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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/328,678	01/10/2006	Robert M. Garceau	GCSD-1780 (51454)	6572
74701 7590 01/16/2009 ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST 255 S ORANGE AVENUE SUITE 1401 ORLANDO, FL 32801			EXAMINER JEN, MINGJEN	
			ART UNIT 3664	PAPER NUMBER
			NOTIFICATION DATE 01/16/2009	DELIVERY MODE ELECTRONIC

**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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

creganoa@addmg.com

<b>Office Action Summary</b>	<b>Application No.</b> 11/328,678	<b>Applicant(s)</b> GARCEAU ET AL.	
	<b>Examiner</b> IAN JEN	<b>Art Unit</b> 3664	

-- 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) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, 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 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 04 December 2007.
- 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*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 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- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.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) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- 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.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/13/2006;07/10/2005</u> .                                   | 6) <input type="checkbox"/> Other: _____                          |

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## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 - 21 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1- 22 of Graceau et al (U.S. Patent Pub 2007/0162194 ) in view of Graceau et al (US Pat Pub 2007/0162193). Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 -5, 6, 8-

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16 of the present application is an obvious variation of claims 1-22 of U.S. Patent Pub No 2007/0162194 in view of U.S. Patent Pub No 2007/0162193.

The conclusion of obviousness-type double patenting rejection is made in light of the following determinations.

4. Claim 1-21 of U.S. Patent Pub No 2007/0162194 in view of U.S. Patent Pub No 2007/0162193 both shows

- Data base, image processor, image enhancer, change detector
- Collected geospatial image
- 3D scene model data; 2D image data
- Terrain data, building data and foliage data
- Collection field of view; Geospatial collection value.
- Weather Condition relates to image obscuration and surface reflectivity.
- Time of day and time of year.

### ***Claim Rejections - 35 USC § 103***

5. 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 subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oldroyd (US Pat Pub No 2005/0220363) in view of Margolin (US Pat No 597443) and further in view of aloha.

As for claim 1, 10, 15, Oldroyd shows a image detecting system where a collected geospatial image from a geospatial image sensor carried by an airborne platform, image detecting system comprising: a database ( Fig 1, See Reference Image Data 28; Reference Dem Database 40 ); an image processor cooperating with database for generating a reference geospatial image corresponding to the collected geospatial image ( Para 0049; analysis 24; Para 0069-0070; Para –76,transform 56 ); a change detector cooperating with image processor for detecting a change between the collected geospatial image and the reference geospatial image ( Para 0099 – 0101; See Fig 1, Image match 60, match function 62 ); an image detector cooperating with change detector for detecting the at least one image associated with the collected geospatial image based upon the change between the collected geospatial image and the reference geospatial image ( Para 0013 – 0016; Par 0075, Perspective analyssi 50, perspective parameters 52,reference orthoimage construction 44, transform to snesor perspective 56 ). Oldroyd is silent regarding the environmental condition associated with geospatial image is the weather condition.

Margolin shows the environmental condition associated with geospatial image is the weather condition ( Col 2, lines 47 - 65 ).

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It would have been obvious for one of ordinary skill in the art, to provide enhance image based upon environmental condition, as taught by Margolin, to Oldroyd, in order to provide efficient method for converting database, as taught by Margolin.

As for claim 2, 3, 11, 16, Oldroyd is silent regarding recited claim limitation.

Margolin shows at least one environmental condition comprises at least one weather condition (Col 2, lines 47 - 65) and at least one weather condition relates to at least one of image obscuration and surface reflectivity (Col 2, lines 47 - 65).

It would have been obvious for one of ordinary skill in the art, to provide enhance image based upon environmental condition, as taught by Margolin, to Oldroyd, in order to provide efficient method for converting database, as taught by Margolin.

As for claim 4, 5,6, 12, 17, 18, Oldroyd shows at least one environmental condition comprises at least one of a time of day and a time of year ( Para 0011 ); database comprises a geospatial scene model database ( Para 0031; Para 0048-0049 ); an environmental condition detecting system according to Claim 5 wherein geospatial scene model database comprises three-dimensional (3D) scene model data; and wherein each of the collected geospatial image and the reference geospatial image comprises respective two-dimensional (2D) image data ( Para 0106; Fig 1, See Reference Image Data 28; reference orthoimage construction 44 ).

As for claim 7, 19, Oldroyd shows geospatial scene model database comprises at least one of terrain data, building data, and foliage data (Para 0055- 0069).

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As for claim 8, 13, 20, Oldroyd shows the collected geospatial image has at least one geospatial collection value associated therewith ( Para 0013- 0016; para 0075, Perspective analysis 50; perspective parameter 52 ); and wherein image processor generates the reference geospatial image based upon synthetically positioning a virtual geospatial image sensor within a geospatial scene model based upon the at least one geospatial collection value ( Para 0049, analysis 24; Para 0069-0070,transform 56 ).

As for claim 9, 14, 21, the at least one geospatial collection value comprises at least one of a geospatial collection position, a geospatial collection orientation, and a geospatial collection field-of-view (Para 0011, 0048).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

Koeln et al ( US Pat No 5719949 ).

Rahmes et al (US Pat No 6654690/US Pat No 7412984).

Porikli ( US Pat No 6904159).

Chen et al ( US Pat No 6744442).

Louis et al ( US Pat No 5974170).

Wadsworth et al ( US Pat No 6118885).

Lechner ( US Pat Pub 2003/0059743).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to IAN JEN whose telephone number is (571)270-3274. The examiner can normally be reached on Monday - Friday 9:00-6:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ian Jen/  
Examiner, Art Unit 3664

/Dalena Tran/  
Primary Examiner, Art Unit 3664