

EXHIBIT 5



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/324,122	11/26/2008	Malcolm K. Beyer JR.	10963.3819	9036
22235	7590	03/11/2011	EXAMINER	
MALIN HALEY DIMAGGIO BOWEN & LHOTA, P.A. 1936 S ANDREWS AVENUE FORT LAUDERDALE, FL 33316			LEBASSI, AMANUEL	
			ART UNIT	PAPER NUMBER
			2617	
			NOTIFICATION DATE	DELIVERY MODE
			03/11/2011	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):

info@mhdpatents.com

Office Action Summary	Application No. 12/324,122	Applicant(s) BEYER, MALCOLM K.	
	Examiner AMANUEL LEBASSI	Art Unit 2617	

-- 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 17 December 2010.

2a) This action is **FINAL**. 2b) This action is non-final.

3) 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

4) Claim(s) 2-14 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 2-14 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 26 November 2008 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).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

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).

 a) All b) Some * c) None of:

 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) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

Application/Control Number: 12/324,122
Art Unit: 2617

Page 2

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 2-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. 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.

2. **Claim 2-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keating et al. US 20040082352 in view of Maggenti et al. US 20020061762.**

Regarding claim 2, Keating discloses a communication system for transmitting, receiving, confirming receipt, and responding to an electronic message (**see abstract - selecting a group of mobile stations to participate in the wireless group call and causing an invitation message to be transmitted to the group of mobile stations**). Keating discloses a predetermined network of participants, wherein each participant has a similarly equipped PC or PDA/cell phone that includes a CPU and a touch screen display a CPU and memory (**paragraph [0016] where participants are mobile stations such as 16a and 16b and so on**). Keating disclose a data transmission means that facilitates the transmission of electronic files between said PCs and said

Application/Control Number: 12/324,122
Art Unit: 2617

Page 3

PDA/cell phones in different locations (**paragraph [0020] where wireless data controller controls transmission of data therefore a data transmission means that facilitates the transmission of electronic files**). Keating discloses a sender PC or PDA/cell phone and at least one recipient PC or PDA/cell phone for each electronic message (**paragraph [0022] where a group call originator, or leader, initiates set-up of a group call through his or her mobile station y choosing or selecting a group call participant list therefore a sender PC or PDA/cell phone and at least one recipient PC or PDA**).

Keating discloses a forced message alert software application program loaded on each participating PC or PDA/cell phone (**paragraph [0025] where an alert message is queued in the mobile stations therefore a message alert software application program**). Keating discloses an alert message but is silent on disclosing means for attaching a forced message alert software packet to a voice or text message creating a forced message alert that is transmitted by said sender PC or PDA/cell phone to the recipient PC or PDA/cell phone, wherein said forced message alert software packet contains containing a response list and requires requiring the forced message alert software on said recipient PC or PDA/cell phone to transmit an automatic acknowledgment to the sender PC or PDA/cell phone as soon as said forced message alert is received by the recipient PC or PDA/cell phone; means for receiving and displaying a listing of which recipient PCs or PDA/cell phones have automatically acknowledged the forced message ~ alert and which recipient PCs or PDA/cell

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