

Office Action Summary	Application No. 08/896,727	Applicant(s) Lang
	Examiner Huy Nguyen	Group Art Unit 2712

Responsive to communication(s) filed on Jun 1, 1998

This action is FINAL.

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.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 195-218 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 195-218 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152.

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Application/Control Number: 08/896,727

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Art Unit: 2712

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. See *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© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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 195 -218 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-70 of Patent No.4,963,995 . Although the conflicting claims are not identical, they are not patentably distinct from each other because the difference between claims 195-218 of the present application and US Pat No .4,963,995 is that claims 195-218.of the present application recites that the video information is representing for a full motion program . However, it is noted that transmitting and receiving a video motion program is well known in the art at the time the invention was made . Therefore, Official Notice is taken and it would have been obvious to one of ordinary skill in the art to modify claims 1- 80 of US Pat No. 4,963,995 by providing the transreceiver as recited in claim 1-80 of the US Pat No.

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Art Unit: 2712

4,963,995 with the video information as motion video information and transmitting the video motion program from the transceiver apparatus to produce the claims 195-218 of the present application.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Nguyen whose telephone number is (703) 305-4775. The examiner can normally be reached on Monday to Friday from 6:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

4. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

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Art Unit: 2712

(703) 308-5399, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

HUY T. NGUYEN
PATENT EXAMINER

H.N

September 25, 1998

APBU-00000660

MAR-25-1999 13:41

IUT, SAN FRANCISCO

415 391 3392 P.02

#39

4-6-99

Mjc



Please type a plus sign (+) inside this box →

PTO/SB/01 (11-98)
Approved for use through 6/30/99. OMB 0651-0035
Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT, NOT ACCOMPANYING APPLICATION	Application Number	08/896,727
	Filing Date	07/18/97
	First Named Inventor	Lang
	Group An Unit	2712
	Examiner Name	H. Nguyen
	Attorney Docket Number	81605

I hereby appoint:

Practitioners at Customer Number → Place Customer Number Bar Code Label here
OR
 Practitioner(s) named below:

Name	Registration Number
Charles B. Katz	36,564
John S. Ferrell	34,593
Robert D. Wasson	40,218
Gregory J. Koerner	38,519

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

The above-mentioned Customer Number.
OR
 Firm or Individual Name Carr & Ferrell LLP

Address 2225 East Bayshore Road, Suite 200

City Palo Alto State CA ZIP 94303

Country USA

Telephone (650) 812-3400 Fax (650) 812-3444

I am the:

Applicant.
 Assignee of record of the entire interest
Certificate under 37 CFR 3.73(b) is enclosed

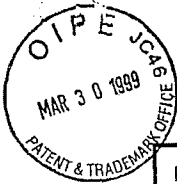
SIGNATURE of Applicant or Assignee of Record

Name	Richard A. Lang
Signature	
Date	3-26-99

⊕ Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

TOTAL P.02

APBU-0000661



#40
4-6-99
Mjc

Approved for use through 9/30/00, OMB 0651-0031
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional) 816US
In re Application of <u>Richard Lang</u>		
Application Number <u>08/896,727</u>	Filed <u>7-18-97</u>	
For <u>Burst Transmission Apparatus and Method...</u>		
Group Art Unit <u>2712</u>	Examiner <u>H. Nguyen</u>	

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

<input type="checkbox"/>	One month (37 CFR 1.17(a)(1))	\$ _____
<input type="checkbox"/>	Two months (37 CFR 1.17(a)(2))	\$ _____
<input checked="" type="checkbox"/>	Three months (37 CFR 1.17(a)(3))	\$ <u>870</u>
<input type="checkbox"/>	Four months (37 CFR 1.17(a)(4))	\$ _____
<input type="checkbox"/>	Five months (37 CFR 1.17 (a)(5))	\$ _____

Applicant is a small entity under 37 CFR 1.9 and 1.27, therefore the fee amount shown above is reduced by one-half, and the resulting fee is: \$ 435.
A small entity statement under 37 CFR 1.27:

is enclosed.

has already been filed in this application.

A check in the amount of the fee is enclosed.

The Commissioner has already been authorized to charge fees in this application to a Deposit Account.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 06-0600. I have enclosed a duplicate copy of this sheet.

I am the assignee of record of the entire interest.
 applicant.
 attorney or agent of record.
 attorney or agent under 37 CFR 1.34(a).
Registration number if acting under 37 CFR 1.34(a) _____

3-25-99 Date

Charles B. Katz Signature
Charles B. Katz, Reg. No. 36,564
Typed or printed name

Burden Hour Statement: This form is estimated to take 0.1 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



Approved for use through 9/30/00. OMB 0651-0031
 Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
 Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional) 816US
In re Application of Richard Lang		
Application Number	08/896,727	Filed 7-18-97
For Burst Transmission Apparatus and Method...		
Group Art Unit	Examiner	
2712	H. Nguyen	

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

<input type="checkbox"/>	One month (37 CFR 1.17(a)(1))	\$ _____
<input type="checkbox"/>	Two months (37 CFR 1.17(a)(2))	\$ _____
<input checked="" type="checkbox"/>	Three months (37 CFR 1.17(a)(3))	\$ 870
<input type="checkbox"/>	Four months (37 CFR 1.17(a)(4))	\$ _____
<input type="checkbox"/>	Five months (37 CFR 1.17 (a)(5))	\$ _____

Applicant is a small entity under 37 CFR 1.9 and 1.27, therefore the fee amount shown above is reduced by one-half, and the resulting fee is: \$ 435
 A small entity statement under 37 CFR 1.27:

is enclosed.

has already been filed in this application.

A check in the amount of the fee is enclosed.

The Commissioner has already been authorized to charge fees in this application to a Deposit Account.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 06-0600. I have enclosed a duplicate copy of this sheet.

I am the assignee of record of the entire interest.
 applicant.
 attorney or agent of record.
 attorney or agent under 37 CFR 1.34(a).
 Registration number if acting under 37 CFR 1.34(a) _____

3-25-99
Date

Signature

Charles B. Katz, Reg. No. 36,564
Typed or printed name

Burden Hour Statement: This form is estimated to take 0.1 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

#41
4-6-99
MJC



IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

APPLICANT: Richard Lang
SERIAL NO.: 08/896,727
FILING DATE: July 18, 1997
TITLE: Burst Transmission Apparatus and Method for
Audio/Video Information
EXAMINER: Huy Nguyen
ART UNIT: 2712
ATTY. DKT. NO: 816US

RECEIVED
APR 05 1999
Group 2700

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date printed below:

Date: March 25, 1999

Charles B. Katz

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE

In response to the Office Action mailed September 28, 1998, paper number 38, please consider the remarks set forth below:

04/01/1999 NHASSAHI 00000021 08896727
01 FC:217 435.00 CP

REMARKS

Reconsideration of the Application is hereby respectfully requested.

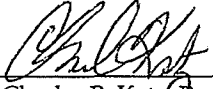
Claims 195-218 are pending in the Application. In the aforementioned Office Action, claims 195-218 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-70 of co-owned U.S. Pat. No. 4,963,995 (the '995 Patent). To overcome this rejection, Applicant has enclosed herewith a terminal disclaimer in compliance with 37 C.F.R. §1.321. Withdrawal of the rejection and passage of the Application to issue is thus believed to be in order.

If the Examiner has questions regarding this case, he is invited to telephone the Applicant's undersigned representative at the number given below.

Respectfully submitted,
Richard Lang

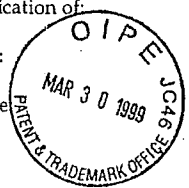
Date: 3-24-99

By: _____


Charles B. Katz, Reg. No. 36,564
Carr & Ferrell LLP
2225 East Bayshore Road, Suite 200
Palo Alto, CA 94303
(650) 812-3446

GP 2712 \$

In re application of: Richard Lang
 Serial No.: 08/896,727
 Filing Date: July 18, 1997
 Title: Burst Transmission Apparatus And Method For Audio/Video Information



Atty. Docket No.: 816US

RECEIVED
 APR 05 1999
 Group 2700

ASSISTANT COMMISSIONER FOR PATENTS
 Washington, D.C. 20231

Sir:
 Transmitted herewith is an amendment in the above-identified application.
 Small entity status of this application under 37 CFR §§ 1.9 and 1.27 has been established by a verified statement previously submitted.
 A verified statement to establish small entity status under 37 CFR §§ 1.9 and 1.27 is enclosed.
 No additional fee is required.

The filing fee has been calculated as shown below:

	(Col. 1)		(Col. 2)		(Col. 3)		Small Entity		or	Other Than a Small Entity	
	Claims Remaining After Amendment		Highest Number Previously Paid For		Number of Extra Claims Present		Rate	Additional Fee	or	Rate	Additional Fee
Total	*24	minus	**164		0		x \$9 =	\$		x \$18 =	\$
Indep.	*4	minus	***11		0		x \$39 =	\$	or	x \$78 =	\$
<input type="checkbox"/> First Presentation of Multiple Dependent Claims							+\$130 =	\$		+\$260 =	\$
							Total Fee	\$0.00		Total Fee	\$

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
 ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
 *** If the Highest Number Previously Paid For IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment or the number of claims originally filed.

Please charge my Deposit Account No. 06-0600 in the amount of \$____. A duplicate copy of this sheet is attached.
 A check in the amount of \$____ is attached.
 The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 06-0600. A duplicate copy of this sheet is attached.
 Any filing fees under 37 CFR § 1.16 for the presentation of extra claims.
 Any patent application processing fees under 37 CFR § 1.17.

Dated: March 25, 1999

Respectfully submitted,

 Charles B. Katz, Reg. No. 36,564
 Carr & Ferrell LLP
 2225 East Bayshore Road, Suite 200
 Palo Alto, California 94303
 TEL: (650) 812-3446
 FAX: (650) 812-3444

In re application of: Richard Lang

Serial No.: 08/896,727

Atty. Docket No.: 816US

Filing Date: July 18, 1997

Title: Burst Transmission Apparatus And Method For Audio/Video Information



RECEIVED

ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

APR 05 1999

Group 2700

Sir:

Transmitted herewith is an amendment in the above-identified application.

- Small entity status of this application under 37 CFR §§ 1.9 and 1.27 has been established by a verified statement previously submitted.
- A verified statement to establish small entity status under 37 CFR §§ 1.9 and 1.27 is enclosed.
- No additional fee is required.

The filing fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)	Small Entity		or	Other Than a Small Entity	
	Claims Remaining After Amendment	minus			Rate	Additional Fee		Rate	Additional Fee
Total	*24	minus	**164	0	x \$9 =	\$	or	x \$18 =	\$
Indep.	*4	minus	**11	0	x \$39 =	\$	or	x \$78 =	\$
<input type="checkbox"/> First Presentation of Multiple Dependent Claims					+\$130 =	\$		+\$260 =	\$
					Total Fee	\$0.00		Total Fee	\$

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
- *** If the Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment or the number of claims originally filed.

Please charge my Deposit Account No. 06-0600 in the amount of \$____. A duplicate copy of this sheet is attached.

A check in the amount of \$____ is attached.

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- Any filing fees under 37 CFR § 1.16 for the presentation of extra claims.
- Any patent application processing fees under 37 CFR § 1.17.

Dated: March 25, 1999

Respectfully submitted,

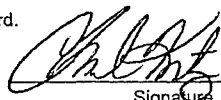
Charles B. Katz, Reg. No. 36,564
Carr & Ferrell LLP
2225 East Bayshore Road, Suite 200
Palo Alto, California 94303
TEL: (650) 812-3446
FAX: (650) 812-3444




#42

#42

Approved for use through 10/31/99, OMB 0851-0031 Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT	Docket Number (Optional) 816US
In re Application of: Richard A. Lang Application No. 08/896,727 Filed: July 18, 1997 For: Burst Transmission Apparatus and Method... Instant Video	
The owner*,Technologies, ...Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No.4,963,995..... The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.	
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.	
Check either box 1 or 2 below, if appropriate.	
1. <input type="checkbox"/> For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.	
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.	
2. <input checked="" type="checkbox"/> The undersigned is an attorney of record.	
04/01/1999 NHASSA 00000021 08896727 02 FC:248	 Signature _____ Date <u>3-25-99</u> Charles B. Katz, Reg. No. 36,564 _____ Typed or printed name
<input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) included.	
*Certification under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.	

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Notice of Allowability	Application No. 08/896,727	Applicant(s) Lang	
	Examiner HUY NGUYEN	Group Art Unit 2712	

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

This communication is responsive to Amendment filed June 1, 1998 and Terminal Disclaimer filed March 30, 1998

The allowed claim(s) is/are 195-218 being renumbered as 1-24

The drawings filed on _____ are acceptable.

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

Applicant MUST submit NEW FORMAL DRAWINGS

because the originally filed drawings were declared by applicant to be informal.

including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. 8

including changes required by the proposed drawing correction filed on Sep 27, 1993, which has been approved by the examiner.

including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

Notice of Draftsperson's Patent Drawing Review, PTO-948

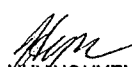
Notice of Informal Patent Application, PTO-152

Interview Summary, PTO-413

Examiner's Amendment/Comment

Examiner's Comment Regarding Requirement for Deposit of Biological Material

Examiner's Statement of Reasons for Allowance


HUY NGUYEN
 PRIMARY EXAMINER

Notice of References Cited		Application No. 08/896,727		Applicant(s) Lang		
		Examiner HUY NGUYEN		Group Art Unit 2712	Page 1 of 1	
U.S. PATENT DOCUMENTS						
*	DOCUMENT NO.	DATE	NAME		CLASS	SUBCLASS
x	A	5,220,420	6/93	Hoarty et al		358 86
	B					
	C					
	D					
	E					
	F					
	G					
	H					
	I					
	J					
	K					
	L					
	M					
FOREIGN PATENT DOCUMENTS						
*	DOCUMENT NO.	DATE	COUNTRY	NAME		CLASS
	N					
	O					
	P					
	Q					
	R					
	S					
	T					
NON-PATENT DOCUMENTS						
*	DOCUMENT (Including Author, Title, Source, and Pertinent Pages)					DATE
	U					
	V					
	W					
	X					

* A copy of this reference is not being furnished with this Office action.
(See Manual of Patent Examining Procedure, Section 707.05(a).)



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

LM61/0901

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD STE 200
PALO ALTO CA 94303

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/896,727	07/18/97	024	NGUYEN, H 2712	06/21/99
First Named Applicant LANG, RICHARD A.				

TITLE OF INVENTION BURST TRANSMISSION APPARATUS AND METHOD FOR AUDIO/VIDEO INFORMATION

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
2 699.US	086-046.000	U77	UTILITY	YES	\$605.00	09/21/99

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

- I. Review the SMALL ENTITY status shown above.
 - If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:
 - A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
 - B. If the status is the same, pay the FEE DUE shown above.
 - If the SMALL ENTITY is shown as NO:
 - A. Pay FEE DUE shown above, or
 - B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.
- II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.
- III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box-ISSUE FEE unless advised to the contrary.

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PATENT AND TRADEMARK OFFICE COPY

PTOL-85 (REV. 10-96) Approved for use through 06/30/99. (0651-0033)

U.S. GPO: 1998-437-639/R0023

5310/7130
5495 9/22/99



IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Richard Lang
SERIAL NO.: 08/896,727 BATCH NO.: U77
FILING DATE: July 18, 1997 NOTICE OF ALLOWANCE: June 21, 1999
TITLE: Burst Transmission Apparatus and Method for Audio/Video Information
EXAMINER: H. Nguyen GROUP ART UNIT: 2712
ATTY.DKT.NO.: PA816US

#44

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Issue Fee, Commissioner of Patents and Trademarks, Washington, D.C. 20231, on the date printed below:

Dated: 9/10/99 John D. Henkhaus
John D. Henkhaus

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ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

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Publishing Division
SEP 16 1999

LETTER TO THE CHIEF DRAFTSMAN

SIR:

Subject to the approval of the Primary Examiner in the above-entitled patent application, please substitute the enclosed four (4) sheets of formal drawings containing Figures 1 through 4 for the four (4) sheets of informal drawings containing Figures 1 through 4 previously submitted.

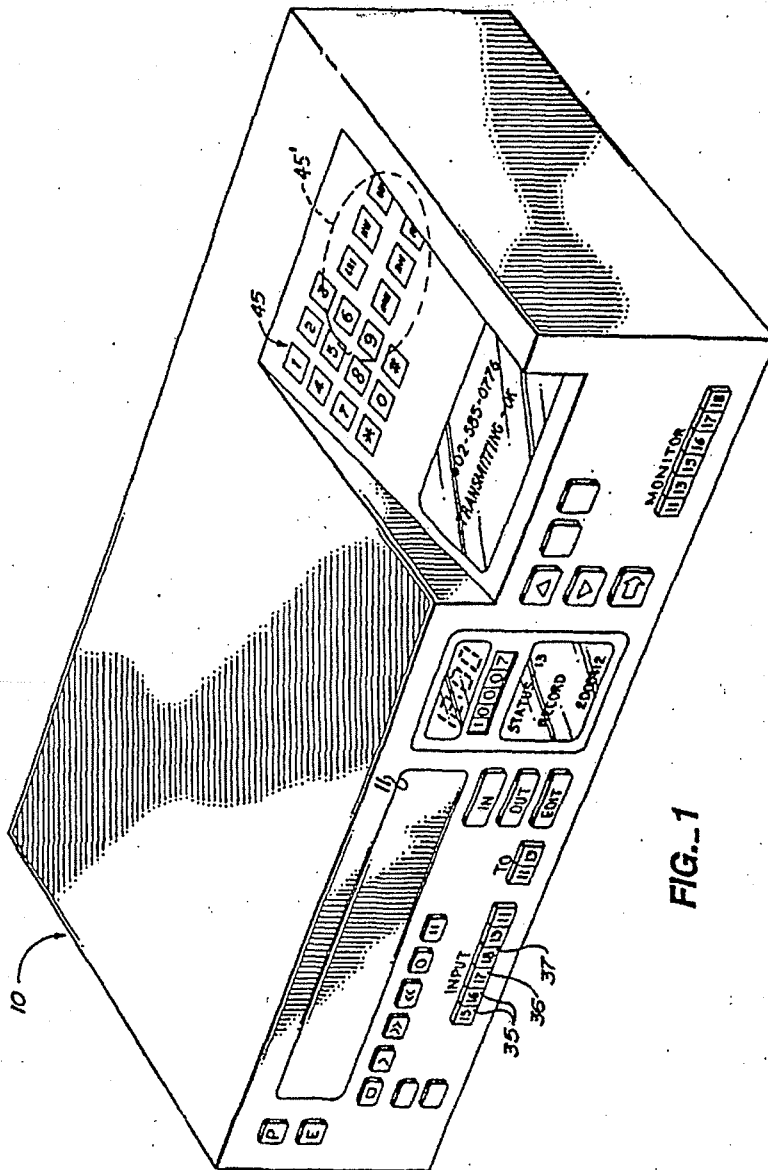
Respectfully submitted,

Richard Lang

Dated: September 10, 1999

By: John D. Henkhaus
John D. Henkhaus, Reg. No. 42,656
CARR & FERRELL LLP
2225 East Bayshore Road, Suite 200
Palo Alto, CA 94303
TEL: (650) 812-3467
FAX: (650) 812-3444

5995705



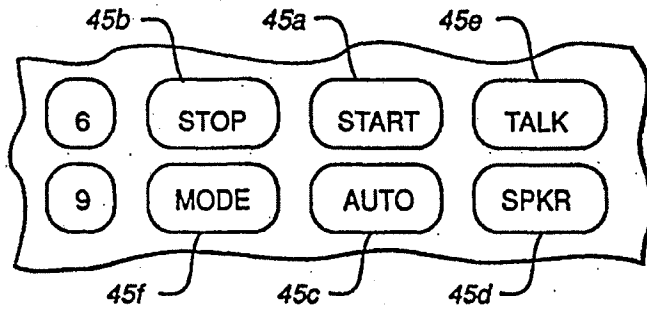


FIG. 1A

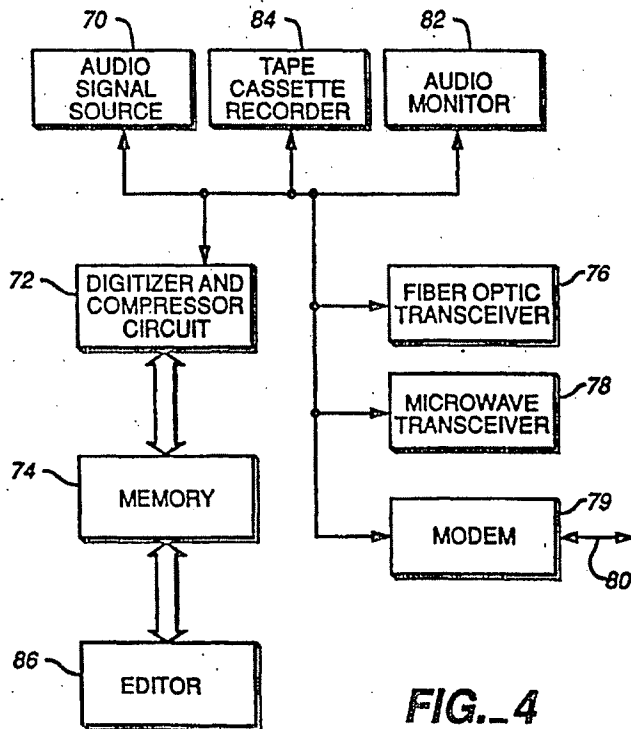


FIG. 4

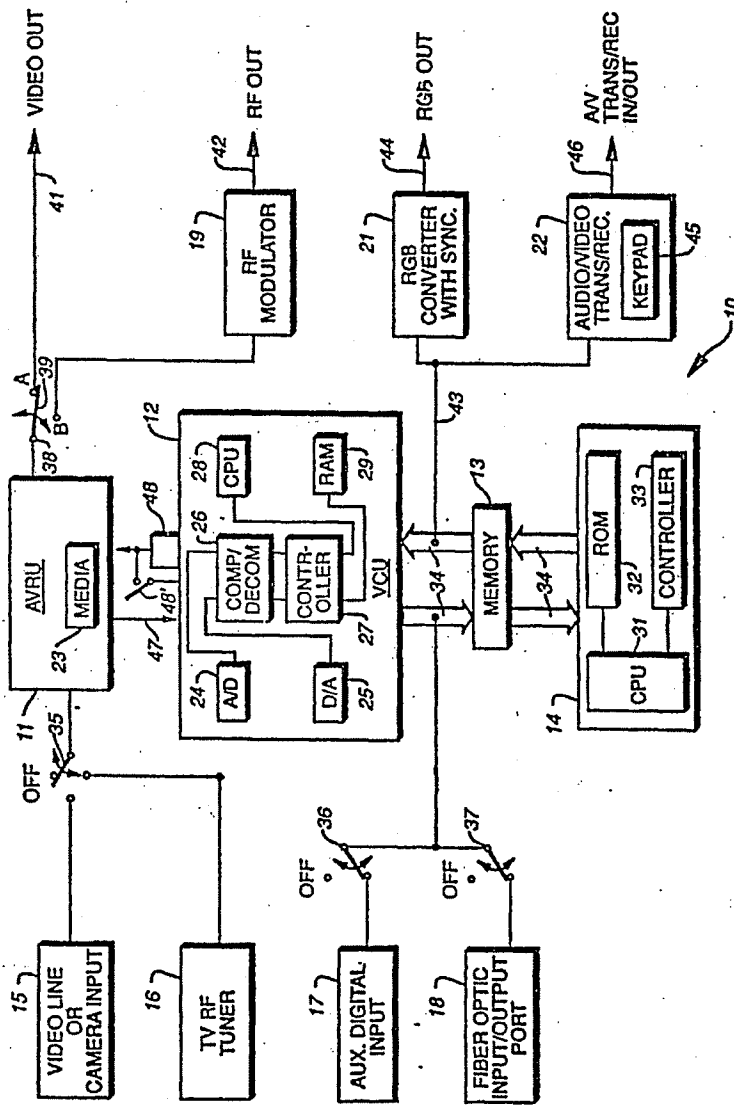


FIG. 2

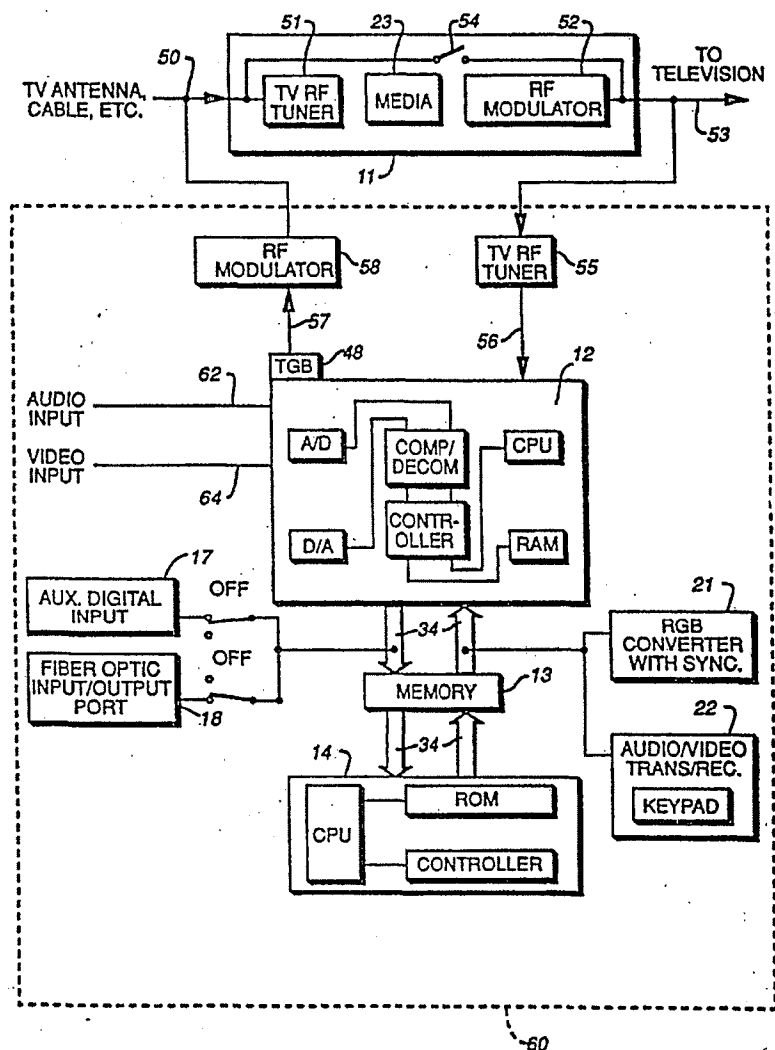


FIG. 3

PART B—ISSUE FEE TRANSMITTAL

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Washington, D.C. 20231**



B/S

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CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD STE 200
PALO ALTO CA 94303

LM61/0901

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John D. Henkhaus (Depositor's name)

John D. Henkhaus (Signature)

9/10/99 (Date)

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP	ART UNIT	DATE MAILED
08/896,727	07/18/97	024	NGUYEN, H	2712	06/21/99
First Named Applicant	LANG, RICHARD A.				

TITLE OF BURST TRANSMISSION APPARATUS AND METHOD FOR AUDIO/VIDEO INFORMATION INVENTION

ATTYS DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN TYPE	SMALL ENTITY	FEE DUE	DATE DUE
2 639. US	386-046.000	U77	UTILITY	YES	\$605.00	09/21/99

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.
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 "Fee Address" indication (or "Fee Address" indication form PTO/SB/47) attached.

2. For printing on the patent front page, list:
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 1 Carr & Ferrell LLP
 2
 3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT. (print or type)
 PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.
 (A) NAME OF ASSIGNEE Instant Video Technologies, Inc.
 (B) RESIDENCE: (CITY & STATE OR COUNTRY) San Francisco, CA
 Please check the appropriate assignee category indicated below (will not be printed on the patent)
 individual corporation or other private group entity government

4a. The following fees are enclosed (make check payable to Commissioner of Patents and Trademarks):
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 Advance Order - # of Copies 12

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 Advance Order - # of Copies 12

The COMMISSIONER OF PATENTS AND TRADEMARKS IS requested to apply the Issue Fee to the application identified above.

(Authorized Signature) *John D. Henkhaus, REG. NO. 42,656* (Date) 9/10/99

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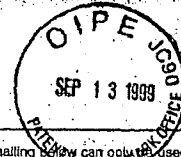
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John D. Henkhaus (Depositor's name)

John D. Henkhaus (Signature)

9/10/99 (Date)

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LM61/0901

**CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD STE 200
PALO ALTO CA 94303**

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/896,727	07/18/97	024	NGUYEN, H 2712	06/21/99

First Named Applicant: **LANG, RICHARD A.**

TITLE OF INVENTION BURST TRANSMISSION APPARATUS AND METHOD FOR AUDIO/VIDEO INFORMATION

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
2 639.US	386-046.000	U77	UTILITY	YES	\$605.00	09/21/99

- Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.
 - Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
 - "Fee Address" indication (or "Fee Address" indication form PTO/SB/47) attached.
- For printing on the patent front page, list:
 - (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
 - Carr & Ferrell LLP
 -
 -

- ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT** (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE Instant Video Technologies, Inc.

(B) RESIDENCE: (CITY & STATE OR COUNTRY) San Francisco, CA

Please check the appropriate assignee category indicated below (will not be printed on the patent)

Individual corporation or other private group entity government
- The following fees are enclosed (make check payable to Commissioner of Patents and Trademarks):
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- The following fees or deficiency in these fees should be charged to:

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The COMMISSIONER OF PATENTS AND TRADEMARKS IS requested to apply the Issue Fee to the application identified above.

(Authorized Signature) John D. Henkhaus, REG. NO. 42,656 (Date) 9/10/99

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

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IC \$09e

IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT NO.: 5,995,705

ISSUE DATE: November 30, 1999

TITLE: Burst Transmission Apparatus and Method for Audio/Video Information

INVENTOR: Richard A. Lang

ATTY.DKT.NO.: PA816US

46

APPROVED **CERTIFICATE**
 APR 15 2002 FEB 27 2002
 FOR THE DIRECTOR OF USPTO OF CORRECTION

COMMISSIONER FOR PATENTS
 WASHINGTON, D.C. 20231

ATTENTION: Decision and Certificate of Correction
 Branch of the Patent Issue Division

**REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR
 APPLICATION'S MISTAKE (37 C.F.R. § 1.323)**

SIR:

It is noted that a minor error appears in this patent as more fully described below. The error occurred in good faith and correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. A Certificate of Correction is requested.

Patent number 5,995,705 ('705) is a file wrapper continuation of application No. 08/624,958, filed March 28, 1996, now abandoned, which is a continuation of application No. 07/976,542, filed Nov. 16, 1992, now abandoned, which is a division of application No. 07/775,182, filed November 11, 1991, now Pat. No. 5,164,839, which is a division of application No. 07/347,629, filed May 5, 1989, now Pat. No. 5,057,932, which is a continuation-in-part of application No. 07/289,776, filed December 27, 1988, now Pat. No. 4,963,995.

02/19/2002 MAHHEDE 00000008 5995705

01 FC:145

100.00 DP

Due to a good faith mistake by applicant, the '705 patent incorrectly identifies application No. 07/775,182 as being a division of application No. 07/289,776. It is, in fact, a division of 07/347,629, which is in turn a continuation-in-part of application No. 07/289,776. Application No 07/775,182, now Pat. No. 5,164,839, correctly identifies its heritage. Applicant's good faith error appears on the cover page of the patent under Section 63- Related U.S. Application Data.

Case law supports the classification of this type of error as being of minor character and correctable by Certificate. In the matter of *In re Lambach*,¹ Patent No. 3,009,855 ('855) was a division of application No. 753,644, which was a continuation-in-part of application No. 531,274.² No claim of priority was made in the '855 specification, but a reference to application No. 753,644 was made in the oath.³ The examiner noticed the reference, and added application No. 753,644 to the specification by examiner's amendment.⁴ The applicant requested a certificate of correction based on 37 CFR 1.322 (PTO mistake) or, in the alternative, 37 CFR 1.323 (Applicant mistake).⁵ The court denied the 1.322 claim, finding that the mistake was, in fact, the applicants, and then denied the 1.323 claim because of the absence of any showing that the mistake was made in good faith.⁶ However, the court specifically stated:

[M]ost of the requirements for granting a Certificate appear to be met. Omission of a reference to an earlier application on which priority is based is a mistake "of minor character" which is correctable by Certificate. In *re Van Esdonk et al.*, 187 USPQ 671. Correction would not involve the addition of new matter, since the relation between the several cases here involved is a matter of record. No reexamination would be required.⁷

The facts involved in the '705 patent are analogous to the facts involving the '855 patent. Both patents made a claim to prior application and both patents incorrectly traced the lineage of

¹ 202 USPQ 620 (Comm'r Pat. 1976).

² *Id.* at 621.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

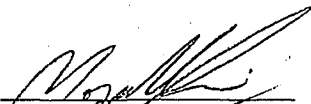
that prior application. Although the Commissioner of Patents and Trademarks denied a Certificate in *Lambrech*, the decision was based on a failure to show that the mistake was made in good faith.⁸ The Commissioner went on to unequivocally state that he would grant a Certificate "if a renewed request is filed, accompanied by a suitable showing of good faith and upon payment of the required fee."⁹

Applicant's attorney (authority pursuant to 37 C.F.R. 1.34(a)) submits a statement (below) attesting to the fact that the aforementioned error was made in good faith. Applicant also encloses a check for the required fee. Should the amount on the check be insufficient, the enclosed fee transmittal form authorizes the Commissioner to charge any additional fees which may be required to Deposit Account No. 06-0600.

Because applicant has satisfied the requirements specified by the Commissioner of Patents and Trademarks, applicant respectfully requests a Certificate of Correction be sent to John S. Ferrell, Esq. at Carr & Ferrell LLP, 2225 East Bayshore Road, Suite 200, Palo Alto, California 94303.

I affirm and acknowledge that the error in tracing the lineage of the prior cited patent application occurred in good faith.

Date: 1/18/02

By: 
Morgan Malino, Reg. No. 41,177
Carr & Ferrell LLP

⁷ *Id.* at 622.

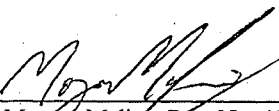
⁸ *In re Lambrech*, 202 USPQ 620, 622 (Comm'r Pat. 1976).

⁹ *Id.*

Respectfully submitted,

Richard A. Lang

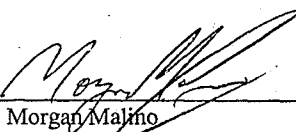
Dated: 1/18/02

By: 
Morgan Malino, Reg. No. 41,177
Carr & Ferrell LLP
2225 East Bayshore Road, Suite 200
Palo Alto, CA 94303
TEL: (650) 812-3400
FAX: (650) 812-3444

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Dated: 1/18/02

By: 
Morgan Malino

PTO/SB/44 (02-01)

Approved for use through 01/31/2004. OMB 0851-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO : 5,995,705
DATED : November 30, 1999
INVENTOR(S) : Richard Lang

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Related U.S. Application Data should read as follows:

[63]Continuation of application No. 08/624,958, filed March 28, 1996, now abandoned, which is a continuation of application No. 07/976,542, filed Nov. 16, 1992, now abandoned, which is a division of application No. 07/775,182, filed November 11, 1991, now Pat. No. 5,164,839, which is a division of application No. 07/347,629, filed May 5, 1989, now Pat. No. 5,057,932, which is a continuation-in-part of application No. 07/289,776, filed December 27, 1988, now Pat. No. 4,963,995.

MAILING ADDRESS OF SENDER:

Carr & Ferrell, LLP
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

PATENT NO. 5,995,705

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PTO/SB/44 (02-01)

Approved for use through 01/31/2004. OMB 0651-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO : 5,995,705
DATED : November 30, 1999
INVENTOR(S) : Richard Lang

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Note

Title Page

Related U.S. Application Data should read as follows:

[63]Continuation of application No. 08/624,958, filed March 28, 1996, now abandoned, which is a continuation of application No. 07/976,542, filed Nov. 16, 1992, now abandoned, which is a division of application No. 07/775,182, filed November 11, 1991, now Pat. No. 5,164,839, which is a division of application No. 07/347,629, filed May 5, 1989, now Pat. No. 5,057,932, which is a continuation-in-part of application No. 07/289,776, filed December 27, 1988, now Pat. No. 4,963,995.

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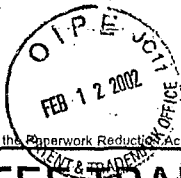
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Palo Alto, CA 94303

PATENT NO. 5,995,705

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FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

Complete If Known

Application Number	08/896,727 (Pat. No. 5,995,705)
Filing Date	July 18, 1997
First Named Inventor	Richard A. Lang
Examiner Name	H. Nguyen
Group Art Unit	2712
Attorney Docket No.	PA816US

TOTAL AMOUNT OF PAYMENT (\$)**100.00**

METHOD OF PAYMENT		FEE CALCULATION (continued)																																																																																																																																																																																								
<p>1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:</p> <p>Deposit Account Number: 06-0600</p> <p>Deposit Account Name: Carr & Ferrell, LLP</p> <p><input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17</p> <p><input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</p> <p>2. <input checked="" type="checkbox"/> Payment Enclosed: <input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> Other</p>		<p>3. ADDITIONAL FEES</p> <table border="1"> <thead> <tr> <th>Fee Code</th> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>105</td><td>130</td><td>206</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>127</td><td>50</td><td>227</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>139</td><td>130</td><td>139</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>147</td><td>2,520</td><td>147</td><td>2,520</td><td>For filing a request for ex parte reexamination</td><td></td></tr> <tr><td>112</td><td>920*</td><td>112</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>113</td><td>1,840*</td><td>113</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>115</td><td>110</td><td>215</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>116</td><td>400</td><td>216</td><td>200</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>117</td><td>920</td><td>217</td><td>460</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>118</td><td>1,440</td><td>218</td><td>720</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>128</td><td>1,960</td><td>228</td><td>980</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>119</td><td>320</td><td>219</td><td>160</td><td>Notice of Appeal</td><td></td></tr> <tr><td>120</td><td>320</td><td>220</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>121</td><td>280</td><td>221</td><td>140</td><td>Request for oral hearing</td><td></td></tr> <tr><td>138</td><td>1,510</td><td>138</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>140</td><td>110</td><td>240</td><td>55</td><td>Petition to revive - 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SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Morgan Malino	Registration No. (Attorney/Agent)	41,177
Signature		Telephone	(650) 812-3400
		Date	January 17, 2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 03/20/2008 Paper No.: 49
TO : Supervisor, Art Unit 2600 (2712)
SUBJECT : Certificate of Correction Request in Patent No.: 5995705

A response to the following question is requested with respect to the accompanying request for a certificate of correction.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

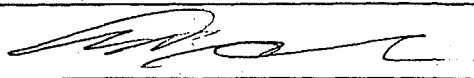
PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. NO. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision, regarding the changes requested in the Request for Certificate of Correction, by placing a check mark (+) in the box that reflects your decision, which corresponds to the question checked above.

YES NO Comments below

Comments:

 2615

Supervisor Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 5,995,705
DATED : November 30, 1999
INVENTOR(S) : Richard Lang

Page 1 of 1

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page.

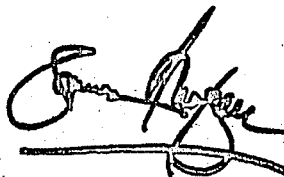
Related U.S. Application Data, should read as follows:

-- [63] Continuation of application No. 08/624,958, filed March 28, 1996, now abandoned, which is a continuation of application No. 07/976,542, filed Nov. 16, 1992, now abandoned, which is a division of application No. 07/775,182, filed November 11, 1991, now Pat. No. 5,164,839, which is a division of application No. 07/347,629, filed May 5, 1989, now Pat. No. 5,057,932, which is a continuation-in-part of application No. 07/289,776, filed December 27, 1988, now Pat. No. 4,963,995.

Signed and Sealed this

Thirtieth Day of April, 2002

Attest:



Attesting Officer

JAMES E. ROGAN
Director of the United States Patent and Trademark Office