EXHIBIT 11

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EXAMINER	
ESCALANTE, OVIDIO	
ART UNIT	**PAPER NUMBER**
3992	

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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.

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CENTRAL REEXAMINATION UNIT

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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

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Transmittal of Communication to Third Party Requester
Inter Partes Reexamination

REEXAMINATION CONTROL NUMBER *95/001,283*.

PATENT NUMBER *7,283,172*.

TECHNOLOGY CENTER *3900*.

ART UNIT *3992*.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the *inter partes* reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an *ex parte* reexamination has been merged with the *inter partes* reexamination, no responsive submission by any *ex parte* third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

OFFICE ACTION IN* INTER PARTES *REEXAMINATION	**Control No.**	**Patent Under Reexamination**	
	95/001,283	7283172	
	Examiner	**Art Unit**	
	OVIDIO ESCALANTE	3992	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --

Responsive to the communication(s) filed by:
Patent Owner on _____
Third Party(ies) on 23 March 2010

RESPONSE TIMES ARE SET TO EXPIRE AS FOLLOWS:

For Patent Owner's Response:
2 MONTH(S) from the mailing date of this action. 37 CFR 1.945. EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.956.
For Third Party Requester's Comments on the Patent Owner Response:
30 DAYS from the date of service of any patent owner's response. 37 CFR 1.947. NO EXTENSIONS OF TIME ARE PERMITTED. 35 U.S.C. 314(b)(2).

All correspondence relating to this inter partes reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

This action is not an Action Closing Prosecution under 37 CFR 1.949, nor is it a Right of Appeal Notice under 37 CFR 1.953.

PART I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892
2. ☒ Information Disclosure Citation, PTO/SB/08
3. ☐ _____

PART II. SUMMARY OF ACTION:

1a. ☒ Claims 1-19 are subject to reexamination.
1b. ☐ Claims _____ are not subject to reexamination.
2. ☐ Claims _____ have been canceled.
3. ☐ Claims _____ are confirmed. [Unamended patent claims]
4. ☐ Claims _____ are patentable. [Amended or new claims]
5. ☒ Claims 1-19 are rejected.
6. ☐ Claims _____ are objected to.
7. ☐ The drawings filed on _____ ☐ are acceptable ☐ are not acceptable.
8. ☐ The drawing correction request filed on _____ is: ☐ approved. ☐ disapproved.
9. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d). The certified copy has: ☐ been received. ☐ not been received. ☐ been filed in Application/Control No _____.
10. ☐ Other _____

DETAILED ACTION

1. This Office action addresses claims 1-19 of United States Patent No. 7,283,172 for which it has been determined in the Order Granting *Inter Partes* Reexamination (hereafter the "Order") that a substantial new question of patentability was raised in the request for *inter partes* reexamination, filed on March 23, 2010 (hereinafter the "Request").

Status of the Claims

2. Original claims 1-19 are rejected.

Rejections Proposed by the Requester

3. The following 4 issues for rejection were proposed in the Request for *inter partes* reexamination (95/001,283):

Issue 1: Cleaner 5 User Manual is asserted as rendering claims 1-19 anticipated.

Issue 2: Cleaner 5 User Manual in view of Cleaner MPEG Charger is asserted as rendering claims 5, 6 and 8 obvious.

Issue 3: Avid Xpress in view of Avid Xpress DV and further in view of MPEG standard is asserted as rendering claims 1-3, 5, 7, 9 and 13-19 obvious.

Issue 4: Washino is asserted as rendering claims 1-12, 15 and 19 anticipated.

Non-Prior Art Arguments

The Requester on page 19 of their Request for Reexamination noted that the Examiner in the '999 application rejected claims 13 and 14 under 35 U.S.C. §112 as being indefinite for reciting editing information based upon an unclear forth and an unclear fifth input. The

Requester notes that claims 13 and 14 of the current patent under reexamination were allowed to issue even though they recite the same language.

The Examiner notes that as per MPEP 2617, "Questions relating to grounds of rejection other than those based on prior art patents or printed publications **should not be included in the request and will not be considered by the examiner if included.** Examples of such questions that will not be considered are questions as to public use, on sale, *>conduct<, and compliance of the claims with 35 U.S.C. 112.

Thus, the Requester's question with respect to 112 issues will not be considered by the Examiner.

Claim Rejections - 35 USC § 102

4. 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.

Issue 1 (Adopted)

5. Claims 1-19 rejected under 35 U.S.C. 102(b) as being anticipated by Cleaner 5 User Manual.

Regarding claim 1:

A method for converting video information from an incoming format to an outgoing format using a continuous pass conversion process free from one or more intermediary files, the method comprising:

Cleaner 5 discloses a system for converting incoming DV to an outgoing MPEG-1 or MPEG-2 stream, (Cleaner 5 at pp. 141,206). Additionally, Cleaner 5 uses a continuous pass (e.g., single pass) conversion process to encode movies free from intermediary files into a single file, (Cleaner 5 at pp. 64, 206).

inputting video information in a first format;

Cleaner 5 discloses a capture code directed to receiving source material in DV format (i.e., video information in a first format) from a DV camera, (Cleaner 5 at pp. Capturing Video pg. 5; Capturing with MotoDV pg. 8 and 141).

directly converting the video information in the first format to raw video information in an uncompressed format;

Cleaner 5 decodes and converts the DV stream format video information to an uncompressed raw video format, such as YUV, (Cleaner 5 at p. 138).

inputting a desired output media format based upon a first input;

Cleaner 5 discloses allowing a user to select a different output media format based upon a first input. For example, the user "can easily produce MPEG-1 files for Video CD projects by selecting the Video CD preset in the Advanced Settings window," (Cleaner 5 at p. 209). Cleaner 5 also supports MPEG-2 files for the DVD output media format, (Cleaner 5 at p. 62).

inputting a desired video presentation standard based upon a second input;

Cleaner 5 discloses that a user may choose between NTSC or PAL (i.e., desired video presentation) based upon the preset (i.e., second input) the user selects, (Cleaner 5 at pp. 204 and 205). In addition, as stated on page 206, while pertaining to images, Cleaner clearly discloses

that "You can choose whether you want to make an NTSC-compatible or a PAL-compatible stream". Thus, Cleaner 5 discloses that a user can be an input (second input) to select a destined TV standard.

directly resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard;

Cleaner 5 discloses converting the uncompressed raw video information to the selected image size through a resizing operation, (Cleaner 5 at p: 204). In Cleaner 5, 720 x 480 pixels is the image size associated with an MPEG 2 output media format in an NTSC TV standard, (Cleaner 5 at p. 204). Additionally, 720 x 576 pixels is the image size associated with an MPEG 2 output media format in a PAL TV standard, (Cleaner 5 at p. 204). The Examiner notes that by selecting the desired output format the raw video information would be resized in accordance with the selected desired output format.

directly adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Cleaner 5 discloses a flame rate of 29.97 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the NTSC TV standard and a flame rate of 25 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the PAL TV standard, (Cleaner 5 at p. 207).

directly processing the uncompressed format in the size and the frame rate into an elementary video stream; and

Cleaner 5 discloses that a user can select to process the video into an elementary video stream when outputting MPEG 1 and MPEG 2 files, (Cleaner 5 at p. 206 - Stream Type).

directly processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard.

Cleaner 5 discloses that when an MPEG 1 system stream is selected, the elementary video stream is processed or multiplexed with the audio stream to form a single multiplexed stream of audio and video information in the desired NTSC or PAL TV standard based on the desired MPEG 1 or VCD output media format, (Cleaner 5 at p. 7, 206).

Regarding claim 2:

The method of claim 1 wherein the first format is selected from a digital file, a digital captured video stream, an analog captured video stream, and an internet video stream.

Cleaner 5 discloses reading an input format (i.e., first format) in a number of formats, including digital video (DV), AVI files, MPEG1 and MPEG2, (Cleaner 5 at p. 141). Page 141 lists the supported formats.

Regarding claim 3:

The method of claim 2 wherein the digital file is selected from an AVI format, an MPEG format, a DV format, a QuickTime format, Real Video format, Windows Media Player format.

Cleaner 5 discloses selecting from an AVI format, an MPEG format, a DV format, a QuickTime format, and other multimedia formats, (Cleaner 5 at p. 141).

Regarding claim 4:

The method of claim 1 wherein the uncompressed format is selected from RGB, and YUV.

Cleaner 5 decodes and converts the DV stream format video information to an uncompressed format, such as YUV, (Cleaner 5 at p. 138).

Regarding claim 5:

The method of claim 1 wherein the desired output media format is selected from either DVD, VCD, and Super VCD.

Cleaner 5 discloses that a user may output media in VCD format, (Cleaner 5 at p. 209). Specifically, Cleaner 5 states that a user can select the "Video CD preset in the Advanced Settings window" in Cleaner to "easily produce MPEG-1 files for Video CD project,"(Cleaner 5 at p. 209).

Regarding claim 6:

The method of claim 5 further comprising inputting a quality setting based upon a third input when the desired output media format is DVD.

Cleaner 5 discloses that a user may select a third input for specifying quality settings based on a variety of parameters, (Cleaner 5 at p. 59). For example, Cleaner 5 discloses quality settings such as data rate, and frame rate, (Cleaner 5 at pp. 59, 62, 64-65). Furthermore, Cleaner 5 discloses that when the output format is DVD, a data rate acceptable to DVD formats are required and Cleaner 5 uses a data rate of 5.7 Mbits/sec which is used by Cleaner' s default MPEG-2 setting, (Cleaner 5 at p. 62).

Regarding claim 7:

The method of claim 1 further comprising writing the video and audio information in the presentation format onto a disk media.

Cleaner 5 discloses writing the video and audio information in the presentation format onto a disk media such as CD-ROM or DVD-ROM, (Cleaner 5 at p. 144).

Regarding claim 8:

The method of claim 1 wherein the presentation format is selected from VOB(Video Object for DVD), VCD MPEG1, and SuperVCD MPEG2.

Cleaner 5 discloses writing the video and audio information in the presentation format onto a disk media. For example an MPEG 1 system stream for VCD, (Cleaner 5 at p. 206). Specifically, Cleaner 5 allows the user to "choose between creating MPEG-1 or MPEG-2 streams" when MPEG 1 is used for VCD output, (Cleaner 5 at p. 206 and 209).

Regarding claim 9:

The method of claim 1 wherein the processing of the elementary video stream with audio information comprises a multiplexing process.

Cleaner 5 discloses a code directed to processing an elementary video stream with audio information, for example, Cleaner 5 lets the "[user] select between System or Elementary streams for MPEG-1 files and Program or Elementary streams for MPEG-2," (Cleaner 5 at p. 206). Additionally, the user will "output to System (MPEG-1) or Program (MPEG-2) streams, in which both the video and audio are muxed (multiplexed) into a single file," (Cleaner 5 at p. 206).

Regarding claim 10:

The method of claim 1 wherein the audio information is tuned to a desired frequency based upon the desired output media format.

Cleaner 5 discloses audio information is tuned to a desired frequency based upon the desired output media format, (Cleaner 5 at p. 212). In Cleaner 5, a user may use MP3 audio files and "the MP3 default sample rate is 44.1 kHz, which is also the sample rate of audio CDs," (Cleaner 5 at p. 212).

Regarding claim 11:

The method of claim 10 wherein the desired frequency is selected from 48 kHz for DVD, 44.1 kHz for VCD and SVCD.

Cleaner 5 discloses various desired frequencies including 44.1 kHz for use with VCD, (Cleaner 5 at pp. 212-213,209).

Regarding claim 12:

The method of claim 1 wherein the directing converting, directly resizing, and directly adjusting, and directly processing are performed free from one or more intermediary files.

Cleaner 5 discloses direct converting, direct adjusting and directly processing are performed free from one or more intermediary files, (Cleaner 5 at p. 206). Specifically, the user will "output to System (MPEG-1) or Program (MPEG-2) streams, in which both the video and audio are muxed (multiplexed) into a single file," (Cleaner 5 at p. 206).

Regarding claim 13:

The method of claim 1 further comprising processing the raw video information based upon video editing information based upon a fourth input.

Cleaner 5 is directed to processing raw video information based upon video editing information from a user, which is a fourth input. For example, Cleaner 5 is a software application for cropping or trimming video based on In/Out points selected by the user, (Cleaner 5 at p. 25).

Moreover, cropping allows the user to specify the part of the image they want to keep and trimming allows the user to set in and out points, designating the points to start and end, (Cleaner 5 at p. 25).

Regarding claim 14:

The method of claim 1 further comprising processing the audio information based upon audio editing information based upon a fifth input.

Cleaner 5 can be directed to processing audio information based upon Noise Removal (i.e., audio editing information) after the user selects the clean-up filter, which constitutes a fifth input, (Cleaner 5 at p. 95). Specifically, "Cleaner offers professional- quality resampling, as well as a range of clean-up filters, such as Noise Removal, Noise Gate and High/Low Pass, to optimize your audio," (Cleaner 5 at p. 95).

Regarding claim 15:

The method of claim 1 wherein the processing for converting into the elementary video stream is provided in an encoding process and the converting to the raw video information is provided in a decoding process.

Cleaner 5 is directed to converting raw video information to the elementary video stream is performed through encoding, (Cleaner 5 at p. 206). Additionally, Cleaner 5 discloses converting to YUV raw video information is performed through decoding, (Cleaner at p. 138). Specifically, "Cleaner 5 decodes files significantly faster by using a combination of native YUV processing and Digital Origin's DV codec. Cleaner also offers several decoding options through the Preferences dialog that allow you to choose between higher quality or faster decoding," (Cleaner 5 at p. 138).

Regarding claim 16:

A system for converting video information from an incoming format to an outgoing format using an integrated computer software application, the integrated computer software application being provided on one or more memories, the one or more memories including:

Cleaner 5 discloses a system for converting incoming DV (Digital Video) to an outgoing MPEG-1 or MPEG-2 stream, (Cleaner 5 at pp. 141,206). As shown on page 141, Cleaner 5 lists the supported formats that can be read and written. Page 206 discloses how one would select the outgoing format using a software based pop-up menu.

Cleaner 5 is an application that is run on a computer running Windows or Mac OS, which includes one or more memories, (Cleaner 5 at p. 2). Since programs running in a Windows or Mac OS environment are always run from one or more memories, Cleaner 5 too, is provided on one or more of those memories, (Cleaner 5 at p. 141).

a code directed to receiving video information in a first format;

Cleaner 5 discloses a capture code directed to receiving source material in DV format (i.e., video information in a first format) from a DV camera, (Cleaner 5 at pp. Capturing Video pg. 5; Capturing with MotoDV pg. 8 and 141).

a code directed to receiving a desired output media format based upon a first input;

Cleaner 5 discloses allowing a user to select a different output media format based upon a first input. For example, the user "can easily produce MPEG-1 files for Video CD projects by selecting the Video CD preset in the Advanced Settings window," (Cleaner 5 at p. 209).

a code directed to receiving a desired video presentation standard based upon a second input;

Cleaner 5 discloses that a user may choose between NTSC or PAL (i.e., desired video presentation) based upon the preset (i.e., second input) the user selects, (Cleaner 5 at pp. 204 and 205). In addition, as stated on page 206, while pertaining to images, Cleaner clearly discloses that "You can choose whether you want to make an NTSC-compatible or a PAL-compatible stream". Thus, Cleaner 5 discloses that a user can be an input (second input) to select a destined TV standard.

a code directed to converting the video information in the first format to raw video information [in] an uncompressed format using a decoding process;

Cleaner 5 decodes and converts the DV stream format video information to an uncompressed raw video format, such as YUV, (Cleaner 5 at p. 138).

a code directed to resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard;

Cleaner 5 discloses converting the uncompressed raw video information to the selected image size through a resizing operation, (Cleaner 5 at p. 204). In Cleaner 5, 720 x 480 pixels is the image size associated with an MPEG 2 output media format in an NTSC TV standard, (Cleaner 5 at p. 204). Additionally, 720 x 576 pixels is the image size associated with an MPEG 2 output media format in a PAL TV standard, (Cleaner 5 at p. 204). The Examiner notes that by selecting the desired output format the raw video information would be resized in accordance with the selected desired output format.

a code directed to adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Cleaner 5 discloses a flame rate of 29.97 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the NTSC TV standard and a flame rate of 25 frames per second is associated with MPEG 1 and MPEG 2 output media formats for the PAL TV standard, (Cleaner 5 at p. 207).

a code directed to processing the uncompressed format in the size and the frame rate into an elementary video stream;

Cleaner 5 discloses that a user can select to process the video into an elementary video stream when outputting MPEG 1 and MPEG 2 files, (Cleaner 5 at p. 206 - Stream Type).

a code directed to processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard; and

Cleaner 5 discloses that when an MPEG 1 system stream is selected, the elementary video stream is processed or multiplexed with the audio stream to form a single multiplexed stream of audio and video information in the desired NTSC or PAL TV standard based on the desired MPEG 1 output media format, (Cleaner 5 at p. 7, 206).

a code directed to receiving video editing information based upon a third input.

Cleaner 5 discloses that a user may select a third input for specifying quality settings based on a variety of parameters, (Cleaner 5 at p. 59). For example, Cleaner 5 discloses quality settings for video editing such as data rate, and frame rate, (Cleaner 5 at pp. 59, 62, 64-65).

Regarding claim 17:

The system of claim 16 further comprising a code directed to receiving audio editing information based upon a fourth input.

Cleaner 5 discloses receiving audio information that can be edited using a number of different filters (i.e., fourth input). Cleaner 5 at p. 95. For example, these filters include noise removal filters, noise gate filters, high/low pass filters, dynamic range compression filters and reverb filters, (Cleaner 5 at p. 95).

Regarding claim 18:

The system of claim 16 wherein the integrated computer software application is a single integrated application.

Cleaner 5 is a single integrated computer software application which "offers a complete camera-to-web solution that makes it easy to put video and audio on your site," (Cleaner 5 at p. 1).

Regarding claim 19:

A method for converting video information from an incoming format to an outgoing format using a process free from one or more intermediary files, the method comprising:

Cleaner 5 discloses a software application for converting video information from an incoming format, such as a DV stream or QuickTime file to an outgoing format, such as MPEG 1 or MPEG 2, free from intermediary files, (Cleaner 5 at pp. 141,206).

receiving video information in a first format;

Cleaner 5 discloses receiving source material (i.e., video information in a first format) shot with a DV camera, (Cleaner 5 at p. 5).

receiving a desired output media format based upon a first input and a desired video presentation standard based upon a second input;

Cleaner 5 discloses allowing a user to select an output media format, such as MPEG-1, based upon an input, such as the Video CD preset, (Cleaner 5 at pp. 141,209). Specifically, a user "can easily produce MPEG-1 file for [their] Video CD projects.., by selecting the Video CD preset in the Advanced Settings window," (Cleaner 5 at p. 209). Cleaner 5 also supports MPEG-2 files for the DVD output media format, (Cleaner 5 at p. 62).

decoding the video information in the first format to raw video information in an uncompressed format;

Cleaner 5 decodes and converts the DV stream format video information to an uncompressed format, such as YUV, (Cleaner 5 at p. 138).

directly resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard and adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Cleaner 5 discloses converting the uncompressed raw video information into a resolution size of 720x480 pixels which is associated with the DVD media format and the NTSC video presentation standard, (Cleaner 5 at p. 62, 204, 209). Moreover, Cleaner 5 discloses using the

pop-up menu to adjust the frame rate of the uncompressed format to 29.97 frames per second (fps) which is associated with the NTSC video presentation standard, (Cleaner 5 at p. 207). Moreover, a user may "choose a frame rate between 23.967 - 60 frames per second,"(Cleaner 5 at p. 207).

encoding the uncompressed format in the size and the frame rate into an elementary video stream; and

Cleaner 5 discloses encoding the YUV uncompressed format, (Cleaner 5 at p. 138). Additionally, Cleaner 5 discloses "[t]he Stream Type pop-up menu lets you select between System or Elementary streams for MPEG-1 files and Program or Elementary streams for MPEG-2," (Cleaner at p. 206). Thus, the YUV uncompressed format is encoded to a size and frame rate of an MPEG-1 elementary stream, (Cleaner 5 at pp. 138, 206).

multiplexing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard.

Cleaner 5 discloses that when an MPEG 1 system stream is selected, the elementary video stream is processed or multiplexed with the audio stream to form a single multiplexed stream of audio and video information in the desired NTSC or PAL TV standard based on the desired VCD output media format, (Cleaner 5 at p. 7 and p. 206).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Issue 2 (Adopted)

7. Claims 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cleaner 5 in view of MPEG Charger.

The Examiner notes that this rejection was proposed in addition to the rejection to claims 5, 6 and 8 to Cleaner 5 alone.

The Examiner acknowledges that as per MPEP 2660, III, "it is to be noted that the examiner is not to refuse to adopt a rejection properly proposed by the requester as being cumulative to other rejections applied. Rather, any such proposed rejection must be adopted to preserve parties' appeal rights as to such proposed rejections."

The Examiner maintains that Cleaner 5 anticipates the claims, however in addition, the Examiner acknowledges the below teachings with respect to MPEG Charger. As noted in the Request, MPEG Charger is a software application for converting a video file into a MPEG video file based on certain parameters, (MPEG Charger at pp. 9, 14). MPEG Charger is explicitly configured to work with Cleaner 5 in the process of converting video files for recording onto a disc. Specifically, MPEG Charger can produce MPEG-1 files for Video CD projects and MPEG-2 files for "producing high-data rate, full broadcast-quality files that require DVD, fast CD-ROM or hard drives for playback." MPEG Charger at p. 10. Importantly, MPEG Charger performs the method entirely using software run from a disc.

The Examiner notes MPEG Charger is a software application for explicit use with Cleaner 5 and provides additional functionality in MPEG-1 and MPEG-2 encoding. MPEG Charger at p. 9. Additionally, MPEG Charger explicitly discloses the ability to "turn all popular video, audio and animation file formats into MPEG streams for DVD, Video CD, CD-ROM, digital broadcasting and broadband webcasting." MPEG Charger at p. 9.

Regarding claim 5:

The method of claim 1 wherein the desired output media format is selected from either DVD, VCD, and Super VCD.

Cleaner 5 discloses that a user may output media in VCD format. Cleaner 5 at p. 209. Specifically, Cleaner 5 states that a user can select the "Video CD preset in the Advanced Settings window" in Cleaner to "easily produce MPEG-1 files for Video CD projects." Cleaner 5 at p. 209. Additionally, MPEG Charger discloses DVD output media formats. MPEG Charger at p. 9.

A person of ordinary skill in the art would have been motivated to combine Cleaner 5 with MPEG Charger in view of the explicit motivation found within the MPEG Charger Reference: "MPEG Charger is a software-only MPEG option for Cleaner 5 that gives you comprehensive control over both MPEG-1 and MPEG-2 encoding," and reference within Cleaner 5: "Cleaner MPEG Charger integrates seamlessly with Cleaner." MPEG Charger at p. 9; Cleaner 5 at p. 209.

Regarding claim 6:

The method of claim 5 further comprising inputting a quality setting based upon a third input when the desired output media format is DVD.

Cleaner 5 discloses that a user may select a third input for specifying quality settings based on a variety of parameters. Cleaner 5 at p. 59. For example, Cleaner 5 discloses quality settings such as data rate, and frame rate. Cleaner 5 at pp. 59, 62, 64-65. Furthermore, Cleaner 5 discloses that when the output format is DVD a data rate acceptable to DVD formats are required and Cleaner 5 uses a data rate of 5.7 Mbits/sec and is used by Cleaner's default MPEG-2 setting. Cleaner 5 at p. 62. Moreover, MPEG Charger discloses that the user is allowed "to turn all popular video, audio and animation file formats into MPEG streams for DVD, Video CD, CD-ROM, digital broadcasting and broadband webcasting." MPEG Charger at p. 9. Thus, the user may input a higher data rate to create an MPEG stream suitable for a DVD.

Regarding claim 8:

The method of claim 1 wherein the presentation format is selected from VOB (Video Object for DVD), VCD MPEG1, and SuperVCD MPEG2.

Cleaner 5 discloses writing the video and audio information in the presentation format such as an MPEG 1 system stream for VCD, (Cleaner 5 at p. 206). Specifically, Cleaner 5 allows the user to "choose between creating MPEG-1 or MPEG-2 streams" for VCD output, (Cleaner 5 at p. 206, and 209). Furthermore, MPEG Charger discloses that the user is allowed "to turn all popular video, audio and animation file formats into MPEG streams for DVD, Video CD, CD-ROM, digital broadcasting and broadband webcasting, (MPEG Charger at p. 9).

Issue 3 (Not Adopted)

8. The rejection of claims 1-3, 5, 7, 9 and 13-19 as being rejected under 35 U.S.C. 103(a) as being unpatentable over AVID Xpress in view of AVID Xpress DV and further in view of MPEG standard is not adopted.

As stated on page 34 of the Request, **Avid Xpress** is an advertising document promoting a software application for converting and editing video and audio files based on user input parameters, (Avid Xpress at p. 1). The Avid Xpress system can receive video in many different input formats including popular animation file formats on Windows, Macintosh and SGI, including QuickTime formats, (Avid Xpress at pp. 1, 3). The Avid Xpress software is designed to accept these file types (and more) for editing and output. Among Avid Xpress' output features are the ability to output to files into NTSC and PAL TV formats and further outputting video in compliance with the ITU R-601 standard for broadcast television, (Avid Xpress at p. 3).

In addition, as stated on page 35 of the Request, **Avid Xpress DV** discloses a software system that is related to Avid Xpress, which includes additional capabilities such as supporting MPEG output formats and writing outputs to DVD. Avid Xpress DV at 1.

The **Examiner** maintains that while Avid Xpress discloses of providing software for converting and editing video and audio files, Avid Xpress does not disclose in detail any of the method or code for performing at least the recited converting steps. Thus, neither Avid Xpress nor Avid Express DV either alone or in combination meet all of the claimed limitations.

The Examiner agrees that Avid Xpress is a software system for converting and editing video and multimedia content quickly, (Avid Xpress at p. 1). Additionally, as noted above, the Examiner agrees that Avid Xpress DV is a software product that is related to Avid Xpress that has a variety of exporting options including MPEG output abilities, (Avid Xpress DV Features at p. 1).

The Examiner agrees that both references disclose of code to receive video in many different formats and for outputting video into broadcast digital formats, (Avid Xpress at p. 1).

The Examiner notes that the Request fails to specifically point out where in the references does it show that the video information in the first format is digitally converted to "raw video information in an uncompressed format ".

The Request merely states:

> The Avid Xpress software includes code for converting video information into uncompressed video using its uncompressed video option. Avid Xpress at pp. 1-2.

There is no support for converting the video information to raw video information.

The Examiner acknowledges that the Request further points to the following in Avid Xpress:

"**Truest Online Image Quality** Avid Xpress supports ITU R-601 broadcast industry standards for the truest online image quality. For the first time in its category, uncompressed video is available as an option for Avid Xpress Deluxe and Elite systems for the best possible

video quality. All Avid Xpress systems using Avid's state-of-the-art Meridien video subsystem deliver broadcast quality 2:1 image compression, as well as a range of other resolutions in either 4:3 or 16:9 wide screen. No other digital video system in its class combines unmatched speed and productivity features with the highest image standards." Avid Xpress at p. 1.

"Single-Stream Uncompressed Video Option (Deluxe and Elite Bundle only) A single stream of uncompressed video allows the best possible image quality for high-end projects." Avid Xpress at p. 2.

The Examiner acknowledges that Avid Xpress uses uncompressed video, however no relationship between this uncompressed video and the received video information has been made. The claim requires directly converting the video information in the first format to raw video information in an uncompressed format.

Another limitation pertains to directly resizing the raw video information (i.e. the raw video information that resulted from the previous converting step) into a size associated with the desired output media format and the desired video presentation standard;

The Request merely shows that Avid Xpress is able to output video with various sizes, however, the Request's statements are conclusory and are not specific as to how Avid Xpress resizes or converts the received data.

The claim also outlines specific step that recites code for resizing the raw information in the uncompressed format into a size associated with the desired output media format and the desire video presentation standard.

The Examiner agrees that Avid Xpress discloses of various video presentation standards (e.g. TV Standards) and different output media with various 'sizes', however, the Avid Xpress reference does not disclose what video is being output or whether what is being output was a result of a converting step which converted video information in a first format to raw video information in an uncompressed format.

The claims further recited limitations directed to directly processing the uncompressed format into "an elementary video stream". The Request discloses that since Avid Xpress DV includes code directed to exporting files in the MPEG format, then Avid Xpress DV processes the uncompressed format into an elementary stream".

The Request relies upon MPEG Standard to support the processing of video into an elementary video stream; however, the Examiner first notes that the Request does not show how Avid Xpress discloses of creating the uncompressed video stream from the received video information and while elementary stream were known in the art, the Request did not point out how MPEG Standard contemplates the converting of video information to raw video information in an uncompressed format and the processing of that same video information in the raw uncompressed format into an elementary video stream.

The Examiner does not agree that Avid Xpress in view of Avid Xpress DV and MPEG standard renders obvious any of the claims under reexamination and thus the proposed rejection will not be adopted by the Examiner.

Issue 4 (Adopted)

9. Claims 1-12, 15 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Washino U.S. Patent 6,370,198.

Regarding claim 1:

A method for converting video information from an incoming format to an outgoing format using a continuous pass conversion process free from one or more intermediary files, the method comprising:

Washino discloses a multi-format digital video production system that enables a user to process an input video program to produce an output version of the program in a final format, (Abstract, lines 1-3).

inputting video information in a first format;

Washino discloses inputting video information in a first format, (col 11, lines 51-54), ("graphics processor 82...process the input video signals 84...").

directly converting the video information in the first format to raw video information in an uncompressed format;

Washino discloses converting the inputted video information in the first format to an uncompressed format, such as RGB or YUV, (Col 11, lines 54-63).

inputting a desired output media format based upon a first input;

Washino discloses that outputs can be configured to RGB format or other output media formats, (col 11, lines 51-54).

inputting a desired video presentation standard based upon a second input;

Washino discloses that the video data stream may undergo a number of modifications based on the desired output format such as NTSC/PAL or HDTV, (col. 21, line 56 to col. 22, line 11; col 11, lines 54-63).

directly resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard;

Washino discloses that images are re-sized horizontally and vertically by pixel interpolation and frame rates are adapted by inter-frame interpolation, abstract; col. 18, lines 50-63).

directly adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Washino discloses adjusting the frame rate of the uncompressed format to the desired frame rate of the video presentation standard, (Abstract; Col. 18, lines 53-63).

directly processing the uncompressed format in the size and the frame rate into an elementary video stream; and

Washino discloses processing the uncompressed format in any selected size and frame rate into an elementary video stream, (col. 18, lines 50-63; col. 20, lines 6-10).

directly processing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form

video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard.

Washino discloses processing the video format with audio information in the desired output media format. Specifically, Washino discloses adjusting the pitch of the audio based on the frame rate of the video which is related to the desired video standard, (col. 21, lines 45 to col. 22, lines 15; col. 22, lines 49-53).

Regarding claim 2:

The method of claim 1 wherein the first format is selected from a digital file, a digital captured video stream, an analog captured video stream, and an internet video stream.

Washino discloses the first format including a digital file, captured video stream, and analog captured video stream, (col. 15, lines 1-5). Specifically, Washino discloses that the input format can be either an analog signal, which will be processed into a digital file or a digital file, (col 11, lines 51-54; col. 15, lines 1-5).

Regarding claim 3:

The method of claim 2 wherein the digital file is selected from an AVI format, an MPEG format, a DV format, a QuickTime format, Real Video format, Windows Media Player format.

Washino discloses that the digital file can be in MPEG format, (col. 11, lines 63-65; col. 15, lines 1-5).

Regarding claim 4:

The method of claim 1 wherein the uncompressed format is selected from RGB, and YUV.

Washino discloses selecting an uncompressed format of RGB or YUV, (col 11, lines 54-63).

Regarding claim 5:

The method of claim 1 wherein the desired output media format is selected from either DVD, VCD, and Super VCD.

Washino discloses selecting a media format such as DVD. Washino, Col. 6, lines 48-60.

Regarding claim 6:

The method of claim 5 further comprising inputting a quality setting based upon a third input when the desired output media format is DVD.

Washino discloses quality editing for multi-format video production. Washino, Col. 1, lines 14-21. Specifically Washino disclose that if DVD type storage is selected a higher data compression can be used to fit an entire program of 120 minutes onto the storage media. Washino, Col. 17, lines 52-62.

Regarding claim 7:

The method of claim 1 further comprising writing the video and audio information in the presentation format onto a disk media.

Washino discloses writing or recording the video and audio information onto a disk media, such as DVD. Washino, Col. 6, lines 48-60.

Regarding claim 8:

The method of claim 1 wherein the presentation format is selected from VOB(Video Object for DVD), VCD MPEG1, and SuperVCD MPEG2.

Washino discloses wherein the digital file can be distributed in MPEG-2 format and recorded onto DVD, (col 5, lines 19-34).

Regarding claim 9:

The method of claim 1 wherein the processing of the elementary video stream with audio information comprises a multiplexing process.

Washino discloses that audio signals can be included within the digital stream and that the audio can be integrated by available methods such as AVI, (col. 12, lines 1-7).

Regarding claim 10:

The method of claim 1 wherein the audio information is tuned to a desired frequency based upon the desired output media format.

Washino discloses adjusting the audio data in accordance with the video output. Washino, Col. 22, lines 43-57.

Regarding claim 11:

The method of claim 10 wherein the desired frequency is selected from 48 kHz for DVD, 44.1 kHz for VCD and SVCD.

Washino discloses writing audio-video to DVD, which inherently requires an audio frequency of at least 48 kHz[1], (col 5, lines 19-34).

Regarding claim 12:

The method of claim 1 wherein the directing converting, directly resizing, and directly adjusting, and directly processing are performed free from one or more intermediary files.

Washino discloses that in some embodiments only one conversion step is required. Washino, (col. 18, lines 50-63).

Regarding claim 15:

The method of claim 1 wherein the processing for converting into the elementary video stream is provided in an encoding process and the converting to the raw video information is provided in a decoding process.

Washino discloses encoding the uncompressed format to preserve the full bandwidth of the high-resolution signal, (col. 7, lines 39-43).

Regarding claim 19:

A method for converting video information from an incoming format to an outgoing format using a process free from one or more intermediary files, the method comprising:

Washino discloses a multi-format digital video production system that enables a user to process an input video program to produce an output version of the program in a final format, (abstract).

receiving video information in a first format;

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[1] See LaBarge, DVD Authoring, p. 41 (Audio written in DVD-Video format requires a frequency of at least 48kHz) filed March 23, 2010.

Washino discloses receiving video information in a first format, (col 11, lines 51-54).

receiving a desired output media format based upon a first input and a desired video presentation standard based upon a second input;

Washino discloses that outputs can be configured to RGB format or other output media formats, (col 11, lines 51-54). Further, Washino discloses that the video data stream may undergo a number of modifications based on the desired output format such as NTSC/PAL or HDTV, (col. 21, line 56 to col. 22, line 11; col 11, lines 54-63).

decoding the video information in the first format to raw video information in an uncompressed format;

Washino discloses converting the inputted video information in the first format to an uncompressed format, such as YUV, (col 11, lines 54-63).

directly resizing the raw video information in the uncompressed format into a size associated with the desired output media format and the desired video presentation standard and adjusting the uncompressed format in the size associated with the desired output media format and the desired video presentation standard to a frame rate associated with the desired video presentation standard;

Washino discloses that images are re-sized horizontally and vertically by pixel interpolation and frame rates are adapted by inter-frame interpolation, (abstract; Col. 18, lines 50-63). Additionally, Washino discloses adjusting the frame rate of the uncompressed format to the desired frame rate of the video presentation standard, (abstract; Col. 18, lines 50-63).

encoding the uncompressed format in the size and the frame rate into an elementary video stream; and

Washino discloses processing and encoding the uncompressed format in any selected size and frame rate into an elementary video stream, (col. 7, lines 39-43; col. 18, lines 50-63; col. 20, lines 6-10).

multiplexing the elementary video stream with audio information in the desired output media format and the desired video presentation standard to form video and audio information in a presentation format based upon the desired output media format and the desired video presentation standard.

Washino discloses processing the video format with audio information in the desired output media format. Specifically, Washino discloses adjusting the pitch of the audio based on the frame rate of the video which is related to the desired video standard, (col. 21, lines 45-55; col. 22, lines 49-53).

Conclusion

10. In order to ensure full consideration of any amendments, affidavits or declarations, or other documents as evidence of patentability, such documents must be submitted in response to this Office action. Submissions after the next Office action, which is intended to be an Action Closing Prosecution (ACP), will be governed by 37 CFR 1.116, which will be strictly enforced.

11. Extensions of time under 37 CFR 1.136(a) will not be permitted in *inter partes* reexamination proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to the patent owner in a reexamination proceeding. Additionally, 35 U.S.C. 314(c)

requires that inter partes reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.937). Patent owner extensions of time in inter partes reexamination proceedings are provided for in 37 CFR 1.956. Extensions of time are not available for third party requester comments, because a comment period of 30 days from service of patent owner's response is set by statute. 35 U.S.C. 314(b)(3).

12. The Patent Owner is reminded of the continuing responsibility under 37 CFR 1.985(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving the US Patent 7,283,172 throughout the course of this reexamination proceeding. The Third Party Requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding through the course of this reexamination proceeding. See MPEP § 2686 and 2686.04.

13. All correspondence relating to this *inter partes* reexamination proceeding should be directed:

By EFS: Registered users may submit via the electronic filing system EFS-Web, at https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html.

By Mail to: *Mail Stop Inter Partes* Reexam
Attn: Central Reexamination Unit
Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand: Customer Service Window
Attn: Central Reexamination Unit
Randolph Building, Lobby Level
401 Dulany Street
Alexandria, VA 22314

For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a certificate of transmission for each piece of correspondence stating the data of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication or earlier communications from the examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

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