EXHIBIT 1008(A)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/070,839	03/15/2016	Amar LULLA	CRT/20632IUS (4137-04709)	3973

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EXAMINER
NIELSEN, THOR B

ART UNIT	PAPER NUMBER
1616	

MAIL DATE	DELIVERY MODE
02/01/2017	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.

Office Action Summary	Application No. 15/070,839	Applicant(s) LULLA ET AL.	
	Examiner THOR NIELSEN	Art Unit 1616	AIA (First Inventor to File) Status 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 *10/27/2016*.

☐ 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) *1-30* 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5a) Of the above claim(s) _____ is/are withdrawn from consideration.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) *1-30* 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 or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ 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).

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. _____ .

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

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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