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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
15/272,013 09/21/2016 MICHAEL F. MALONE MPOR-33317 8747

25883 7590 03/24/2017
HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

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
03/24/2017 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.

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patents@dalpat.com

<b>Office Action Summary</b>	<b>Application No.</b> 15/272,013	<b>Applicant(s)</b> MALONE, MICHAEL F.	
	<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) 1-20 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) 1-20 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.

**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.

### ***Double Patenting***

2. A rejection based on double patenting of the “same invention” type finds its support in the language of 35 U.S.C. 101 which states that “whoever invents or discovers any new and useful process... may obtain a patent therefor...” (Emphasis added). Thus, the term “same invention,” in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the claims that are directed to the same invention so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-20 rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1-20 of prior U.S. Patent No. 8,509,477. This is a statutory double patenting rejection.

The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

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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).

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5. Claims 1-20 are rejected on the ground of non-statutory obviousness-type double patenting as being un-patentable over claims 1-12 of U.S. Patent No. 7,778,438. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claiming the same subject matter of converting information in another format and storing in the database and also independent claim 1 of the U.S Patent No.7,778,438 includes all of the limitations recited in independent claims 1 of the instant application, except claim 1 of the instant application also include “transmitting defined set of first captured information and the defined set of stored captured information to a remote location . Since independent claim 1 of the U.S Patent No 7,778,438 recites in the preamble “comprising” i.e. claim 1 of the U.S Patent No 7,778,438 is open- ended claim therefore it also include transmitting defined set of first captured information and the defined set of stored captured information to a remote location and furthermore independent claim 1 of the U.S Patent No 7,778,438 also

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recite captured information and remote database. Similarly claims 2-20 of the instant application are similarly obvious over claims 1-12 of the U.S. Patent No. 7,778,358.

### ***Communication***

6. 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 571-272-7453. 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).

/ISHRAT I SHERALI/  
Primary Examiner, Art Unit 2667

November 12, 2015



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Table with columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO., EXAMINER, ART UNIT, PAPER NUMBER, NOTIFICATION DATE, DELIVERY MODE. Includes details for application 15/824,087, inventor Michael F. Malone, and examiner SHERALI, ISHRAT I.

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):

admin@dalpat.com
cofficeaction@apcoll.com
IPdocketing@munckwilson.com

<b>Office Action Summary</b>	<b>Application No.</b> 15/824,087	<b>Applicant(s)</b> MALONE, MICHAEL F.	
	<b>Examiner</b> ISHRAT I. SHERALI	<b>Art Unit</b> 2667	<b>AIA (First Inventor to File) Status</b> No

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- 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) 1-20 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) 1-20 is/are rejected.
- 8)  Claim(s) \_\_\_\_\_ is/are objected to.
- 9)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

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**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)).

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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 Objection***

2. Claims 1-20 are objected because independent claims 1 and 20 are directed toward data which is not any of the four eligible categories of invention. Claims 1 and 20 do not recite in the preamble and body of the claims image /audio data or any other kind of data. Based on the broadest reasonable interpretation, claims are directed processing of data instead of image/audio/voice data . Claims 1 and 20 are not directed toward machine, manufacture or composition of matter because those categories require a tangible object which is not satisfied by pure data.

3. 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.

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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).

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4. Claims 1-20 are rejected on the ground of non-statutory obviousness-type double patenting as being un-patentable over claims 1-12 of U.S. Patent No. 7,778,438.

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Although the conflicting claims are not identical, they are not patentably distinct from each other because they claiming the same subject matter of converting information in another format and storing in the database and also independent claim 1 of the U.S Patent No.7,778,438 includes all of the limitations recited in independent claims 1 and 20 of the instant application, except claims 1 and 20 of the instant application also include "transmitting defined set of first captured information and the defined set of stored captured information to a remote location . Since independent claim 1 of the U.S Patent No 7,778,438 recites in the preamble "comprising" i.e. claim 1 of the U.S Patent No 7,778,438 is open- ended claim therefore it also include transmitting defined set of first captured information and the defined set of stored captured information to a remote location and furthermore independent claim 1 of the U.S Patent No 7,778,438 also recite captured information and remote database.

Similarly claims 2-19 of the instant application are similarly obvious over claims 1-12 of the U.S. Patent No. 7,778,438.

### ***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 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2667

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/ISHRAT I SHERALI/  
Primary Examiner, Art Unit 2667

March 1, 2018



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/358,455	03/19/2019	Michael F. Malone	MPOR60-34549	6531
25883	7590	09/18/2019	EXAMINER	
MUNCK WILSON MANDALA L.L.P			SHERALI, ISHRAT I	
P.O. Drawer 800889			ART UNIT	
DALLAS, TX 75380			PAPER NUMBER	
			2667	
			NOTIFICATION DATE	
			DELIVERY MODE	
			09/18/2019	
			ELECTRONIC	

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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.

### ***Double Patenting***

2. A rejection based on double patenting of the “same invention” type finds its support in the language of 35 U.S.C. 101 which states that “whoever invents or discovers any new and useful process... may obtain a patent therefor...” (Emphasis added). Thus, the term “same invention,” in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the claims that are directed to the same invention so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-17 are rejected 35 USC 101 as claiming the same invention as that of claims 1-17 of U.S. prior U.S. Patent No. 10, 237,067. This is a statutory double patenting rejection and cannot be overcome by filing terminal disclaimer.

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(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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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-I.jsp](http://www.uspto.gov/patents/process/file/efs/guidance/eTD-info-I.jsp).

4. Claims 1-17 are rejected on the ground of non-statutory obviousness-type double patenting as being un-patentable over claims 1-12 of U.S. Patent No. 7,778,438. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claiming the same subject matter of converting information in another format and storing in the database and also claims 1-12 of the U.S Patent No.7,778,438 includes all of the limitations recited in independent claims 1 and 20 of the instant application, except claims 1 and 20 of the instant application also include “transmitting defined set of first captured information and the defined set of stored captured information to a remote location and encrypting/decrypting composite data. Since independent claim 1 of the U.S Patent No 7,778,438 recites in the preamble “comprising” i.e. claim 1 of the U.S Patent No 7,778,438 is open- ended claim therefore it also include transmitting defined set of first captured information and the defined set of stored captured information to a remote location and encrypting/decrypting composite data. Furthermore independent claim 1 of the U.S Patent No 7,778,438 also recite captured information and remote database.

Similarly claims 2-19 of the instant application are similarly obvious over claims 1-12 of the U.S. Patent No. 7,778,438.

### ***Communication***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISHRAT I SHERALI whose telephone number is 571-272-7398. The examiner can normally be reached on Monday-Friday 8:00AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella 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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/ISHRAT I SHERALI/  
Primary Examiner, Art Unit 2667

ISHRAT I. SHERALI  
Examiner  
Art Unit 2667

September 14, 2018