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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,910	09/29/2003	Michael F. Malone	MPOR-26,491	9008
25883	7590	10/20/2004	EXAMINER	
HOWISON & ARNOTT, L.L.P P.O. BOX 741715 DALLAS, TX 75374-1715			SHERALI, ISHRAT I	
			ART UNIT	PAPER NUMBER
			2621	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/674,910	<b>Applicant(s)</b> MALONE ET AL.	
	<b>Examiner</b> Sherali Ishrat	<b>Art Unit</b> 2621	

-- 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) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 \_\_\_\_\_.
- 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) 1-6 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4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.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) 1-6 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 January 2004 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)<br>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 (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Claim objection

1. Claim 6, is objected by the examiner because claim 6, in line 2, recites "captured image or other information preior to transmission. Preior is incorrectly spelled. Claim should recite captured image or other information prior to transmission.

### Claim Rejections - 35 USC § 103

2. 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 negatived by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glass et al. (US 6,332,193) in view of Cahill et al. (US 2003/0048921 A1).

Regarding claim 1, Glass discloses recording image (Glass, in col. 4, lines 49-52, states "host computer [figure 1, block 2] can be personnel computer or embedded processor which has sufficient memory to hold the biometric image file". In the system of Glass this corresponds to recording image), comprising;

a capture device for capturing the image (Glass, in col. 9, lines 26-30, states "The client computer receives the token and sends it to the imaging system 4 in figure 2,

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The imaging system contain a camera 6 which has secret key. The camera is then instructed to generate a secure image. In the system of Glass the client computer, imaging system and camera, which are shown by figure 2 and indicated by box 1, corresponds to the a capture device for capturing the image)

a local verification device for indelibly marking the captured image with the time information identifying the creator of the data (Glass, in col. 9, lines 30-34, states "The camera accepts the token, captures an image, and uses a digital signature algorithm which takes the image, token, and the camera's secret key as a parameters to provide a digital signature of the particular image. The camera outputs the secured image to the client". In the system of Glass camera using digital signature algorithm is a local verification device, which generates local verified secured image. Glass, in col. 10, lines 1-5, states "During camera manufacture private [secret key] and serial number are assigned to each camera", which is therefore identification of the creator [camera] and in col. 10, lines 19-21, "token is generated using a time stamp". As discussed above digital signature algorithm takes the "image", "token" [time stamp], and "private/secret key" [identification of the camera/creator] as parameter to provide a digital signature of the particular image and which is secure image. Therefore by the process of generation of digital signature Glass shows a local verification device for indelibly marking the captured image [digital signature] with the time information [token] and identifying the creator of the data [private/secret key]);

transmitting the locally verified captured image in real time to a secure facility (Glass, in col. 9, lines 34-38, states "The camera outputs the secured image to client's

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computer and the client computer sends the image to the server over the network along with digital signature". This corresponds to transmitting the locally verified [digital signature] captured image in real time to a secure facility" and in figure 2, Glass shows that communication of image from client's computer to the server is through firewall which corresponds to secure facility); and

capturing device receiving and verifying acknowledgement of the receipt of the transmitted locally verified captured image to the storage facility (Glass, in col. 10, lines 50-54, states, "The server then take the image and perform the biometric identification indicated by box 16 in figure 8. Upon passing the biometric identification the client is provided access to the secured resource indicated by box18 in figure 8". In the system of Glass, upon passing the biometric identification the client is provided access to the secured resource indicated by box 18 in figure 8 is equivalent to capturing device [client computer, imaging system and camera, which are shown by figure 2 and indicated by box 1], corresponds to capturing device receiving and verifying acknowledgement of the receipt of the transmitted locally verified captured image to the storage facility because host computer system is permitted access to the secured resource).

Glass however has not disclosed indelibly marking the captured image with the information with date, and location.

In the same field of endeavor Cahill discloses indelibly marking the captured image with the information with date, time and location (Cahill, in page 6, left-column, lines 41-43, states figure shows implementation of the data embedding to image bundle shown by figure 1, and page 6, right-column, lines 1-5, geographical location of the

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point of capture, date/time and unique ID associated with camera/photographer is embedded. This corresponds to indelibly marking the captured image with the information with date, time and location).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Cahill in the system of Glass by indelibly marking the captured image with the information with date, and location because such system would provide enhanced security and verification capability in the system of Glass.

Regarding claim 2, Glass discloses capture device is a digital camera (Glass, in col. 4, lines 56-62, states "image is digitized and stored in the memory", which corresponds to digital camera).

Regarding claim 3, Glass disclose a video camera (Glass, in col. 5, lines 49-51, states "image may be CCD camera, a CMOS device or any two dimensional imager". Therefore it is obvious that the system of Glass can use any conventional video camera because it is two-dimensional imager).

Regarding 4, Glass discloses local verification (Glass, in col. 9, lines 30-34 shows digital signature algorithm takes the "image", "token" [time stamp], and "private/secret key" [identification of the camera/creator] as parameter to provide a digital signature of the particular image and which is secure image. Therefore by the process of generation digital signature Glass shows a local verification device for indelibly marking the captured image [digital signature] with the time information [token] and identifying the creator of the data [private/secret key]

Glass has not disclose local verification comprises geographical position and time of determination receiver.

In the same field of endeavor (Cahill, page 6, right-column, lines 1-5, shows geographical location of the point of capture, date/time).

Therefore it would have been obvious to one having ordinary skill in the at the time the invention was made to use the teaching of Cahill in the system of Glass by indelibly marking the captured image with the information with date, and location because such system would provide enhanced security and verification capability in the system of Glass.

Regarding claim 5, Glass discloses secure signature authority for transmitting a of the locally verified image to a certification authority for certification (Glass, col. 10, lines 37-42, states "server sends serial number of camera to central camera certification authority which looks up that camera key. The public key is returned to the server. Server checks that the image has not been tampered by computing the same digital signal algorithm on the data". This corresponds to secure signature authority for transmitting a of the locally verified image to a certification authority for certification), and

return of a certificate of authority which is merged with and becomes part of locally verified image (Glass, in col. 10, lines 46-57, the output of the algorithm is checked against the digital signature from the client if out puts are the same the received image is valid. The sever takes the image and perform the biometric identification. Upon passing the biometric identification the client is provided access to

secure resource. A record of transaction is can be logged by the server system which contains the secure image and the unique camera key". This corresponds to return of a certificate of authority which is merged with and becomes part of locally verified image [log by server of transaction which include secure image and the unique camera key]).

Regarding claim 6, Glass discloses encryption device for encrypting the locally verified image prior to transmission (Glass, in col. 10, lines 62-65, encryption scheme for the data [image] prior to transmission from the client to the server).

## Communication

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherali Ishrat whose telephone number is 703-308-9589. The examiner can normally be reached on 8:00 AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Boudreau can be reached on 703-305-4706. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/674,910

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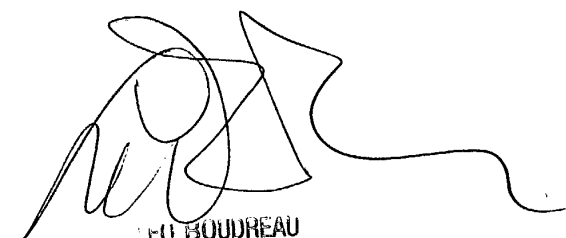


Ishrat Sherali

Patent Examiner

Group Art Unit 2621

October 10, 2004



LEO BOUDREAU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes fields for EXAMINER (SHERALI, ISHRAT I), ART UNIT (2624), and NOTIFICATION DATE (01/08/2010).

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The time period for reply, if any, is set in the attached communication.

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## DETAILED ACTION

### *Double Patenting*

1. 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 obviousness-type double patenting rejection is appropriate where the conflicting claims 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 conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,996,251. Although the conflicting claims are not identical, they are not patentably distinct from each other because independent claim 1 of the U.S. Patent No. 6,996,251 includes all of the limitations recited in independent claims 1 and 14 of the instant application. Similarly dependent claims 2-13 and 15-20 of the instant application are similarly obvious over claims 2-18 of the U.S. Patent No. 6,996,251.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellingson (US 7,043,048).

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Regarding claim 1, Ellingson discloses recording information (See Ellingson Figs. 1-2, col. 2, lines 50-61), comprising:

a capture device for capturing the information (Fig.2 block 200, col. 2, line 4 camera and col. 4, lines 26-29);

a local verification device for marking the captured information with a representation of the date and time of the capture of the information, such that said representation of the date time information becomes a portion of the captured information as bound captured information (col. 4, lines 63-67, metadata such as time stamp name, location and col. 5, lines 4-10);

a data processing unit for placing the bound captured information in combination with owner identification information in a predefined transmission file formatted to be uniquely recognized by a storage facility (Figs. 1 and 2, col. 3, lines 1-3 and col. 4, lines 49-56, and col. 5, lines 1-6, user attribute data and embedding [Fig. 2]); and

a transmitter for transmitting said transmission file with at least one of a number of transmission protocols to said storage facility, wherein said storage facility is operable to s bound captured information in association with a creator and owner of said bound captured information in such a manner that said transmitted transmission file is searchable at said storage facility by predetermined search parameters (col. 5, lines 34-39, transfer with wireless or wire using radio, infrared, modem etc. and user attribute data is and index to database and col. 6, lines 1-5)

Regarding claim 2, Ellingson disclose storage facility generates an acknowledgment of a receipt of said transmitted transmission file to said storage facility, wherein said acknowledgment has associated therewith at least a portion of said information contained within said transmitted transmission file (Ellingson, col. 4, lines 45-56, MD5 and col. 5, lines 61-67 thru col. 6, lines 1-5, index to this database to look up the identity of the photographer).

Regarding claim 3, Ellingson disclose the operation of marking of captured information by local verification device is operable to mark the captured information with a representation of location information representing the location of said capture device at the time of the capture of the information (Ellingson, Fig. 2, col. 5, lines 1-10 GPS/ID signature).

Regarding claim 4, Ellingson disclose local verification includes geo position and time of day (Ellinson, Fig. 2, GPS/time, col., lines 63-67).

Regarding claim 5, Ellinson disclose bound captured information comprise image and capturing device is camera (Ellingson, Fig. 2, col. 2, lines 1-4 and col 3, lines 53-56 camera and video camera).

Regarding claim 6 Ellingon disclose transmission of file occurs in real time (Ellingson, col. 5, lines 33-39).

Regarding claim 7, Ellinson disclose captured information is other data and capture device is data acquisition (Ellingson Fig. 2, col. 4, lines 12-20).

Regarding claim 8, Ellingson disclose certifier for transmitting a representation of said locally verified captured information to a Certification Authority (CA) as a trusted third party for certification thereof and return of a

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certificate of authority, which is merged with and becomes a part of said captured information (Ellingson, Fig. 3, col. 5, lines 44-49).

Regarding claim 9, Ellingson disclose an encryption device for encrypting bound captured information prior to transmission thereof with a first level of encryption to provide an encrypted file, which first level of encryption constitutes a symmetrical encryption algorithm that has a secret key available only to said owner and wherein said encrypted file is placed in combination with said owner information in said transmission file, wherein storage facility is operable to store only said encrypted file in association with said owner (Ellingson, col. 3, lines 22-50 Encryption user attribute data).

Regarding claim 10, Ellingson disclose first level of encryption comprises a has unique ID associated with said capture device to create a private key with no associated key, wherein said owner has possession of said private key (Ellingson, col. 3, lines 22-50)

Regarding claims 11-13, Ellingson disclose the details of claims in col. 3, lines 22-55.

Regarding claims 14-20, see claims 1-13 above.

### ***Communication***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherali Ishrat whose telephone number is 571-272-7398. The examiner can normally be reached on 8:00 AM - 4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

./Sherali Ishrat/

Primary Examiner, Art Unit 2624

January 3, 2010



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11/621,062	01/08/2007	Michael F. Malone	MPOR-28133	1476
25883	7590	10/01/2009	EXAMINER	
HOWISON & ARNOTT, L.L.P			SHERALI, ISHRAT I	
P.O. BOX 741715			ART UNIT	PAPER NUMBER
DALLAS, TX 75374-1715			2624	
			NOTIFICATION DATE	DELIVERY MODE
			10/01/2009	ELECTRONIC

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## DETAILED ACTION

### Election/Restriction

1. Applicant's response to election/restriction requirement received on 6/22/2009 is acknowledged. Applicant elected claims 12-21 without traverse. Election/Restriction requirement is made final.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 12-21 are rejected under 35 U.S.C. 103(a) as being anticipated Ellington (US 7043048).

Regarding claim 1, Ellington discloses storing a and indexing information, information comprising a primary and a secondary part (Ellington, Figs. 2-3, col. 6, lines 1-5 "photos" are captured hashed and stored in a database along with "information about the person". The user attribute data extracted from image is used as index. This corresponds to storing a and

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indexing information, information comprising a primary [photo] and a secondary part [user information]/information about the person) comprising the steps of extracting secondary part the combined information (Ellingson 2-3, col. 6, lines 3-4, the user attribute data is extracted from the image);

receiving set of information that is comprised of first set of information in a first format and a second set of information in a second set of information to provide a received set of information in a combination format (Fig. 1 col. 2, 62-67, captures a user attribute data of the user of the device and allow capture at or near the time capture of the media in which it is embedded. This corresponds to receiving set of information that is comprised of first set of information in a first format and a second set of information in a second set of information to provide a received set of information in a combination format);

extracting the first and second set of information from the received set of information (col. 6, lines 3-4, the user data is extracted from the image, it would be inherent that by extracting user data from image, the image is also extracted);

converting second set of information to an intermediate set of information intermediate format (col. 5, lines, 9-15, For example metadata such as time stamp, location may be concatenated with identifier representing user attribute data and encoded with the into the image. This corresponds to converting second set of information to an intermediate set of information intermediate format );

combining the set of information and the intermediate set of information into combination data set (col. 5, lines 9-15, For example metadata such as time stamp, location may be concatenated with identifier representing user attribute data and encoded with the into the image.);

indexing and storing the combination data set such that combination data set can be subsequently indexed and searched (Ellingson, col. 6, lines 1-5 “photos” are captured hashed and stored in a database along with “information about the person . The user attribute data extracted from the image is used as an index to this data base).

Regarding claim 13, Ellingson discloses combining intermediate set of information with first set of information embeds the intermediate set of information with the first set of information in the first format (Ellingson, Fig. 2, col. 5, lines 24-25)..

Regarding claims 14-15, Ellingson discloses first set of information comprises information from image/video and second set of information includes audio (Ellingson, Figs. 2-3, col. 5, lines 24-30 and col. 6, lines 24-30).

Regarding claim 16, Ellingson discloses digitally formatted into first and second digitally formatted data (Fig. 2, col. 5, lines 24-26) , comprised of file number assigned to each first and second digitally formatted data (col. 5, lines 8-10, Ellingson discusses file, there has to be unique file number because the are various images and user attribute data).

Regarding claim 17, Ellingson discloses time stamping associated with first and second information (Ellingson, Fig 2, col. 5, lines 8-12)

Regarding claim 18, Ellingson discloses the second set of information is embedded with the first set of information (Fig. 2, lines 24-28).

Regarding claim 19, see claims 12 and 14-15 analysis above.

Regarding claim 20, Ellingson discloses intermediate set of comprise (Ellingson col.5, lines 9-18).

Regarding claim 21, digitized audio and video each have file naming structure ( col. 5, lines 8-10, and col. 6, lines 24-30 .Ellingson discusses file, there has to be unique file number because the are various images and user attribute data such as audio/voice).

## **Communication**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherali Ishrat whose telephone number is 571-272-7398. The examiner can normally be reached on 8:00 AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Sherali Ishrat/

Primary Examiner, Art Unit 2624i

September 27, 2009



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15/450,494 03/06/2017 MICHAEL F. MALONE MPOR-33483 7272

25883 7590 04/07/2017
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Table with 1 column: EXAMINER

SHERALI, ISHRAT I

Table with 2 columns: ART UNIT, PAPER NUMBER

2667

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

04/07/2017

ELECTRONIC

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<b>Office Action Summary</b>	<b>Application No.</b> 15/450,494	<b>Applicant(s)</b> MALONE ET AL.	
	<b>Examiner</b> ISHRAT I. SHERALI	<b>Art Unit</b> 2667	<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 \_\_\_\_\_.  
 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 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) \_\_\_\_\_ is/are rejected.
- 8)  Claim(s) \_\_\_\_\_ is/are objected to.
- 9)  Claim(s) 1 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.

**Attachment(s)**

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

## Notice of Pre-AIA or AIA Status

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

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims directed toward purely data such as alphanumeric data, image data, video data or music data are not directed toward a process since the data by itself does not perform any steps or acts. And, the claims are not directed toward machine, manufacture or composition of matter because those categories require a tangible object which is not satisfied by pure data. Furthermore, even if the data is placed on a non-transitory computer readable media (i.e. manufacture) the claims would still be ineligible because the thrust of the claims are directed toward the data with the non-transitory computer readable media acting as merely a carrier of that data.

3. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter since the claims are directed toward data which is not any of the four eligible categories of invention. Claim 1, recites in the preamble and body of the claim image data or other data. Based on the broadest reasonable

interpretation, claim is directed processing of data instead of image data. As explained above claim just processing data is non-statutory because claim 1 is not directed toward machine, manufacture or composition of matter because those categories require a tangible object which is not satisfied by pure data

### ***Double Patenting***

4. 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 conflicting claims 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); *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 nonstatutory double patenting provided the reference application or patent either is shown to be commonly owned with the examined application, or claims an invention made as a

result of activities undertaken within the scope of a joint research agreement. See MPEP § 717.02 for applications subject to examination under the first inventor to file provisions of the AIA as explained in MPEP § 2159. See MPEP §§ 706.02(l)(1) - 706.02(l)(3) for applications not subject to examination under the first inventor to file provisions of the AIA. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO Internet website contains terminal disclaimer forms which may be used. Please visit [www.uspto.gov/patent/patents-forms](http://www.uspto.gov/patent/patents-forms). The filing date of the application in which the form is filed determines what form (e.g., PTO/SB/25, PTO/SB/26, PTO/AIA/25, or PTO/AIA/26) 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 [www.uspto.gov/patents/process/file/efs/guidance/eTD-info-l.jsp](http://www.uspto.gov/patents/process/file/efs/guidance/eTD-info-l.jsp).

5. Claim 1 is rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,996,251. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim the same subject matter because independent claim 1 of instant application include limitations recited in independent claim 1 of U.S. Patent No. 6,996,251.

Regarding claim 1 of instant application, claim 1 of US Patent No. 6,996, 251 discloses:

An apparatus for recording image or other data in real time (Claim of US Patent 6,996,251, line 1), comprising:

a capture device for capturing the image or other information; a local verification device for indelibly marking the captured image or other information with the date, time, location and information identifying the creator of data (claim 1, lines 1-5 and 10-15);

a transmitter for transmitting the locally verified captured image or other information in real time to a secure storage facility (claim 1, lines 16-20); and

capture device receiving and verifying acknowledgment of the receipt of the transmitted locally verified captured image or other information to the storage facility (claim 1, lines 21-25).

### **Claim Rejections - 35 USC § 103**

6. 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, 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.

7. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glass et al. (US 6,332,193) in view of Cahill et al. (US 2003/0048921 A1).

Regarding claim 1, Glass discloses recording image (Glass, in col. 4, lines 49-52, states “host computer [figure 1, block 2] can be personnel computer or embedded

processor which has sufficient memory to hold the biometric image file”. In the system of Glass this corresponds to recording image), comprising;

a capture device for capturing the image (Glass, in col. 9, lines 26-30, states “The client computer receives the token and sends it to the imaging system 4 in figure 2, The imaging system contain a camera 6 which has secret key. The camera is then instructed to generate a secure image. In the system of Glass the client computer, imaging system and camera, which are shown by figure 2 and indicated by box 1, corresponds to the a capture device for capturing the image)

a local verification device for indelibly marking the captured image with the time information identifying the creator of the data (Glass, in col. 9, lines 30-34, states “The camera accepts the token, captures an image, and uses a digital signature algorithm which takes the image, token, and the camera’s secret key as a parameters to provide a digital signature of the particular image. The camera outputs the secured image to the client”. In the system of Glass camera using digital signature algorithm is a local verification device, which generates local verified secured image. Glass, in col. 10, lines 1-5, states “During camera manufacture private [secret key] and serial number are assigned to each camera”, which is therefore identification of the creator [camera] and in col. 10, lines 19-21, “token is generated using a time stamp”. As discussed above digital signature algorithm takes the “image”, “token” [time stamp], and “private/secret key” [identification of the camera/creator] as parameter to provide a digital signature of the particular image and which is secure image. Therefore by the process of generation of digital signature Glass shows a local verification device for indelibly marking the

captured image [digital signature] with the time information [token] and identifying the creator of the data [private/secret key]);

transmitting the locally verified captured image in real time to a secure facility (Glass, in col. 9, lines 34-38, states “The camera outputs the secured image to client’s computer and the client computer sends the image to the server over the network along with digital signature”. This corresponds to transmitting the locally verified [digital signature] captured image in real time to a secure facility” and in figure 2, Glass shows that communication of image from client’s computer to the server is through firewall which corresponds to secure facility); and

capturing device receiving and verifying acknowledgement of the receipt of the transmitted locally verified captured image to the storage facility (Glass, in col. 10, lines 50-54, states, “The server then take the image and perform the biometric identification indicated by box 16 in figure 8. Upon passing the biometric identification the client is provided access to the secured resource indicated by box18 in figure 8”. In the system of Glass, upon passing the biometric identification the client is provided access to the secured resource indicated by box 18 in figure 8 is equivalent to capturing device [client computer, imaging system and camera, which are shown by figure 2 and indicated by box 1], corresponds to capturing device receiving and verifying acknowledgement of the receipt of the transmitted locally verified captured image to the storage facility because host computer system is permitted access to the secured resource).

Glass however has not disclosed indelibly marking the captured image with the information with date, and location.

In the same field of endeavor Cahill discloses indelibly marking the captured image with the information with date, time and location (Cahill, in page 6, left-column, lines 41-43, states figure shows implementation of the data embedding to image bundle shown by figure 1, and page 6, right-column, lines 1-5, geographical location of the point of capture, date/time and unique ID associated with camera/photographer is embedded. This corresponds to indelibly marking the captured image with the information with date, time and location).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Cahill in the system of Glass by indelibly marking the captured image with the information with date, and location because such system would provide enhanced security and verification capability in the system of Glass.

### ***Communication***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherali Ishrat whose telephone number is 571-272-7398. The examiner can normally be reached on 8:00 AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ISHRAT I SHERALI/

Primary Examiner, Art Unit 2624

February 20, 2016



UNITED STATES PATENT AND TRADEMARK OFFICE

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Table with columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
15/925,988 03/20/2018 MICHAEL F. MALONE MPOR60-34018 5824
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MUNCK WILSON MANDALA L.L.P
P.O. Drawer 800889
DALLAS, TX 75380
EXAMINER SHERALI ISHRAT I
ART UNIT 2667 PAPER NUMBER
NOTIFICATION DATE 10/15/2018 DELIVERY MODE 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):

- IPdocketing@munckwilson.com
admin@dalpat.com
eofficeaction@apcoll.com



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

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

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 1 is directed toward purely data and are not directed toward a process since the data by itself does not perform any steps or acts. And, the claims are not directed toward machine, manufacture or composition of matter because those categories require a tangible object which is not satisfied by pure data. Furthermore, even if the data is placed on a non-transitory computer readable media (i.e. manufacture) the claims would still be ineligible because the thrust of the claims are directed toward the data with the non-transitory computer readable media acting as merely a carrier of that data.

4. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter since the claims are directed toward data which is not any of the four eligible categories of invention. Claim 1 recites in the preamble recording image or other data and recites in the body of the claim a capture device for capturing the image or other information (claim 1 line 2). Based on the broadest reasonable interpretation, claim is directed to processing of data instead of image data.

As explained above claim just processing data is non-statutory because claims 1 is not directed toward machine, manufacture or composition of matter because those categories require a tangible object which is not satisfied by pure data.

## ***Double Patenting***

5. The no statutory 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 time wise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A no statutory double patenting rejection is appropriate where the conflicting claims 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); *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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MPEP § 717.02 for applications subject to examination under the first inventor to file provisions of the AIA as explained in MPEP § 2159. See MPEP §§ 706.02(I)(1) - 706.02(I)(3) for applications not subject to examination under the first inventor to file provisions of the AIA. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

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5. Claim 1 is rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,996,251. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim the same subject matter because independent claim 1 of instant application include limitations recited in independent claim 1 of U.S. Patent No. 6,996,251.

Regarding claim 1 of instant application, claim 1 of US Patent No. 6,996, 251 discloses:

An apparatus for recording image or other data in real time (Claim of US Patent 6,996,251, line 1), comprising:

a capture device for capturing the image or other information; a local verification device for indelibly marking the captured image or other information with the date, time, location and information identifying the creator of data (claim 1, lines 1-5 and 10-15);

a transmitter for transmitting the locally verified captured image or other information in real time to a secure storage facility (claim 1, lines 16-20); and

capture device receiving and verifying acknowledgment of the receipt of the transmitted locally verified captured image or other information to the storage facility (claim 1, lines 21-25).

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a local verification device for indelibly marking the captured image with the time  
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camera accepts the token, captures an image, and uses a digital signature algorithm  
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In the same field of endeavor Cahill discloses indelibly marking the captured image with the information with date, time and location (Cahill, in page 6, left-column, lines 41-43, states figure shows implementation of the data embedding to image bundle

shown by figure 1, and page 6, right-column, lines 1-5, geographical location of the point of capture, date/time and unique ID associated with camera/photographer is embedded. This corresponds to indelibly marking the captured image with the information with date, time and location).

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### ***Communication***

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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ISHRAT I. SHERALI

Examiner

Art Unit 2667

/ISHRAT I SHERALI/

Primary Examiner, Art Unit 2624

October 10, 2018