	Claim 1 of Patent No. 7,333,670
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<b>A system configured to modify a set of time ordered digital images comprising a computer having memory and a program stored in said memory that is configured to:</b>	<b>A method for modifying a set of time ordered digital images comprising:</b>
<b>associate a first mask with a motion object in a first image at a first mask location;</b>	<b>associating a first mask with a motion object in a first image;</b>
<b>copy said first mask to create a second mask associated with a second image;</b>	<b>copying said first mask to create a second mask associated with a second image;</b>
<b>move said second mask to a second mask location associated with said motion object in said second image; and,</b>	<b>moving said second mask to location of said motion object in said second image; and,</b>
<b>reshape said second mask to fit said motion object in said second image based on underlying image data in said second image.</b>	<b>reshaping said second mask to fit said motion object in said second image.</b>

4. Claims 1-20 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 23-49 of U.S. Patent No. 7,181,081. Although the claims at

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