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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/459,291	04/30/2012	Michael J. Pelland	080188PCTUSCON	1125
26285	7590	06/14/2013	EXAMINER	
K&L GATES LLP 210 SIXTH AVENUE PITTSBURGH, PA 15222-2613			DOAN, KIET M	
			ART UNIT	PAPER NUMBER
			2641	
			NOTIFICATION DATE	DELIVERY MODE
			06/14/2013	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):

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<b>Office Action Summary</b>	<b>Application No.</b> 13/459,291	<b>Applicant(s)</b> PELLAND ET AL.	
	<b>Examiner</b> KIET DOAN	<b>Art Unit</b> 2641	<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 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 18 April 2013.  
 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) 3-13 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) 3-13 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 \_\_\_\_\_ 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.

#### Interim copies:

- a)  All    b)  Some    c)  None of the: Interim copies of the priority documents have been received.

#### Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Information Disclosure Statement(s) (PTO/SB/08)
- 3)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

## DETAILED ACTION

This office action is in response to Applicant Remarks filed on 04/18/2013.

Claims 3-8 are amended.

Claims 12 and 13 are new.

The examiner withdrawn the objection of claims 8 and 11 due to claim set are amended and further search.

### *Response to Arguments*

Applicant's arguments with respect to claim 6 have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fikelstein et al. (US 2009/0063703 A1) in view of Nishiguchi et al. (US 2005/0240296 A1).

Regarding **claims 6 and 9**, Fikelstein teaches a system comprising:

Art Unit: 2641

a digital audio player comprising an audio iack (Paragraph [0092], [0116],  
fig. 5f #623 teach portable device 10/smart phone as read on digital audio player  
including audio port or headset jack for head phone connector /audio jack);

a wireless network adapter external to the digital audio player and connected to  
the digital audio player via the audio jack, wherein the wireless network adapter is for  
encoding analog audio received from the digital audio player into digital format and  
wirelessly transmitting the digitally-formatted audio (Paragraphs [0070], [0073] fig.1 and  
fig.3, Illustrate server 42/282 as read on "wireless network adapter" that connected to  
portable device 10/212/214 wherein the server perform encoding analog to digital) ;

a streaming digital audio content server that is connected to the Internet  
(Paragraph [0020 teach server streaming media connected to the internet);

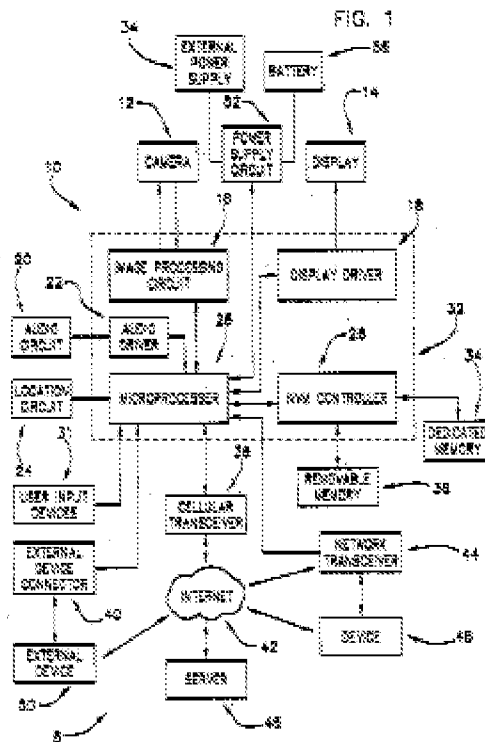
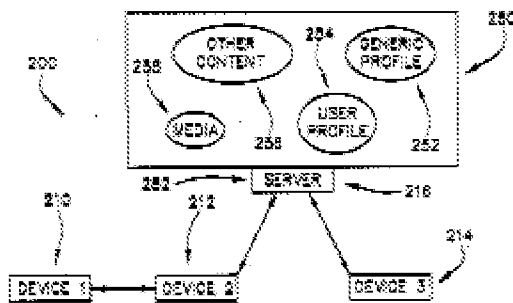


FIG. 3



a transceiver (fig.1, # 20/22) that is for:

receiving digitally-formatted audio, in a first mode, from the streaming digital

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