



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17/922,970	11/03/2022	Naoki KUSASHIMA	19238US01	9229
165418	7590	01/28/2025	EXAMINER	
Xsensus / Sony			GIDADO, RASHEED	
100 Daingerfield Road, Suite 402			ART UNIT	PAPER NUMBER
Alexandria, VA 22314			2464	
			NOTIFICATION DATE	DELIVERY MODE
			01/28/2025	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):

Xdocket@XSensus.com
Xsensuspat@XSensus.com
anaquadocketing@XSensus.com

Office Action Summary	Application No. 17/922,970	Applicant(s) KUSASHIMA, Naoki	
	Examiner RASHEED GIDADO	Art Unit 2464	AIA (FITF) Status Yes

-- 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 MONTHS 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 11/03/2022.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ 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*

- 5) ☒ Claim(s) 1-13 is/are pending in the application.
5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-13 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 11/03/2022 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).

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).

Certified copies:

- a) ☒ All b) ☐ Some** c) ☐ None of the:
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) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date _____
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 4) ☐ Other: _____

DETAILED ACTION

1. This communication is response to the application filed 11/03/2022. Claims 1-13 are pending and presented for examination.

Notice of Pre-AIA or AIA Status

2. The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Priority

3. Receipt is acknowledged of certified copies of papers required by 37 CFR 1.55.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 11/03/2022 and 10/10/2023 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A program causing a computer to perform is not considered statutory because computer programs claimed as computer listings per

se, i.e., the descriptions or expressions of the programs, are not physical things, they are neither computer components nor statutory processes, as they are not acts being performed. Such claimed computer programs do not define structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer programs functionality to be realized. In contrast, a claimed non-transitory computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035 and Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1754 (claim to data structure per se held nonstatutory). Therefore, since the claimed software programs are not tangibly embodied in a physical medium and encoded on a non-transitory computer readable medium then the Applicants has not complied with 35 U.S.C. 101.

In the instant claim 30 the computer program product has to be encoded or embodied in a non-transitory computer readable medium and has to be executed by a processor or computer in order to be statutory.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a)(1) the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention.

7. Claim(s) 1, 2, 7, 9, 12, and 13 is/are rejected under 35 U.S.C. 102(a)(1) as being anticipated by US Pub. 2019/0239145 to Harada et al. (hereafter Harada).

Regarding claim 1, Harada discloses a communication device (see Harada, Fig 6, mobile station 600 and base station 700) comprising:

a sensing unit that performs sensing of a channel in an unlicensed band (see Harada, ¶ 0016: when a base station desires to perform downlink transmission using an unlicensed band, the base station listens to the channel in the unlicensed band..... the base station transmits control signaling, including scheduling information, to a mobile station, so that the mobile station will listen to the channel for the unlicensed band based on the scheduling information);

a communication unit that performs communication based on a result of the sensing see Harada, ¶ 0016: determine whether or not the mobile station can access the channel and perform uplink transmission based on the result of listening. Similarly, in a subframe 120, too, the base station listens to the channel and performs downlink transmission); and

a control unit that selects, as a method for the sensing, any one of a first manner of performing the sensing a predetermined number of times within a variable period (see Harada, ¶ 0018: In category 4, communication apparatus needs to listen to the channel based on a random backoff algorithm in which the contention window size is variable) and a second method different from the first method according to a predetermined condition (see Harada, ¶ 0018: In category 2, communication apparatus needs to listen to the channel for a certain period of time (for example, 25 μ s), and does

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.