

REMARKS/ARGUMENTS

After the foregoing Amendment, claims 13-15 are currently pending in this application.

Claim Rejections - 35 U.S.C. § 102

Claim 15 is rejected under pre-AIA 35 U.S.C. 102(e) as being anticipated by Jalali (US patent number 6,778,507).

Claim Rejections - 35 U.S.C. § 103

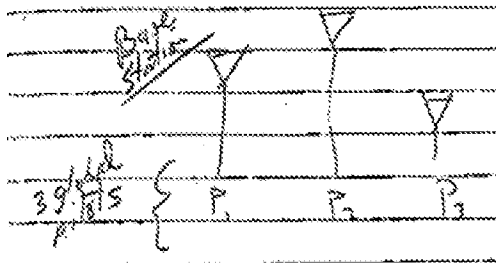
Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jalali (US patent number 6,778,507, newly cited) in view of Vook et al., Vook hereinafter (US patent number 5,982,327).

The Office Action states the Declaration Pursuant to CFR §1.131 filed on November 13, 2014 was insufficient to establish a conception of invention prior to the effective date of the Jalali reference. The Office Action on page 3 of the Non-Final response dated December 15, 2014 further states, “[t]he evidence shows that (see page 5 and the respective figure for receiving the data) each of the received data is despreaded using 3 PN codes, however, no evidence showing that the received data is transmitted by the base station and is for a single user as claimed. Other than the base station using P1, P2 and P2, believing that P stands for pilot signals, there is no single user data shown transmitted by the base station in the

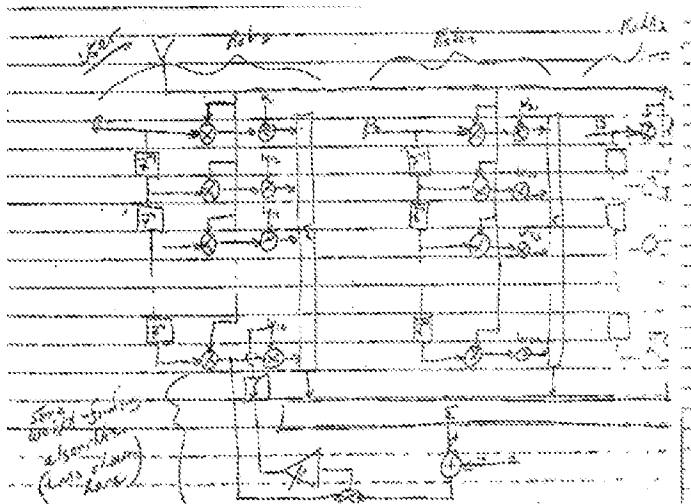
figures (see figures in pages 3 and 4 of the affidavit). It should be noted that the received data by the user station can be multi-user data received by a user station not a single user data.”

However, the Applicant respectfully submits that the evidence shows that a single user data is transmitted by a base station to a user.

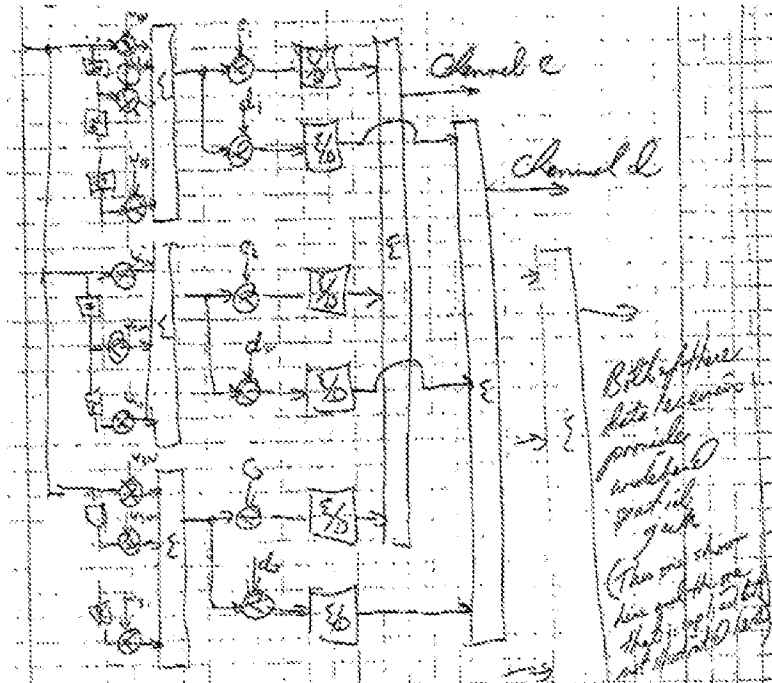
Page 4 of the evidence shows that the base station sends a pilot, P1-P3, for each antenna:



Also on page 4, it is shown that a user receiving the pilots:



Page 5 shows the data receiving structure, where codes c1-c3 are used to produce the data for channel c (single user data). Similarly, d1-d3 are used to produce data from channel d (single user data).



The top of page 5 states “all data channels would now be carried on 3 PN codes instead of 1 – one for each antenna element.”

Accordingly, applicant respectfully submits that the evidence does show that “the received data is transmitted by the base station and is for a single user,” such as codes C1-C3 carrying single user data (channel C) being transmitted from a base station.

With respect to diligence, applicant respectfully disagrees. The affidavit states in point 3, in part, that the inventor worked with internal and outside patent counsel to prepare and file the 09/394,452 application. Furthermore, attached to this Response is a letter from outside counsel including a draft of the application (partially redacted), dated August 3, 1999, which date is prior to the Jalali filing date of September 1, 1999. Per MPEP 2138.06, IV, this draft is sufficient to show conception and the diligence to filing the application. (“The diligence of attorney in preparing and filing patent application inures to the benefit of the inventor. Conception was established at least as early as the date a draft of a patent application was finished by a patent attorney on behalf of the inventor. Conception is less a matter of signature than it is one of disclosure. Attorney does not prepare a patent application on behalf of particular named persons, but on behalf of the true inventive entity.”)

As a result, applicant respectfully submit that conception with diligence has been established from a date prior to Jalali.

Based on the arguments presented above, withdrawal of the 102(e) rejection of claim 15 and of the 103(a) rejection of claims 13 and 14 is respectfully requested.

Applicant: David K. Mesecher
Application No.: 12/901,616

Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing, Applicant respectfully submits that the present application, including claims 13-15, is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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JMG/JDW/bbf
Enclosure