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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/678,964	02/26/2007	Christopher Morton	D068/069987-073	2795
29391	7590	03/18/2010	EXAMINER	
BEUSSE WOLTER SANKS MORA & MAIRE, P. A. 390 NORTH ORANGE AVENUE SUITE 2500 ORLANDO, FL 32801			LE, THANH C	
			ART UNIT	PAPER NUMBER
			2618	
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Please find below and/or attached an Office communication concerning this application or proceeding.

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

Office Action Summary	Application No. 11/678,964	Applicant(s) MORTON ET AL.	
	Examiner THANH C. LE	Art Unit 2618	

-- 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 26 February 2007.
- 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) 1-34 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4a) Of the above claim(s) _____ is/are withdrawn from consideration.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) 1-34 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 _____ 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 Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/9/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. 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 –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-8, 10, 12-17, 19, 21-26, 28 and 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Newman (US 5,907,816).

3. With respect to claims 1, 13 and 21, New man teaches a communication system comprising a first and a second radiator ((20 and 20a) each comprising a plurality of structural elements (21-24 and 21a-24a); a controller (40 controlling switches 33-35 and switches 33a-35a) for configuring one or more of the structural elements of the first radiator to produce first operating characteristics of the first radiator, the first radiator producing a first received signal responsive to the first operating characteristics (i.e., first user via receiver 18; column 6, lines 18-55); the controller for configuring one or more of the structural elements of the second radiator to produce second operating characteristics of the second radiator different than the first operating characteristics, the second radiator producing a second signal responsive to the second operating characteristics (i.e., second user via receiver 18a; column 6, lines 55-64);and a signal processor (40) responsive to at least one of the first and the second received signals for determining the information signal (column 8, line 50 through column 9, line 39).

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With respect to claim 3, Newman teaches that the information signal comprises an analog signal or a digital signal. It is noted that cellular will process either formats.

With respect to claims 4-5, Newman teaches that the control signal produced by the controller responsive to a signal quality metric (i.e., radiation intensity) of at least one of the first and the second received signals (figure 3 and its corresponding texts).

With respect to claims 6-7, Newman teaches that the signal processor is responsive to either the first received signal, the second received signal or a combination of the first and the second received signals for determining the information signal (see column 6, lines 49-52) or weighting process (column 13, lines 34-39).

With respect to claim 8, Newman teaches that the controller reconfigures one or both of the structural elements of the first radiator and the structural elements of the second radiator with time (figure 3).

With respect to claim 10, Newman teaches that the first and the second radiators further comprise one or more switching elements (figure 1, 33-35).

With respect to claims 13-17, 19, 22-26 and 27 are corresponding claims of claims 1, 3-8 and 10; therefore, they are rejected for the same reasons.

With respect to claims 30-34, claims 30-34 are the broader versions of claims and 13 above (i.e., One or more structure elements instead of radiator comprising one or more structure elements); therefore, they are also rejected for the same reasons.

Claim Rejections - 35 USC § 103

4. 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.

5. Claims 2, 9, 11, 18, 20, 27 and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Newman.

With respect to claim 2, Newman fails to the process of placing first and second antennas at separate distance in order to avoid the correlation between received signals. It is common knowledge in the art that interference is the most issue that antenna designer would like to avoid so that antenna spacing should have taken into consideration for the diversity design. Therefore, it would have been obvious to one skill in the art to provide Newman antennas with proper spacing in order to correlation between the received signals.

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With respect to claims 9 and 11, the examiner takes an official notice the smart antenna system includes feed/ground point or using polarization patterns is well known in the art in order to establish proper and reliable communication. Therefore, these antenna characteristics would have been obvious to one skill in the art.

With respect to claims 18, 20, 27 and 29, these claims have the same limitations with claims 9 and 11; therefore, they are rejected for the same reasons.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Khatri and Shapira teaches mobile system using plural set of antenna arrays for supporting plural operation characteristics.

Kasami and Lindernmeier teach antenna switching process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THANH C. LE whose telephone number is (571)272-5027. The examiner can normally be reached on 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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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.

TCL
3/15/10

/Thanh C Le/
Primary Examiner, Art Unit 2618