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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 05/25/2010 ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST 255 S ORANGE AVENUE SUITE 1401 ORLANDO, FL 32801			EXAMINER JEN, MINGJEN	
			ART UNIT 3664	PAPER NUMBER
			NOTIFICATION DATE 05/25/2010	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

Office Action Summary	Application No. 11/328,678	Applicant(s) GARCEAU ET AL.	
	Examiner IAN JEN	Art Unit 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 20 April 2010.
- 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- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.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 01/10/2006 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 Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the remark entered on April 20th, 2010
2. Claims 1 - 21 are pending in current application.

Double Patenting

3. 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).

4. 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.

5. 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

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

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7. 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 Stossel et al (MOSAIC: A model based change detection process).

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);

Stossel et al shows an environmental condition detector cooperating with said change detector for detecting the at least one environmental condition (See Page 1115, 2.2 3D Geospatial change detection; 2.3 Detection of change to tree regions) associated with the collected geospatial image based upon the change between the collected geospatial image and the reference geospatial image (See Fig 2, processing flow for main components, Acquire image, Materials Database, Change Reporting) .

It would have been obvious for one of ordinary skill in the art, to provide enhance image based upon environmental condition, as taught by Stossel et al, to Oldroyd, in order to provide an improved performance of change detection system, as taught by Stossel, to Oldroyd.

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As for claim 2, 3, 11, 16, Oldroyd is silent regarding environmental condition comprise at least one weather condition and at least one weather condition relates to at least one of image obscuration and surface reflectivity.

Stossel et al shows at least one environmental condition comprises at least one weather condition (Page 1116, Col 1, lines 18 – 26) and at least one weather condition relates to at least one of image obscuration and surface reflectivity (See Page 1113, 2. Mosaic overview).

It would have been obvious for one of ordinary skill in the art, to provide enhance image based upon environmental condition, as taught by Stossel et al, to Oldroyd, in order to provide an improved performance of change detection system, as taught by Stossel et al, to Oldroyd.

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).

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

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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).

Response to Arguments

8. Applicant's arguments with respect to claim 1, 10 and 15 have been considered but are moot in view of the new ground(s) of rejection. Applicant's attention is now directed to newly recited reference Oldroyd (US Pat Pub No 2005/0220363) in view of Stossel et al (MOSAIC: A model based change detection process) where applicant's claim limitation has been addressed.

Conclusion

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.

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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

/KHOI TRAN/

Supervisory Patent Examiner, Art Unit 3664