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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS:	John Mikkelsen and)	
	Robert Freidson)	EXAMINER: Robert Pond
SERIAL NO:	10/183,756)	
)	GROUP ART UNIT: 3625
FILED	June 26, 2002)	
FOR:	Media Delivery Platform)	

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Declaration of Robert Freidson under 37 C.F.R. §1.132

I, Robert Freidson, an inventor in the above-referenced application, state and declare pursuant to 37 C.F.R. §1.132 as follows:

1. I am one of the named co-inventors of U.S. Patent Application Serial No. 10/183,756, entitled "Media Delivery Platform", filed on June 26, 2002.

2. I have reviewed the Office Action of June 24, 2008 in this application, and I have reviewed the references cited in the Office Action, specifically U.S. Patent No. 7,065,342 to Rolf, and articles by Breen, Ling and Chen.

3. I disagree with the Examiner's reasons detailed in the Office Action on page 5, that "it would have been recognized that applying the techniques of Breen to the teachings of Rolf would have yielded predictable results," and on page 14, last paragraph, that "it would have been recognized that applying the teachings of Rolf and Breen would have yielded predictable results because the level of ordinary skill in the art

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demonstrated by the references shows the ability to incorporate such data processing features into similar systems," for the reasons which follow below.

4. At the time of the inventive subject matter set forth in the claims in the subject application, to my knowledge, there was no experience or teaching available anywhere in the world with respect to wireless delivery of rich media files to cell phones. Moreover, at that time of the invention cell phones had very small amounts of memory and very slow DSP (digital signal processor), there was not an open operating system to work with or to refer to (e.g. no smartphones) and cell phone data and/or voice channels had very poor bandwidth (actually 9.6 Kbit/sec or less) and rather low quality (permanent loss of signal).

5. Because of the complete absence of teaching and other circumstances mentioned above at the time of the invention, I had to develop an engineering solution to solve the problem of wireless delivery of rich media files to cell phones. I developed a new and novel conceptual design based on my scientific and technical background in wireless (radio) communication systems, and I made several laboratory prototypes to find and test different complex engineering solutions (e.g. OFDM). I also developed and built a PSB (printed circuit board) that was actually a wireless mp3 player (compare with Apple iPhone), which I believe to be the first such wireless mp3 player for use with cell phones to receive and play compressed digital music. I then assembled all elements of the system and then tested and adjusted and installed a working prototype in my St. Anthony office in Minneapolis, MN. I had to design such a wireless mp3 player PSB because none was available, nor teaching as to how to provide one.

6. I believe my efforts produced unexpected results of success in the wireless delivery of digital content and/or a combination of voice and data content in the

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face of known teaching at the time, which essentially provided no teachings or direction, and a showing of unexpected success in employing OFDM principles to the wireless data delivery method.

7. In one aspect, my inventive method employed OFDM teachings as a method for data transmission over an audio channel of a wireless cell phone. In another aspect, I have developed a method for rich media delivery over a data channel of a wireless cell phone that doesn't employ OFDM

8. I have exemplified the data transmission over an audio channel to provide a simple and user-friendly customers' experience this solution allows. A customer can simply place a regular call to the specific number (e.g., an "800" number) to gain access to a server. The dual-mode connection allows for voice and "push button" support as well as voice recognition service. At the same time OFDM implementations provides enough quality and speed of data transmission.

9. Such dual-mode connection didn't exist as an available service until the end of 2007, and certainly not at the time of my invention, and now promises to be very popular in 3G during the current year (e.g. video calls).

10. The concept of OFDM implementation for data transmission over an audio wireless channel required the necessary theoretical research, and also required me perform a wide range of experiments, with results that could not be predicted due to the lack of teaching or disclosure and the novel approaches encompassed by the inventive subject matter. This testing was a very important part of the development because it is essentially impossible to take into account all aspects of a real technical environment, such as actual accuracy of electronic equipment, real quality of wireless channels, etc. So, I needed to build several prototypes to test the inventive system and to adjust critical

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technical parameters to achieve acceptable levels of quality and speed of delivery. The success of the inventive subject matter could not be proved without detailed experimental research, and the design and manufacture of a phone device which was non-existent at the time so the success of this project was not obvious at the beginning and the unexpected level of the success of my inventive method and wireless phone device was certainly not predictable, as much experimentation was required

11. It was unknown at the time of my invention to employ OFDM principles to the wireless delivery method of my invention. It was unknown at the time of my invention to employ OFDM to the wireless delivery over an audio channel to a cell phone because OFDM had not been employed in such a way at that time, and I had to be the first one to make such a phone in which to apply OFDM to, as such phone didn't exist and correspondent hardware/firmware didn't exist.

12. My invention is novel in that no one at the time of invention had in fact produced or showed how to produce a cell phone that could in fact receive compressed data wirelessly on demand from a server and play back the received content in the form of CD quality real music or master recordings, and that because of this deficiency at the time I had to actually make such a device to see if in fact my wireless method would work as intended. At the time of my invention, no one had produced a working prototype of such a device and to teach in technical terms (not in popular articles in newspapers) how to build such a phone. At the time of my invention, it was unclear if it was in fact technically possible to deliver compressed data wirelessly on demand from a server to cell phone and play back the received content on a cell phone speaker system in the form of CD quality real music or master recordings, and that because of this

deficiency at the time, I had to actually make such a device to see if in fact that my inventive wireless method would work as intended.

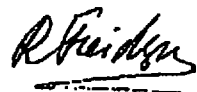
13. When I decided to explore the possibility of being able to transmit data over an audio channel by the reasons explained above, the problem of data modulation was a key issue, and the result was far from certain as data modulation was, to my knowledge, never before employed in such a way.

14. I have developed, implemented and tested new firmware/hardware utility, previously unknown, that worked as a component of my delivery system to provide an ability of data transmission over an audio channel. The core principle of this utility was implementation of OFDM as a new modulation scheme.

15. This new utility was wholly unexpected and produced unexpected results in achieving the intended results of the method. This fact was unknown before building a phone and testing it.

16. I further declare under penalty of law that all my statements set forth herein are and/or are believed to be true to the best of my knowledge and belief.

Respectfully submitted,



Robert Freidson

August 3, 2008

Date

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