REMARKS

Claims 1-25 are pending. By this Amendment, claims 9 and 16-22 are amended, new claims 26-28 are added, and claims 23-25 are canceled. Claim 9 has been amended to recite, "transmitting at least a portion of the compressed digital media from the server to the wireless device means, wherein the transmission includes the use of orthogonal frequency-division multiplex (OFDM) modulation over a cellular connection," in combination with the other elements of the claim. The amendments to claims 16-22 are discussed below.

Support for the amendments to the claims and the new claims can be found throughout the application as filed. Therefore, no new matter is added.

Telephone Interview Summary

Applicants' representative thanks the Examiner for the courtesy extended in a telephone interview conducted on February 12, 2014. During the interview, claim 1 and the references cited in the Office Action were discussed. No agreement was reached as to allowablity of the claims. This Amendment is filed herein in light of the February 12, 2014, interview. Applicants and Applicants' representative thank the Examiner for his time and candor during the interview.

Response to Double Patenting Rejections

Claims 1-25 stand rejected on the ground of nonstatutory double patenting over claims 98 and 127 of copending Application No. 12/322,615. Should the claims be indicated as allowable but-for a nonstatutory obviousness-type double patenting rejection in a subsequent Office Action, Applicants will address this issue further at that time.

Response to Rejections Under 35 U.S.C. § 112

Claims 16 and 21 stand rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. (Office Action, page 5.) Without acquiescing to the rejections that the claims lack purported essential steps, Applicants have amended claims 16 and 21 to recite additional limitations in order to clarify the intended scope of the respective claims. Claims 17-20 and 22, which respectively depend from claims 16 and 21, are also amended herein to conform to the amendments to the claims from which they depend. Applicants respectfully request that these rejections be withdrawn.

Response to Rejections Under 35 U.S.C. §§ 102 & 103

Claims 1, 21, and 23-25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,065,342 to Rolf ("Rolf"). Claims 2-20 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rolf in view of U.S. Patent Application Pub. No. 2005/0004875 to Kontio et al. ("Kontio"). Applicants respectfully traverse these rejections, including insofar as they may apply to the amended claims.

Rolf discloses use of a mobile cellular telephone to select a music recording from a remote source and wirelessly receive the selected music recording. Rolf does not anticipate the method as claimed: compressing the digital media; storing the compressed digital media in one or more storage mediums; and transmitting at least a portion of the digital media to the wireless device means.

Applicants respectfully direct the Examiner to the prosecution history of the parent case, U.S. App. No. 10/183,756, and particularly:

- the Amendment dated November 28, 2007;
- the affidavit of co-inventor Dr. Robert Freidson filed August 5, 2008;
- the Amendment dated August 5, 2008; and
- the Notice of Allowance dated December 10, 2008, in which Rolf was addressed.

Particularly, it was noted in the Notice of Allowance dated December 10, 2008, that Rolf does not "teach [or] suggest the combinations of methods as claimed." (Notice of Allowance, page 9.) For brevity, Applicants do not reiterate those arguments here, but refer to them as applicable to the claims of the instant case.

Applicants further provide herewith a declaration under 37 CFR 1.131 from co-inventors John Mikkelsen and Dr. Robert Freidson of the instant application showing that the claimed invention was conceived and reduced to practice prior to July 6, 2001, the earliest priority date of Kontio. Applicants respectfully submit that this affidavit is sufficient to show that Applicants' invention at least predates the invention of Kontio. For at least these reasons, Applicants respectfully request that the obviousness rejections based on the combination of Rolf and Kontio be withdrawn.

Conclusion

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

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