

EXHIBIT 1008(A)



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
Row 1: 15/070,839, 03/15/2016, Amar LULLA, CRT/20632IUS (4137-04709), 3973
Row 2: 30652, 7590, 02/01/2017, CONLEY ROSE, P.C., 5601 GRANITE PARKWAY, SUITE 500, PLANO, TX 75024, EXAMINER NIELSEN, THOR B
Row 3: ART UNIT 1616, PAPER NUMBER
Row 4: MAIL DATE 02/01/2017, DELIVERY MODE PAPER

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.

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

DETAILED ACTION

The instant application was filed on March 15, 2016.

A Preliminary Amendment was filed on October 27, 2017, in which claim 23 was amended to correct a typographical error.

Claims 1-30 are pending and under examination.

The instant claims duplicate those filed in application 14/661700 (now abandoned). All claims of application 14/661700 were allowed after:

- (1) the Applicant filed five Declarations, by Dr. Malhotra dated 09/23/2010, by Mr. Copra dated 12/08/2011, by Dr. Rajan dated 08/16/2011, by Dr. Maus dated 08/16/2011, and by Dr. Malhotra dated 09/23/2010; and
- (2) the Applicant filed Disclaimers of patent term over US Patent Nos. 8,168,620 and 8,163,723, and over Application serial No. 14/661,720 which subsequently issued as US Patent No. 9,259,928.

Rejection of all Claims

All pending claims are rejected for reasons of record in the parental applications, especially 10/518,016. In brief, the instant claims are rejected under 35 USC 102 as anticipated by, or in the alternative under 35 USC 103 as obvious over the disclosure of Cramer (EP 0780127) (of record), optionally further in view of Modi (US 6,294,153) (of

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record), Malmqvist-Granlund et al. (US 6,391,340) (of record), and/or Alfonso et al. (US 6,017,963) (of record). The explanation of disclosures of the prior art and rationales for combining the disclosures of references as stated in examinations of US applications No. 10/518,016; 12/879515; 14/661700; and 14/661720 are incorporated in this action by reference.

Furthermore, all pending claims are rejected for obviousness type double patenting as explained below.

Double Patenting

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).

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