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HARVEY, D

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/487,526

Applicant(s)
Harvey et al.

Examiner
David E. Harvey

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on May 11, 2001

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ 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*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 2-65 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 2-65 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

9) ☐ The specification is objected to by the Examiner.

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

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

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

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

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

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

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

20) ☐ Other: _____

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SECTION I: (A *MOST* SIGNIFICANT ISSUE)

A) The present application is continuation that depends on a chain of applications dating back to 11/3/1981. Each application within this chain contains only a respective one of two separate and distinct written descriptions ¹. Specifically:

1) All of the applications that occur in the chain prior to CIP application S.N. 96,096 of 9/11/87 comprise the same 44 page written description.

[Because this 44 page written description was in applicant's earliest filed parent application the examiner has assumed, right or wrong, that this disclosure gets an effective filing date of 11/3/1981; i.e. which is the reason the examiner often refers to this 44 page disclosure as: "the original parent disclosure", "the parent disclosure", "the 1981 disclosure", etc,...]; and

2) All of the applications that occur in the chain from the filing of CIP application S.N. 96,096 to the present, comprise the same 557 page written

¹ The later filed 557 page 1987 disclosure literally replaced the earlier filed 1981 parent disclosure as "the instant" disclosure because it did not incorporate the earlier filed 1981 disclosure into itself; i.e. the earlier filed 1981 disclosure was left behind in the drafting and filing of the 1987 disclosure.

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description which is, for all intents and purposes, *completely* different from the originally filed 44 page written description.^{2,3}

[Because the written description of the present application is the same as the 557 page written description of the earlier filed CIP application the examiner has assumed, right or wrong, that the disclosure of present application gets the effective filing date of 9/11/87; i.e. which is the reason the examiner often refers to the disclosure of the instant application as the: “the present disclosure as originally filed”, “the present disclosure”, “the 1987 disclosure”, “the instant disclosure”, etc,...].

B) All the inventions that are described within the 557 pages of applicant’s instant 1987 disclosure represent specific applications of applicant’s 1987 “SPAM data transmission technology” that was first described (i.e. *introduced*) via applicant’s 1987 disclosure. In contrast, all the inventions that were described in the 44 pages

² The 1981 and 1987 inventions from applicant’s 1981 and 1987 disclosures represent vastly different 1981 and 1987 data transmission technology, respectively. Since applicant’s 1981 inventions and technology were not incorporated into applicant’s 1987 disclosure (they were not “carried forward” into the 1987 disclosure), applicant cannot be claiming his 1981 inventions/technology now; i.e. because the currently pending claims must derive all 112-1 support from the “instant disclosure” which is now the 1987 disclosure that only contains 1987 inventions/technology. The 1987 inventions/technology that is now necessarily being claimed is certainly not entitled to the 1981 filing date of applicant’s earlier 1981 inventions/technology.

³ SEE APPENDIX II OF THIS OFFICE ACTION.

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of applicant's earlier 1981 disclosure represent specific applications of technology other than said 1987 "SPAM data transmission technology";e.g. they appear to represent applications of cuing signal/tone technology which was common to 1981. In any event, applicant's present 1987 "SPAM-based" disclosure clearly represents a "NEW BEST MODE DISCLOSURE" when compared to the 1981 disclosure that it literally replaced. As explained by Judge Rich in "TRANSCO PRODUCT INC. VS PERFORMANCE CONTRACTING, INC. and PERFORMANCE CONTRACTING GROUP, INC. [38 F.3d551; 32 U.S.P.Q.2D (BNA) 1077], this fact alone deprives applicant of his claim to the 1981 effective filing date:

"It must be understood that the introduction of a new best mode disclosure would constitute the injection of 'new matter' into the application and automatically deprive the applicant of the benefit of the earlier filing date of the parent or original application for any claim whose validity rests on the new best mode disclosure."

[IMPORTANT NOTE: Applicant failed to incorporate his 1981 disclosure into his 1987 disclosure in any way whatsoever(e.g. it was neither physically incorporated nor was it incorporated by reference). Being such, applicant's

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present 1987 disclosure literally replaced the original 1981 disclosure as the “instant disclosure” from which all section 112 support must now be obtained ⁴. Being such, the “validity” all of applicant’s currently pending claims necessarily rests solely on applicant’s 1987 “new best mode disclosure” and solely in the new 1987 “SPAM data transmission technology” on which the inventions of applicant’s 1987 “new best mode disclosure” are based. Because of this, as explained by Judge Rich, the present applicant has “automatically deprived” himself the benefit of the earlier 1981 filing date of his 1981 parent application with respect to the currently pending claims; i.e. applicant’s 1987 inventions, comprised of applicant’s 1987 SPAM technology, were not described in applicant’s 1981 parent application and therefor are not entitled to the 1981 filing date of the parent application. Viewed from another direction, the inventions disclosed in applicant’s 1981 disclosure and the inventions disclosed in applicant’s 1987 disclosure represent very different data transmission system technologies, and therefor do not constitute “common subject matter” that is required to substantiate applicant’s claim to the earlier 1981 filing date ⁵. Because applicant’s 1981

⁴ SEE: *In re de Seversky*, 474 F.2d 671, 177 USPQ 144 (CCPA 1973)

⁵ Because of the way applicant elected to draft and file his 1987 disclosure, applicant’s 1981 disclosure and 1981 inventions were not carried forward into, and are not part of, applicant’s 1987 disclosure. Thus, because the 1981 inventions are not

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and 1987 disclosures do not contain “common subject matter”, the effective filing date for all of applicant’s later filed 1987 inventions (i.e. those 1987 inventions that are now necessarily being claimed) can be no earlier than the original 1987 filing date of applicant’s CIP in which they were first described (i.e. the earliest filing date of applicant’s 557 page “new best mode disclosure”) ⁶.

C) Throughout the present prosecution, applicant has made some effort to show:

1) where/how applicant’s *instant specification* (i.e. the 1987 disclosure) provides section 112-1 support for his pending amended claims; and also

disclosed within the 1987 disclosure, the 1987 disclosure does not provide required section 112-1 support for claims which are directed to these 1981 inventions. Likewise, the 1987 inventions, that are now necessarily being claimed by the currently pending claims, were not previously disclosed in the earlier filed 1981 disclosure and therefor are not entitled to the 1981 filing date. In contrast to the present circumstances, had applicant elected instead to incorporate his 1981 disclosure and inventions into the 1987 disclosure during the drafting and filing of the present 1987 disclosure (i.e. applicant did not!), then applicant would have been entitled to draft claims directed to the incorporated 1981 portion of the 1987 disclosure and such claims, i.e. claims supported by this incorporated 1981 portion, would have been entitled to the 1981 filing date because they would have represented inventions which were previously described/disclosed in the earlier filed 1981 disclosure; i.e. they would have represented “common subject matter”.

⁶ At best, one can only argue that a given one of applicant’s 1981 inventions and a given one of applicant’s 1987 inventions represent different technological ways of achieving similar goals/effects and therefor constitute some type of “correlated subject matter”. However, “correlated subject matter” does not constitute “common subject matter” and therefor does not substantiate a claim for 1981 priority.

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2) where/how applicant's *previously filed 1981 specification* (i.e. the 1981 disclosure) provides section 112-1 support for these same pending amended claims.

However, what has become crystal clear from these efforts is that the scope/meaning/interpretation that applicant is given to each claim limitation via the *instant 1987 specification* differs from the scope/meaning/interpretation given to each claim limitation via the *1981 parent specification*⁷. So which of these two 1987 and 1981 scopes/meanings/interpretations should each claim limitation get? Well, because the disclosure of applicant's 1981 parent application was not incorporated into the instant 1987 disclosure, each claim limitation gets the scope/meaning/interpretation that is given to it by the *instant 1987* disclosure. And, because these 1987 scopes/meanings/interpretations are not the same as- and do not go back to- the original 1981 disclosure, the 1987 scopes/meanings/interpretations cannot be given the 1981 filing date. By alleging a 1981 effective filing date for the 1987 claim scopes/meanings/interpretations that are now necessarily being claimed via his pending claims, applicant is effectively attempting to use his pending claims' limitations as time machines so as to transport those portions of his 1987 disclosure

⁷ i.e. the respective 1987 and 1981 interpretations of the same limitations encompass subject matter of a different scope/meaning and thus do not constitute "common subject matter" that is required for the purpose of establishing priority.

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that are now necessarily being claimed by each limitation (e.g. the limitations 1987 claim interpretations), back in time to the earlier 1981 filing date of the 1981 parent application. The effect of such illicit time travel can be seen in the following example:

The scope/meaning that has been given to the term “programming” by applicant’s present 1987 disclosure is broader and encompasses much more than the scope/meaning that was given to this same “programming” terminology by applicant’s original 1981 disclosure. By alleging the 1981 priority date for the pending claims which include this “programming” terminology, applicant is effectively trying to transport the broader 1987 definition of “programming” back to the time of his earlier 1981 application thereby retroactively redefining and broadening the meaning/scope of “programming” at the time of the 1981 disclosure so as to have the later 1987 definition. However, because the same “programming” terminology has been defined differently within the respective 1981 and 1987 disclosures, the “programming” terminology itself does not constitute “common subject matter” and therefor the “programming” terminology from the 1987 disclosure is not entitled to the 1981 filing date of the 1981 parent application.

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[It is helpful to remember that this situation exists because applicant elected not to incorporate the 1981 disclosure into the 1987 disclosure. By failing to carry the 1981 disclosure forward into his 1987 new best mode disclosure, applicant has forfeited his right to now claim any and all subject matter from his original 1981 disclosure (i.e. at least all subject matter which was not made part of the present 1987 disclosure). Because the 1981 definition of “programming” was not incorporated into applicant’s 1987 disclosure, the old 1981 definition of “programming” has been forfeited too (the current “programming” recitations necessarily get the 1987 “programming” definition AND its 1987 filing date to boot!)]].

SECTION VII: (Evidence of a Shell Game?)

21. Throughout the prosecution of their 329 co-pending applications, applicant has amended the same claims over and over again, in successive amendments, often only for the alleged purpose of providing “clarity”. The examiner points out that this process of continuously amending large numbers of claims for the sake of “clarity” effectively, and perhaps unfairly, creates moving targets for the Office/examiners to hit/address; i.e. it creates a burdensome situation for the Office/examiners in any event. This “*moving target*” approach to prosecution takes on a more ominous/disturbing complexion when there appears to be some evidence that applicant is recycling previously presented claims/issues within the movement, and is presenting the same claims/issues in different applications that are before different examiners, without notifying the Office/examiners to the fact that presented claims/issues are recycled ones and /or ones that have been presented a multiple of times. The examiner is not objecting to what applicant seems to be doing (i.e. recycling claims/issues and presenting duplicate claims/issues in different application before different examiner’s), but the examiner is strongly objecting to what applicant seems not to be doing (i.e. formally notifying the Office/examiners when claims/issues have been considered elsewhere in the record).

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The following four examples have been cited to exemplify this situation:

1) In lines 10-12 on page 32 of the Rule 1.181 Petition that was filed in March of 2000 in application S.N. 08/470,571, applicant argued that the *Administrative Requirement* was/is unfair because it requires applicant to resolve all conflicts between claims in different applications and therefor:

“compels [applicant] to narrow their claims without the benefit of a substantive determination how others may potentially interpret applicants [claims]”.

By taking this position, applicant appears to be admitting that they have been intentionally presenting conflicting claims within different applications for the expressed purpose of obtaining potentially different interpretations from “others”. However, if this is true, then one should be able to locate statements in the record where applicant has brought such conflicting claims/issues to the attention of the Office/examiners in view that the record is replete with applicant’s pledges to either: 1) maintain a patentable demarcation between claims in co-pending applications; or 2) to make a good faith effort to alert the PTO when conflicting claims have in fact been treated differently. A cursory review of the record by the examiner has failed

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to locate even one example of where the PTO was alerted as to the intentional presentation of conflicting claims/issues on the part of applicant. Thus, the obvious question arises: *If applicant has in fact knowingly and intentionally presented conflicting claims/issues in different applications to obtain different interpretation from others as their statements in the 181 Petition seem to suggest, then why have they failed to alert the Office/examiners of such conflicts as pledged?*

2) On 4/14/98, the examiner of record rejected claims 48-63 of application S.N. 08/471,024 under section 112. In response to this rejection, applicant amended claims 48-63 on 10/14/98 by deleting the recited "completed" terminology from these claims for the purpose of, as stated by applicant, providing "clarity". However, when applicant transferred these same claims into the respective consolidating application (i.e. as claims 167-182 of current application S.N. 08/470,571), applicant recycled the this issue by re-introducing the previously deleted "completed" terminology back into the claims without ever going back and addressing the issue which caused the terminology to be deleted in the first place; i.e. without explaining why the "completed" terminology had not caused the section 112

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problems alleged by the previous examiner, and/or without explaining why the deleting the “completed” terminology was no longer needed for “clarity” as previously alleged.

3) Throughout the present prosecution, applicant has acknowledged that section 112-1 support must come from his present 1987 disclosure and not his 1981 parent disclosure. Yet, time and time again, applicant seems to forget this fact and returns to old ways of improperly addressing section 112-1 support issues through erroneous and irrelevant citations to his 1981 parent disclosure. This forgetfulness seems to evidence ongoing efforts on the part of applicant to misdirect the focus of the section 112-1 issues to his 1981 parent disclosure: possibly indicating that applicant recognizes that it is difficult/impossible to identify section 112-1 support for the limitations of his pending claims from his originally filed 1987 disclosure in a manner that is “immediately discernible”; possibly indicating that applicant recognizes that it will be difficult/impossible to provide sufficient evidence needed to show “others” that the required section 112-1 support existed in his present 1987 disclosure at the time it was originally filed; possibly indicating that applicant

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has in fact left his “best mode” behind in the 1981 disclosure by the drafting and filing of the present 1987 disclosure; possibly indicating something else..... In any event, there seems to be little doubt that applicant’s 1987 disclosure is difficult to read and/or absorb; i.e. even by the accounts of applicant’s own expert witnesses ⁶⁴. For this reason alone, it would be no surprise if applicant wished to avoid having to confront his own 1987 disclosure when addressing issues under section 112-1. Unfortunately, applicant has no choice. Specifically, the use of his 1981 parent disclosure to address section 112-1 is in fact prohibited and is not a legal or valid alternative. [See the preceding paragraphs of this Office action for greater details].

4) Applicants appear to have made a ‘material to patentability’ allegation in a second co-pending application even though:

a) they appear to have taken countervailing actions, earlier, in a first co-pending application when amending its ‘to avoid the prior art’ ‘for reasons of patentability’;

⁶⁴ Applicant’s own expert witness seems to have elegantly captured this fact during ITC Investigation No. 337-TA-392

when he stated: “when I received the ‘277 patent [i.e. the present 1987 disclosure], my heart truly sank because I knew I would have to read and absorb the patent” [see the discussion starting in the last few lines of part I of 1997 ITC LEXIS 307*250].

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b) the same allegation of ‘material to patentability’ had been made, addressed, and dropped in the first co-pending application prior; and

c) the Examiner of the second co-pending application was not informed of the earlier countervailing action in the first co-pending application.

Moreover, and even later, Applicants seem to have made yet the same allegation ‘material to patentability’ ‘to avoid the prior art’ and ‘for reasons of patentability’ in a third co-pending application even though the Examiner of the third co-pending application was not informed, yet again, of the earlier countervailing action.

It is fact that what a single prior art reference teaches is uniform, and does not change, from co-pending application to co-pending application. Being such, there is no way to justify any allegation which creates, or attempt to create, countervailing estoppel in different ones of co-pending applications with respect to a single prior art reference. Unfortunately, such appears to have occurred during the prosecution of applicant’s 329 co-pending applications as is evidenced in the following:

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A) The First Instance (U.S. co-pending application no. 08/446,431) on February 24, 1998.

In the first co-pending application, the first Examiner rejected claim 13 as anticipated by Campbell et al (U.S. patent no. 4,536,791) under 35 U.S.C. 102(e). 102(e) is a finding of fact. Hence, the first Examiner made a factual determination that Campbell et al taught “one of simultaneous presentation and sequential presentation”.

See first Office action on the merits paper 12 page 23 paragraph 23 received 2/14/97.

In response, Applicants did not recognize that Campbell et al taught “one of simultaneous presentation and sequential presentation”. For their sole allegation ‘material to patentability’ for ‘distinguishing over Campbell et al’, Applicants alleged that Campbell et al “...is completely silent on...one of simultaneous presentation and sequential presentation...”; See paper 15 page 36 lines 9-11.

However, in the subsequent final rejection, the first Examiner made his final determination that Campbell et al

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did, in fact, teach “one of simultaneous presentation and sequential presentation”. See paper 16 pg 10 para. 8. ⁶⁵

In the subsequent response, Applicants amended claim 13 ‘to avoid the prior art’ (Campbell et al) ‘for reasons of patentability’. See paper 17 page 2 received 2/24/98.

B) The Second Instance (U.S. co-pending application no 08/441,577) on August 6, 1998.

In the second co-pending application and before a second Examiner, Applicants later alleged that “one of simultaneous presentation and sequential presentation” was, alone, ‘material to patentability’ for ‘distinguishing over Campbell et al’ ...“...Campbell lacks any concept of simultaneous or sequential output presented...” . See Amend D paper no. 14 pg 36 lines 10-13.

However, this allegation was made even though Applicants had taken the countervailing action earlier in the first co-pending application, and even though they did not provide the second Examiner with the ‘information’ that they had earlier

⁶⁵ Note: part “9)” of “SECTION II” of this Office action.

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amended the first application to 'avoid the prior art'(Campbell et al) 'for reasons of patentability'.

C) The Third Instance (U.S. co-pending application no. 08/484,858) on June 16, 1999.

In the third co-pending application before yet a third examiner, Applicants once again alleged that "one of simultaneous presentation and sequential presentation" was 'material to patentability' for 'distinguishing over Campbell et al' even though Applicants had taken the countervailing action earlier in the first co-pending application, and even though they did not provide the third examiner with the 'information' that they had earlier amended the first co-pending application to 'avoid the prior art'(Campbell et al) 'for reasons of patentability'.

Particularly, on June 16, 1999, there was a personal interview. The topic was the non-patentability of one or more claims under 37 C.F.R. 313(b)(3). In attendance were Applicant Mr. John C. Harvey and representatives Messrs. Donald J. Lecher and Mr. Thomas J. Scott, Jr. as well as

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Acting Director Jim Dwyer, Supervisor Andrew Faile, and Examiner William Luther. When discussing claim 9, Applicant Mr. Harvey alleged before Examiner Luther, and Messrs. Dwyer, and Faile, that Campbell et al did not teach “combined medium presentation” (claim 9 line 7) and that the claim 9 “combined medium presentation” was ‘material to patentability’ for ‘distinguishing over Campbell et al’. However, Examiner Luther explained, that the Campbell et al ‘video presentation’ is one kind of ‘presentation’ and the Campbell et al ‘audio presentation’ is another kind of ‘presentation’ so that the claim 9 “combined medium presentation” read squarely on the combined audio and video presentation of the Campbell et al television. See Campbell et al col 17 lines 58-61 and the written description corresponding to Figures 11, 12, and 13.

Mr. Dwyer said that the proper standard for Examiner Luther to apply is the ‘broadest reasonable interpretation’ standard when considering patentability. Mr. Dwyer then said that, while Examiner was not unreasonable for finding that “combined medium presentation” read on the Campbell et al

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‘audio presentation’ combined with the Campbell et al ‘video presentation’, when the specification provides definitions for terms appearing in the claims then the specification can be used for interpreting the claim language.

In response, Mr. Harvey alleged that Campbell et al does not teach “our combined medium presentation”. Mr Harvey said “our combined medium presentation” is “one of a sequential and simultaneous presentation”, and that Campbell et al “does not teach” “one of simultaneous presentation and sequential presentation”. Mr. Scott then specifically alleged, once again⁶⁶, that “one of simultaneous and sequential” was ‘material to patentability’ when alleging that it “patentably distinguished over” Campbell et al. Mr. Dwyer asked Examiner Luther whether he would indicate patentability if “one of simultaneous presentation and sequential presentation” was substituted for “combined medium presentation”. Examiner Luther declined.

In response to Examiner Luther’s declination, Mr. Scott indicated to Mr. Dwyer, Supervisor Faile, and Examiner

⁶⁶ It is noted that same attorney, Mr. Scott, is the undersigned attorney for the first and second instances.

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Luther that he would seek a “writ of mandamus” and “*judicial review*” if the third co-pending application was not patented.

Mr. Harvey, Mr. Scott, and Mr. Lecher did not, however, inform Mr. Dwyer, Mr. Faile, and Examiner Luther that Applicants had earlier taken the countervailing action of amending the first co-pending application to ‘avoid the prior art’ (Campbell et al), with respect to “one of simultaneous presentation and sequential presentation”, ‘for reasons of patentability’.

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SECTION VIII: (THE “WOODS”).

22. Applicant has disparagingly characterized the examiner’s mind as: “a woods”.

Is applicant really surprised? One needs only to read *Investigation No. 337-TA-392 of the International Trade Commission (ITC)*⁶⁷ to appreciate how difficult it was for that body to deal with a mere handful of applicant crafted claims (i.e. less than 10 of them). Now multiply this number a 1000+ times, literally, and one arrives at the 10-20 thousand applicant crafted claims which are part of the record that is currently before the Office/examiner. To try to picture all of the issues which are associated with these 10 to 20 thousand claims, using the difficulties faced by ITC as indicator, is to begin to picture the real forest to which applicant alludes.⁶⁸

⁶⁷ 1997 ITC LEXIS 307

⁶⁸ As patent applications go in the broadcast art, applicant’s instant 1987 disclosure weighs in on the heavy side of the spectrum comprising a very plump 557 pages of written description. Using the claim numbers set forth above, it can be conservatively estimated that applicant has submitted between 18 and 36 claims for every one of the 557 pages of this lengthy 1987 instant description: i.e. about one claim for every 8.5 to 17.7 words over the entire 557 pages. This claim to description ratio climbs to much higher levels when one considers only those portions of the 1987 written description on which the claims are actually based. For example, applicant’s own expert witness, Mr. Davis, testified in the above cited ITC INVESTIGATION that, “you don’t need to read all 310 columns” of the 1987 disclosure as printed in applicant’s ‘277 patent in order to understand it, “you can gain a complete understanding of what’s going on by reading and focussing on the first 25 to 30 columns” (emphasis added) [SEE: 1997 ITC LEXIS 307, *249]. These 30 columns correspond to about 57 pages of the 1987 written description which translates to a ratio of one submitted claim for every 1 to 2 words of written description. The claim-to-word ratio also *soars* when one considers those