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UTILITY PATENT APPLICATION TRANSMITTAL <i>(Only for new nonprovisional applications under 37 CFR 1.53(b))</i>	Attorney Docket No.	270560-999/2
	First Inventor	Todd E. Fitzsimmons
	Title	SYSTEM AND METHOD FOR ADDING AUXILIARY DATA TO TIME-SHIFTED DATA
	Express Mail Label No.	

APPLICATION ELEMENTS <i>See MPEP chapter 600 concerning utility patent application contents.</i>	ADDRESS TO: Commissioner for Patents P.O. Box 1450 Alexandria VA 22313-1450
1. ☐ Fee Transmittal Form (e.g., PTO/SB/17) 2. ☒ Applicant claims small entity status. See 37 CFR 1.27. 3. ☒ Specification [Total Pages <u>24</u>] Both the claims and abstract must start on a new page (For information on the preferred arrangement, see MPEP 608.01(a)) 4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets <u>4</u>] 5. Oath or Declaration [Total Sheets <u>2</u>] a. ☒ Newly executed (original or copy) b. ☐ A copy from a prior application (37 CFR 1.63(d)) (for continuation/divisional with Box 18 completed) i. ☐ DELETION OF INVENTOR(S) Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b). 6. ☐ Application Data Sheet. See 37 CFR 1.76 7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix) ☐ Landscape Table on CD 8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, items a. – c. are required) a. ☐ Computer Readable Form (CRF) b. ☐ Specification Sequence Listing on: i. ☐ CD-ROM or CD-R (2 copies); or ii. ☐ Paper c. ☐ Statements verifying identity of above copies	ACCOMPANYING APPLICATION PARTS 9. ☐ Assignment Papers (cover sheet & document(s)) Name of Assignee _____ 10. ☐ 37 CFR 3.73(b) Statement (when there is an assignee) ☐ Power of Attorney 11. ☐ English Translation Document (if applicable) 12. ☐ Information Disclosure Statement (PTO/SB/08 or PTO-1449) ☐ Copies of citations attached 13. ☐ Preliminary Amendment 14. ☐ Return Receipt Postcard (MPEP 503) (Should be specifically itemized) 15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed) 16. ☐ Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or equivalent. 17. ☒ Other: General Authorization/Request to Petition for Extensions of Time _____
18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76: ☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: _____ Prior application information: Examiner: _____ Art Unit: _____	

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: TODD E. FITZSIMMONS

Serial No.: Not Yet Assigned

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Title: SYSTEM AND METHOD FOR
ADDING AUXILIARY DATA TO TIME-
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GENERAL AUTHORIZATION / REQUEST TO PETITION FOR EXTENSIONS OF TIME

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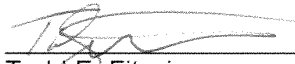
Dear Sir:

With reference to the subject application, and pursuant to 37 C.F.R. § 1.136, Applicant hereby authorizes and requests the Commissioner to treat any correspondence requiring a petition for extension of time as containing such a request therefor for the appropriate length of time. This general authorization is effective during the pendency of this application, including any division or continuing application therefrom.

Where no check is received by the Commissioner, you are hereby authorized to charge payment of the requisite petition fees, or charge any additional fee required under 37 C.F.R. § 1.17, or credit any overpayment of same, to Deposit Account No. 50-0639.

Respectfully submitted,

Date: October 24, 2011



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Electronic Patent Application Fee Transmittal				
Application Number:				
Filing Date:				
Title of Invention:		System And Method For Adding Auxiliary Data To Time-Shifted Data		
First Named Inventor/Applicant Name:		Todd E. Fitzsimmons		
Filer:		Todd E. Fitzsimmons		
Attorney Docket Number:		270560-999/2		
Filed as Small Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
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Utility Search Fee	2111	1	310	310
Utility Examination Fee	2311	1	125	125
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
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Post-Allowance-and-Post-Issuance:				
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File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Application.PDF	1461344 70dde70203a1ed886f21b00014db5b4ee0682231	yes	28
	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Specification		1	18	
	Claims		19	23	
	Abstract		24	24	
	Drawings-only black and white line drawings		25	28	
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2	Oath or Declaration filed	Declaration.PDF	97838 000047aa12dce330ad457f5f2e47d81d4a636130	no	2
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5	Fee Worksheet (SB06)	fee-info.pdf	32236 d3f01dcc2e1abac9ce9cbabc35a9b33f7301d27	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			1743543		
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SYSTEM AND METHOD FOR ADDING AUXILIARY DATA TO TIME-SHIFTED DATACROSS-REFERENCE TO RELATED APPLICATION

This application claims the benefit pursuant to 35 U.S.C. § 119(e) of U.S.
5 Provisional Patent Application Number 61/408,759 filed November 1, 2010, which
application is specifically incorporated herein, in its entirety, by reference.

BACKGROUND OF THE INVENTION

1. Field of the Invention

The present invention relates to the storage and play back of time-shifted data,
10 and more particularly to a system and method for adding auxiliary data to data that has
been time-shifted.

2. Description of Related Art

Digital video recorders ("DVRs"), like TIVO™, are commonly used to record data
(e.g., video, audio, etc.), allowing it to be played back at a later time. This concept is
15 referred to as time-shifting, in that it allows the recorded data (in its original form) to be
played back at a later time. For example, a television program that airs at 2:05 in the
morning can be recorded and played back at a more convenient time (e.g., the following
day at 1:00 in the afternoon).

The concept of time-shifting is advantageous to the user in that it allows the user
20 to watch a television program at a more convenient time. Such a concept is also
advantageous to an owner and a distributor of the program (i.e., content owner and
content provider, respectively) in that it increases (or has the potential to increase)
viewership, or the number of viewers of the program. In other words, by allowing a
person to watch a television program at a time that is convenient to them, it increases
25 the likelihood that the person will watch the program, especially if the program is being

broadcasted at an inconvenient time (*e.g.*, while other popular programs are being broadcasted, while the person is working, while the person is sleeping, etc.).

DVRs are also popular in that they allow a user to pause, rewind or fast forward a television program. Thus, the user can re-watch the program (or a portion thereof), or skip a portion of the program. This creates a problem for the content owner and/or the content provider in that it allows the user to skip commercials, or paid advertisements, which can decrease the value of the program to the content owner, the content provider and advertisers.

It also creates another problem in that the information that's included in the program may be outdated. For example, a program may include an advertisement for a movie that is currently being shown at a local theater. If, however, the user does not watch the program for several weeks, that movie may no longer be playing at the local theater. By way of another example, the program may include information at the bottom of the screen (*e.g.*, news ticker or "crawler"), identifying upcoming programs, late-breaking news, scores of daily sporting events, etc. Obviously, if the user does not watch the program for several weeks, this information is outdated, and of little value.

This problem originates from the fact that this type of information (*e.g.*, advertisements, news tickers, "crawlers," etc.) is selected based on when the program is being broadcasted, and not on when the program is being viewed. For example, if a program is being broadcasted on a Monday afternoon, then it may include commercials directed toward mothers, or individuals who are home on Monday afternoon. Similarly, if a program is being broadcasted on a sports channel on Sunday night, then it may include a news ticker on scores for sporting events that took place earlier that day.

With more and more data being time-shifted, it would be advantageous to develop a system and method of adding data (*e.g.*, auxiliary data) to time-shifted data at the time the data is being played. By doing this, data can be added that is current, and therefore more likely to be of value to the user, which can increase the value of the program to the content owner, the content provider and advertisers.

SUMMARY OF THE INVENTION

The present invention provides a system and method for adding auxiliary data (e.g., advertisements, news tickers, "crawlers," etc.) to data that has been time-shifted. Preferred embodiments of the present invention operate in accordance with a data transmission system, wherein data (e.g., movies and television programs, including sitcoms, sporting events, news programs, etc.) is being transmitted from at least one data source (e.g., content owner, content provider, etc.) to at least one receiving device (e.g., set-top box, television, etc.) via at least one data distribution means (e.g., satellite, cable, fiber-optics, telephone line, etc.). Data is provided to the receiving device via a first transmission path, where it is processed and provided to a display via a second transmission path, which may include, for example, a coaxial cable, an HDMI cable, RCA cables, an Ethernet cable or other wireless means (e.g., WiFi, Bluetooth, etc.).

In a preferred embodiment of the present invention, the receiving device is configured to function as a DVR. In other words, the receiving device is configured to perform both standard receiver functions and standard DVR functions. In this embodiment, the receiving device is also configured to add auxiliary data to data that is being time-shifted, or data that has been recorded and is being played back. In other words, at the time the time-shifted data is being played, the receiver may be configured to acquire auxiliary data, and insert the auxiliary data into the time-shifted data, so that both the time-shifted data and the auxiliary data are displayed to the user on the display. By acquiring auxiliary data at (or around) the time the time-shifted data is being played, it is more likely that the auxiliary data has value to the user, thereby increasing the value of the time-shifted data to the content owner, the content provider and advertisers.

In one embodiment of the present invention, the time-shifted data may be displayed in a main portion of the display, and the auxiliary data may be displayed in a secondary (or auxiliary) portion of the display. For example, in the case of a sitcom, the sitcom may be shown in the main portion, and auxiliary information, such as information

on upcoming programs, late-breaking news, the content owner, the content provider or an advertiser, may be shown in the secondary portion.

In another embodiment of the present invention, the time-shifted data is broken down into a plurality of segments, and auxiliary data is added between the individual segments. For example, time-shifted data, which may be a sitcom, may be broken down into three segments. The receiving device may be configured to store the segments separately, and play the first segment in response to a corresponding command. The receiving device may further be configured to receive auxiliary data when the first segment is played (or is substantially over) and to play the auxiliary data when the first segment is over. The receiving device would then play the second segment, followed by a second set of auxiliary data, followed by the third segment, etc.

In another embodiment of the present invention, a system for adding auxiliary data to time-shifted data includes a controller in communication with a remote control, a processor and at least one tuner, wherein the tuner is configured to receive data on at least one channel from an antenna, and to access data on a particular channel, as selected by either the controller or the processor. Data received by the tuner is then provided to a decoder, where the data is processed and provided to the processor. The processed data can then either be displayed on the display or stored in memory, so that it can be displayed at a future time.

In another embodiment of the present invention, a method for adding auxiliary data to time-shifted data includes the recording of program data. When the program data is played, auxiliary data is retrieved. This can be, for example, in response to a request to play the program data, in response to accessing program data from memory, in response to playing program data, etc. Both auxiliary data and program data are then played at the same time on the display (*e.g.*, as PIP, POP, etc.). In an alternate embodiment, the program data is split into a plurality of segments, and auxiliary data is played between segments. The playing of both program data and auxiliary data (either consecutively or concurrently) continues until the program data is over.

A more complete understanding of the system and method for inserting auxiliary data into time-shifted data will be afforded to those skilled in the art, as well as a realization of additional advantages and objects thereof, by a consideration of the following detailed description of the preferred embodiment. Reference will be made to
5 the appended sheets of drawings which will first be described briefly.

BRIEF DESCRIPTION OF THE DRAWINGS

Figure 1 illustrates a data transmission system in accordance with a preferred embodiment of the present invention;

Figure 2 illustrates a receiving device and a display in accordance with one
10 embodiment of the present invention, wherein the receiving device is configured to display both auxiliary data and time-shifted data on the display;

Figures 3 and 4 illustrate exemplary methods of displaying time-shifted and auxiliary data on the display;

Figure 5 illustrates time-shifted data that is divided into a plurality of segments,
15 wherein auxiliary data is played between individual segments’;

Figure 6 illustrates time-shifted data that includes a plurality of commercial breaks, wherein auxiliary data is played during the commercial breaks;

Figure 7 illustrates a system for inserting auxiliary data into time-shifted data in accordance with one embodiment of the present invention; and

20 Figure 8 illustrates a method for inserting auxiliary data into time-shifted data in accordance with one embodiment of the present invention.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

The present invention provides a system and method for adding auxiliary data
25 (e.g., advertisements, news tickers, “crawlers,” etc.) to data that is being time-shifted. As shown in Figure 1, preferred embodiments of the present invention operate in accordance with a data transmission system, wherein data (e.g., movies and television programs, including sitcoms, sporting events, news programs, etc.) is being transmitted from at least one data source 110a, 110b (e.g., content owner, content provider, etc.) to

at least one receiving device 120a, 120b and 120c (*e.g.*, set-top box, television, etc.) via at least one data distribution means 100 (*e.g.*, satellite, cable, fiber-optics, telephone line, etc.). Thus, for example, the transmission of data from DIRECTV™ or DISH™ to a satellite receiver via at least one satellite is within the spirit and scope of the present invention. By way of another example, the transmission of data from Time Warner™ or Charter™ to a cable box via a cable, fiber-optic or wide area network is also within the spirit and scope of the present invention.

As shown in Figure 2, data is provided to the receiving device 120 via a first transmission path 222, where it is processed and provided to a display 220 via a second transmission path 220, which may include, for example, a coaxial cable, an HDMI cable, RCA cables, an Ethernet cable or other wireless means (*e.g.*, WiFi, Bluetooth, etc.). It should be appreciated that the receiving device 120 is not limited to any particular type of receiving device, and includes all reception devices generally known to those skilled in the art (*e.g.*, set-top boxes, satellite receivers, analog or digital cable boxes, etc.). It should also be appreciated that the first transmission path 222 is not limited to any particular type of transmission path, and includes all communication paths generally known to those skilled in the art (*e.g.*, satellites, cables, fiber-optics, telephone lines, wide area networks, local area networks, wireless communication paths, etc.). It should further be appreciated that the display 220 is not limited to any particular type of display, and includes all display devices generally known to those skilled in the art (*e.g.*, CRTs, LCDs, plasmas, projection devices, etc.). It should further be appreciated that the present invention is not limited a receiving device that is separate from a display. Thus, for example, a display that includes a receiving device is within the spirit and scope of the present invention.

In a preferred embodiment of the present invention, the receiving device 120 is configured to function as a DVR. In other words, the receiving device 120 is configured to perform both standard receiver functions (*e.g.*, receiving data on a plurality of channels, processing data on a channel selected by a user (*e.g.*, via a remote control), and providing the processed data to a display) and standard DVR functions (*e.g.*,

allowing a user to record, pause, rewind, fast forward and play processed data). It should be appreciated, however, that the present invention is not limited to a receiving device that incorporates a DVR, and that a receiving device that is in communication with an external (or remote) DVR (or other time-shifting device) is within the spirit and scope of the present invention.

The receiving device 120 may also be configured to add auxiliary data (*e.g.*, advertisements, new tickers, “crawlers,” etc.) to data that is being time-shifted, or data that has been recorded and is being played back (hereafter referred to as “time-shifted data”). In other words, at the time the time-shifted data is being played (*e.g.*, in response to a request to play the time-shifted data, in response to the time-shifted data being played, in response to the time-shifted data being accessed from memory, etc.), the receiver is configured to acquire auxiliary data, and (at that time or a time thereafter) insert the auxiliary data into the time-shifted data, so that both the time-shifted data (or a portion thereof) and the auxiliary data (or a portion thereof) are displayed to the user on the display 220. By acquiring auxiliary data at (or around) the time the time-shifted data is being played, it is more likely that the auxiliary data has value to the user, thereby increasing the value of the time-shifted data to the content owner, the content provider and advertisers.

It should be appreciated that the term “time-shifted data,” as used herein is not limited to data that is recorded and watched hours or days later. For example, most DVRs include a buffer, which buffers data that is being viewed in real-time. The buffer is used so that live data can be paused for a predetermined period of time (determined by the size of the buffer). However, pausing a program and then pressing “play,” results in a program that is time-shifted, if only by a couple of seconds. Thus, depending on how the receiving device is programmed, it can treat all time-shifted data as “time-shifted data,” or it can treat data that is shifted by a predetermined period of time (*e.g.*, an hour, a day, a week, etc.) as “time-shifted data.” It should also be appreciated that while “auxiliary data” is preferably current video data (*e.g.*, “crawlers,” news tickers, etc.) the present invention is not so limited. Thus, for example, inserting an auxiliary still image

over time-shifted data (*e.g.*, an advertiser's or content provider's logo (solid or semi-transparent), etc.), or playing auxiliary audio along with (or instead of) audio included in the time-shifted data is within the spirit and scope of the present invention.

It should further be appreciated that in different embodiments of the present invention, auxiliary data is displayed during either (a) the entire time the time-shifted data is displayed, or (b) a portion of the time the time-shifted data is displayed. For example, auxiliary data may be displayed shortly after the time-shifted data is displayed (*e.g.*, giving the receiving device time to receive, process and/or store the auxiliary data). By way of another example, auxiliary data (*e.g.*, a first set of auxiliary data) may be displayed while a first portion of the time-shifted data is displayed. Furthermore, a second set of auxiliary data may be displayed while a second portion of the time-shifted data is displayed, a third set of auxiliary data may be displayed while a third portion of the time-shifted data is displayed, etc. Alternatively, the first set of auxiliary data may be repeated (*e.g.*, displayed while a third portion of the time-shifted data is displayed, etc.). It should further be appreciated that the auxiliary data can either be received in real-time (*i.e.*, at or immediately before it is displayed), or received and stored, allowing it to be displayed at a later time (*e.g.*, a minute later, a hour later, a day later, etc.).

Figure 3 illustrates one way in which time-shifted data (or a portion thereof) and auxiliary data (or a portion thereof) can be displayed on the display 220. Specifically, the time-shifted data (*e.g.*, a sporting event, a news program, a sitcom, a movie, etc.) may be displayed in a main portion 322 of the display 220, and the auxiliary data (*e.g.*, an advertisement, a new ticker, a "crawler," etc.) may be displayed in an auxiliary portion 324 of the display. For example, in the case of a sitcom, the sitcom may be shown in the main portion 322, and auxiliary information, such as information on upcoming programs, late-breaking news, the content owner, the content provider or an advertiser, may be shown in the secondary portion 324. By way of another example, in the case of a sporting event, the sporting event may be shown in the main portion 322, and auxiliary information, such as information on other sporting events (*e.g.*, scores,

game updates, etc.) and an advertiser (or sponsor) of this information, may be shown in the secondary portion 324.

Figure 4 illustrates another way in which time-shifted data (or a portion thereof) and auxiliary data (or a portion thereof) can be displayed on the display 220.

5 Specifically, the time-shifted data may be displayed in a main portion 422 of the display 220, and auxiliary data may be displayed in an auxiliary portion 424 of the display 220. It should be appreciated that the present invention is not limited to displaying time-shifted data and auxiliary data as shown in Figures 3 and 4. Thus, for example, a method that displays auxiliary data on multiple portions of a display (regardless of each
10 portion's size, location, etc.) is within the spirit and scope of the present invention. Further, as discussed below, a method that displays auxiliary data on the entire display is also within the spirit and scope of the present invention.

It should be appreciated that auxiliary data can be displayed inside the time-shifted data (*e.g.*, similar to picture-in-picture, or PIP) or outside the time-shifted data
15 (*e.g.*, similar to picture-out-of-picture, or POP). In the case of the prior, the time-shifted data may be sized to fill the entire display, and the auxiliary data may be sized to fill only a portion of the display and either (a) blocks out time-shifted data in the auxiliary portion (*e.g.*, similar to PIP, where you can only see the auxiliary data, and you cannot see the underlying time-shifted data), or (b) is semi-transparent, and does not block out all time-
20 shifted data in the auxiliary portion (*e.g.*, allows some of the underlying time-shifted data to be seen). In the case of the latter, the time-shifted data may be sized to fill a first portion of the display, and the auxiliary data may be sized to fill a second portion of the display. In one embodiment of the present invention, the time-shifted data and the auxiliary data can be combined to fill the entire display. For example, the time-shifted
25 data may be sized for a 16:7 display, and the auxiliary data may be sized for a 16:2 display, thereby allowing the combined data to be sized for a 16:9 display. It should be appreciated, however, that it may be more convenient for time-shifted data to be sized for a 16:9 display, so that it can be easily displayed for those who are not time-shifting.

For those who are time-shifting, auxiliary data can be added as a PIP, or the time-shifted data can be reformatted so that the auxiliary data can be added as a POP.

In another embodiment of the present invention, the time-shifted data is broken down into a plurality of segments, and auxiliary data is added between the individual segments. For example, as shown in Figure 5, time-shifted data 500, which may be a sitcom, is broken down into three segments 510, 520 and 530. The receiving device may be configured to store the segments separately, and play the first segment in response to a user (*e.g.*, via a remote control) transmitting a command to play the time-shifted data. The receiving device may also be configured to receive auxiliary data when the first segment is played (*e.g.*, in response to receiving the command to play the time-shifted data, in response to the first segment being played, in response to the first segment being over (or substantially over), in response to the first segment being accessed from memory, etc.), and to play the auxiliary data (*e.g.*, a commercial, etc.) when the first segment is over. The receiving device would then play the second segment, followed by a second set of auxiliary data, followed by the third segment, etc.

By receiving the auxiliary data when (or shortly after) the time-shifted data has been played, advertisements that are played between segments can be tailored to the date and/or time the time-shifted data is played. As discussed further below, the advertisements can also be tailored to the user (*e.g.*, using data kept by the content provider, data gathered by the receiving device, etc.). It should be appreciated that while it may be advantageous to receive auxiliary data as soon as time-shifted data is played (*e.g.*, so that the data can be buffered and ready to be played), such a feature is not a limitation of the present invention. Thus, for example, receiving auxiliary data before the time-shifted data is played, or after portions of the time-shifted data are played, is within the spirit and scope of the present invention. By way of example only, the receiving device may be configured to receive auxiliary data in real-time, or when it is to be played (*e.g.*, when the first segment is over, etc.).

In another embodiment of the present invention, the time-shifted data includes data on when commercials should be played. For example, as shown in Figure 6, time-

shifted data 600 may be stored as a single program that includes three segments 610, 620 and 630 and two commercial breaks 640, 650. In this embodiment, the time-shifted data comprises a plurality of data packets that includes (in part) information on the two commercial breaks 640, 650. This information may include, for example, when the commercial break begins, when the commercial break ends, the duration of the commercial break, etc. By doing this, the program can be aired (or broadcasted) with commercials, so that it can be watched (in its original form) by those who do not time-shift, and different commercial can be added to the program if the program is time-shifted. It should be appreciated that if the receiving device knows when commercials are to be played, or can differentiate between program data (or segments) and auxiliary data (or commercial breaks), then the receiving device could be configured to disable at least the fast forwarding feature of the DVR while commercials are being played. This would allow a user to time-shift data without being able to skip commercials. It should be appreciated that this embodiment of the present invention is not limited to time-shifted data that includes commercial breaks. For example, time-shifted data that includes at least one other break (*e.g.*, an end (or remainder) of program data, updated information on program data, a sequel to program data, etc.).

Figure 7 illustrates a system for adding auxiliary data to time-shifted data in accordance with one embodiment of the present invention. Specifically, the system 70 includes a controller 710 in communication with a remote control 770 (*e.g.*, as operated by a user of the system), a processor 740 and a plurality of tuners 722, 724, wherein the tuners 722, 744 are configured to receive data on a plurality of channels from antenna 780, and to access data on a particular channel (or a particular frequency), as selected by either the controller 710 or the processor 740. For example, a user (via the remote control 770 and the controller 710) may select a particular channel to watch or record. By way of another example, the processor 740 may select a particular channel if it needs to acquire auxiliary data or program data that needs to be recorded (discussed in greater detail below).

Data received by the tuners 722, 724 is then provided to the decoders 732, 734, respectively, where the data is processed (*e.g.*, amplified, decoded, de-packetized, etc.) and provided to the processor 740. The processed data can then either be displayed on the display 750 or stored in memory 760, so that it can be displayed at a future time.

5 It should be appreciated that the present invention is not limited to the system shown in Figure 7. First of all, Figure 7 does not show every component included in a receiver/DVR. Those skilled in the art will understand that Figure 7 shows key components, and that other (common) components are not shown for the sake of simplicity. For example, a receiver/DVR that further includes video amplifiers, audio
10 amplifiers, analog-to-digital converters, multiplexors, additional processors (*e.g.*, video processor, audio processor, PIP processor, etc.), fewer processors (*e.g.*, combining the controller 710 and the processor 740, etc.), additional/fewer tuners, and additional/fewer memory devices is within the spirit and scope of the present invention.

It should also be appreciated that the memory shown in Figure 7 is not limited to
15 any particular type of memory, and all memory devices general known to those skilled in the art (*e.g.*, hard drives, disk drives, RAM, ROM, etc.) are within the spirit and scope of the present invention. Further, the memory 760 may exist as a single memory, or as multiple memories locally and/or remotely located. For example, a first memory may be located inside the processor 740, a second memory may be external to the
20 receiver/DVR, etc. It should further be appreciated that while Figure 7 illustrates that data is received via antenna 780, the present invention is no so limited. As discussed above with respect to Figure 1, data can be provided over any uni-directional or bi-directional data path, including, but not limited to satellites, cables, fiber-optics, telephone lines, wide area networks, local area networks and/or wireless data paths.

25 By way of example only, a user (via the remote control 770) may decide to record a sitcom that starts at 8:00 on channel 247 on Monday evening. The request would be provided to the processor 740 via the controller 710. At 8:00 on Monday evening, the processor 740 would set the tuner 722 to channel 247. The sitcom would then be retrieved, processed and stored in memory 760. A week later, the user (via the remote

control 770) may decide to watch the sitcom, or time-shifted data. The request would be provided to the processor 740 via the controller 710. The processor 740 would then stream the time-shifted data to the display 750, so that it could be watched by the user. In the response to the request (or the like, as discussed above), the processor 740 would also acquire auxiliary data. The auxiliary data could be acquired from either the memory 760 (if previously received) or from the content owner or content provider (e.g., via antenna 780 or the like (e.g., satellite, cable, etc.)).

In one embodiment of the present invention, the processor 740 uses information included in the time-shifted data and/or linked to the time-shifted data (e.g., in memory) to acquire the auxiliary data. For example, the time-shifted data (or data linked thereto) may identify the channel that carried the time-shifted data. The processor 740 could then set the tuner 722 to this channel (e.g., 247) to receive the auxiliary data. In this embodiment, channel 247 is used to not only broadcast program data (e.g., sitcoms, sports, movies, etc.), but also to broadcast auxiliary data. However, if there is not enough bandwidth on channel 247 to broadcast both program and auxiliary data, then a different channel (e.g., channel 1247) could be used to broadcast auxiliary data for channel 247. The different channel could either be identified in the time-shifted data or in a look-up table, linking channel 247 to channel 1247. The look-up table, which could also link a program ID number or a time slot to a particular channel, could be stored in RAM or ROM in processor 740, or in memory 760.

Because auxiliary data may require less bandwidth, different types of auxiliary data could be carried on the same channel. For example, channel 1247 could carry auxiliary data for channel 247 and channel 248, auxiliary data for first program data and for second program data, auxiliary data for a first segment and for a second segment, etc., wherein each type of auxiliary data includes data that identify the channel, program or segment for which it pertains. For example, if the auxiliary data is provided in a plurality of packets, channel data (or data that could be used to determine channel data) (e.g., via a look-up table) could be include in at least one packet (e.g., in a packet's header, payload, etc.).

It should be appreciated that the processor 740 may be configured to set the secondary tuner 724 to the channel that includes the auxiliary data. This is done so that the primary tuner 722, which may be in use by the user (*e.g.*, to buffer live television, to record another program, etc.), is left unchanged. In fact, in a preferred embodiment, the system would include a dedicated tuner that is not accessible to the user and used solely (or at least primarily) to acquire auxiliary data. It should also be appreciated that the processor may further be configured to add auxiliary data to program data, regardless of whether the program data is time-shifted. In other words, if program data is being viewed in real-time (*i.e.*, not time-shifted), then the processor could be used to add auxiliary data (retrieved in real-time) to the program data (retrieved in real-time). Such an embodiment could be used to display, for example, a sitcom and a news ticker, both of which are broadcasted at substantially the same time. Such an embodiment could also be used to display, for example, first and second program data, both of which are broadcasted at substantially the same time, and can be displayed together to create (together with proper glasses) a 3D affect. If, however, the program data is time-shifted, then the processor could be used to add auxiliary data (retrieved in response to playing the previously recorded program data) to the program data (previously recorded).

The foregoing embodiment is well suited for a uni-directional network, such as satellite. However, in a bi-directional network, such as cable, fiber-optics, wide area network, local area network, or satellite with a return system (*e.g.*, phone line, satellite transmitter, etc.), the auxiliary data could be requested from a content provider or a content owner. For example, the time-shifted data could include self-identifying information (*e.g.*, ID number), which could be provided (*e.g.*, together with date and/or time) to the content provider or content owner, requesting the auxiliary data. This would allow the auxiliary data (which could be provided in a response to the request, over a channel identified in a response to the request, over a channel identified in a look-up table, etc.) to be tailored to not only the time and/or date of playback of the time-shifted data, but to the time-shifted data itself. For example, auxiliary data for a soap opera may be different than auxiliary data for a sporting event, even if both are being played

back at the same time. In such a system, additional data could also be used to tailor the auxiliary data to the user. For example, the content provider may have demographic data on the user, and the processor 740 may have information on his/her viewing habits (*e.g.*, programs that have been recorded, programs that have been viewed, etc.). This information, together with the type of time-shifted data, and the time and/or day it is being played, could be used to tailor auxiliary data specifically for the user.

Regardless of the particular method used to acquire auxiliary data (*e.g.*, acquiring it from the same channel that carried the program data, acquiring it from a different channel, sending a request for auxiliary data, etc.), a program may be stored on the receiver (*e.g.*, in memory in the processor 740, in the memory 760, etc.) to perform the functions of acquiring and displaying auxiliary data without any intervention from the user. For example, in response to the user pressing the “play” button on the remote control 770, the processor 740 would not only function to play the time-shifted data, but also to automatically acquire auxiliary data (which may require changing the channel of the primary tuner 722, changing the channel of the secondary tuner 724, sending a request to the content provider, etc.) and to automatically display (at an appropriate time) the auxiliary data on the display 750. Preferably, this should be done without any user intervention, so that the process is seamless to the user. That being said, a user may be able to program the receiver/DVR (*e.g.*, during set-up) to enable/disable the receiving and/or displaying of auxiliary data (or a portion thereof). For example, a user who is recording a first sporting event and watching a second sporting event, either in real-time or time-shifted, may not want to receive updates (*e.g.*, in the form of a news ticker) on the first sporting event. Thus, a user may be able to program the processor 740 to display only program data, and not auxiliary data, or filter the auxiliary data so that only certain information is displayed, or certain information is not displayed.

In one embodiment of the present invention, the processor 740 is configured to display auxiliary data only when the time-shifted data is being played, and not when the

time-shifted data is in rewind or fast forward. In other words, if the user enters a command (via the remote control 770) to rewind the time-shifted data, so that the time-shifted data is shown on the display 750 going backwards, or enters a command to fast forward the time-shifted data, so that the time-shifted data is shown on the display 750 going forwards, the auxiliary data is not displayed during these times. It is only displayed when the time-shifted data is being played, in a forward direction, and at a normal (or original) speed.

In another embodiment of the present invention, the processor 740 is further configured to display auxiliary data when the time-shifted data is in rewind. In other words, if the user enters a command to rewind the time-shifted data, so that the time-shifted data is shown on the display 750 going backwards, the processor 740 displays the auxiliary data during this time. In accordance with this embodiment, the processor 740 may be configured to buffer the time-shifted data and the auxiliary data (together) so that the rewind command can be used to play both the time-shifted data and the auxiliary data (together) in reverse. For example, if the time-shifted data is a sitcom, and the auxiliary data is a transparent logo for Pepsi™, and the user enters a command to play the sitcom, then the processor 740 may be configured to display (or play) the sitcom on the display 750 along with the Pepsi™ logo. The processor 740 may then buffer (or store) (e.g., in memory 760) the played portions of the sitcom with the Pepsi™ logo, allowing the processor 740 to play (from the buffer) the sitcom in reverse together with the Pepsi™ logo if the user enters a rewind command. This would also allow the processor 740 to pause the data (together), and then play the data (together). Preferably, the buffered data should be stored separate from the time-shifted data, so that the time-shifted data (or a portion thereof) can be played at a later time with different auxiliary data.

In another embodiment of the present invention, the processor 740 is further configured to display auxiliary data when the time-shifted data is in fast forward. In other words, if the user enters a command to fast forward the time-shifted data, so that the time-shifted data is shown on the display 750 going forward, the processor 740

displays the auxiliary data during this time. It should be appreciated that in order to do this, the auxiliary data needs to be received, or stored, prior to (or immediately after) the time-shifted data is played. For example, in the prior instance of a sitcom and a Pepsi™ logo, because the logo does not change during playback, the processor 740
5 can add the logo to the time-shifted data regardless of whether the data is being played in reverse, or fast forward. By way of another example, if the auxiliary data is received before the time-shifted data is played, then the processor 740, in response to a fast forward command, could display the time-shifted data going forward together with the auxiliary data going forward. In other words, both sets of data could be displayed
10 (together) while they are being fast forwarded. In this example, the processor 740 could be configured to receive and store auxiliary data for the time-shifted data stored in the memory 760 (*e.g.*, once a week, once a day, once an hour, etc.) in anticipation that the time-shifted data may be played. By way of another example, the processor could be configured to download auxiliary data (*e.g.*, as a chunk of data) at the time the time-
15 shifted data is being played. The downloaded data can then be processed (*e.g.*, unzipped, decompressed, etc.) and played together with the time-shifted data (or a portion thereof).

It should be appreciated that in one embodiment of the present invention, the memory 760, or a portion thereof, may be remotely located from the processor 740
20 (*e.g.*, at the content provider, etc.). In such a system, program data could be stored remotely from the processor 740, and requested by the user (*e.g.*, like an on-demand video system). As with other embodiments of the present invention, the program data (as stored) could be accessed by the processor 740 and played on the display 750. During play, the processor 740 could also be configured to access auxiliary data, and
25 display the auxiliary data together with the program data on the display 750.

Figure 8 illustrates a method of adding auxiliary data to time-shifted data. Specifically, the method, which starts at step 810, involves recording program data at step 820. When the program data is played at step 830, auxiliary data is retrieved at step 840. This can be, for example, in response to a request to play the program data,

in response to accessing program data from memory, in response to playing program data, in response to the program data being substantially over, etc. At step 850, both auxiliary data and program data are played at the same time on the display (*e.g.*, as PIP, POP, etc.). In an alternate embodiment, the program data is split into a plurality of segments, and auxiliary data is played between segments. The playing of both program data and auxiliary data (either consecutively or concurrently) continues until the program data is over, ending the method at step 860.

Having thus described multiple embodiments of a system and method for inserting auxiliary data into time-shifted data, it should be apparent to those skilled in the art that certain advantages of the system have been achieved. It should also be appreciated that various modifications, adaptations, and alternative embodiments thereof may be made within the scope and spirit of the present invention. For example, in certain embodiments of the invention, it is described that a processor is used to display both auxiliary and time-shifted data. It should be appreciated that the processor may also (or instead) initiate the display of auxiliary and/or time-shifted data by controlling (or providing data to) another device (*e.g.*, a multiplexor, a mixer, an adder, a multiplier, another processor (*e.g.*, PIP processor, video processor, etc.), video memory, etc.). The invention is further defined by the following claims.

CLAIMS

What is claimed is:

1. A method for adding auxiliary data to data that has been time shifted, comprising:

5 receiving said data by a receiving device at a first time, wherein said data is selected by a user and has a duration of a first time period;
storing said data in a memory device;
playing said data on a display at a second time in response to a
corresponding command provided by said user, wherein said second time is after
10 said first time;
receiving auxiliary data by said receiving device at a third time, wherein said third time is one of equal to or after said second time; and
playing said auxiliary data on said display at a fourth time, wherein said
fourth time is after said third time and before a fifth time that is equal to a sum of
15 said second time and said first time period.

2. The method of Claim 1, wherein said step of playing said auxiliary data on said display further comprises playing said auxiliary data on said display at a time at least a portion of said data is being played on said display.

20 3. The method of Claim 2, wherein said step of playing said auxiliary data on said display further comprises superimposing said auxiliary data over said portion of said data.

25 4. The method of Claim 3, wherein said auxiliary data is semi-transparent, allowing both said auxiliary data and said portion of said data to be seen by said user.

5. The method of Claim 3, wherein said auxiliary data is played on a bottom portion of said display as a news ticker.

6. The method of Claim 3, further comprising the step of buffering the superimposition of said auxiliary data over said portion of said data, allowing the user to pause, rewind and replay said superimposition of said auxiliary data over said portion of said data.

5

7. The method of Claim 1, wherein said data includes at least a first portion and a second portion, and said step of playing said auxiliary data further comprises playing said auxiliary data after said first portion and before said second portion.

10 8. The method of Claim 7, wherein said auxiliary data includes at least one advertisement.

9. The method of Claim 7, further comprising enabling pause, rewind, and fast-forward features for at least said first portion of said data, and disabling at least said
15 fast-forward feature for said auxiliary data.

20

25

10. A system for adding auxiliary data to data that has been time shifted, comprising:

a receiver for receiving both said data and said auxiliary data, said data having a duration of a first time period;

5 a memory device for storing at least said data; and

a processor for playing both said data and said auxiliary data on a display;

wherein said receiver is configured to receive said data at a first time and receive said auxiliary data at a third time, and said processor is configured to play said data at a second time and play said auxiliary data at a fourth time;

10 wherein said second time is after said first time, said third time is one of equal to or after said second time, and said fourth time is after said third time and before a fifth time that is equal to a sum of said second time and said first time period.

11. The system of Claim 10, wherein said processor is further configured to play said auxiliary data on said display at a time that at least a portion of said data is being played on said display.

12. The system of Claim 11, wherein said processor is further configured to superimpose said auxiliary data over said portion of said data.

13. The system of Claim 12, wherein said processor is further configured to play said auxiliary data on a bottom portion of said display as a news ticker.

14. The system of Claim 12, wherein said processor is further configured to buffer said superimposition of said auxiliary data over said portion of said data, allowing a user to pause, rewind and replay said superimposition of said auxiliary data over said portion of said data.

15. The system of Claim 10, wherein said data includes at least a first portion and a second portion, and said processor is further configured to play said auxiliary data after said first portion and before said second portion.

5 16. The system of Claim 15, wherein said auxiliary data includes at least one advertisement.

17. The method of Claim 15, wherein said processor is further configured to enable pause, rewind, and fast-forward features for at least said first portion, and
10 disable at least said fast-forward feature for said auxiliary data.

18. A system for adding auxiliary data to data that has been time shifted, comprising:

15 a receiver for receiving both said data and said auxiliary data;
 a memory device for storing at least said data; and
 a processor for playing both said data and said auxiliary data on a display;
 wherein said data is received at a first time and played at a second time,
 said auxiliary data is received at a third time and played at a fourth time, said
 second time is after said first time, said third time is one of equal to or after said
20 second time, and said fourth time is after said third time;
 wherein said processor is configured to play at least a portion of said
 auxiliary data on said display at a time that at least a portion of said data is being
 played on said display.

25 19. The system of Claim 18, wherein said processor is further configured to superimpose said portion of said auxiliary data over said portion of said data, said portion of said auxiliary data being displayed as a semi-transparent advertisement.

20. The system of Claim 18, wherein said processor is further configured to superimpose said portion of said auxiliary data over said portion of said data, and play said portion of said auxiliary data as a news ticker on said display.

ABSTRACT

A system and method is provided for adding auxiliary data to time-shifted data. In one embodiment, data is transmitted from a data source to a receiver via a data distribution means. The receiver, which may be configured to function as both a receiver and a DVR, is configured to add auxiliary data to time-shifted data. The receiving device is configured to acquire auxiliary data at the time the time-shifted data is being played, and to add the auxiliary data to the time-shifted data so that both the time-shifted data and the auxiliary data are displayed to a user on a display. By acquiring auxiliary data at (or around) the time the time-shifted data is being played, it is more likely that the auxiliary data has value to the user, thereby increasing the value of the time-shifted data to the content owner, the content provider and advertisers.

1/4

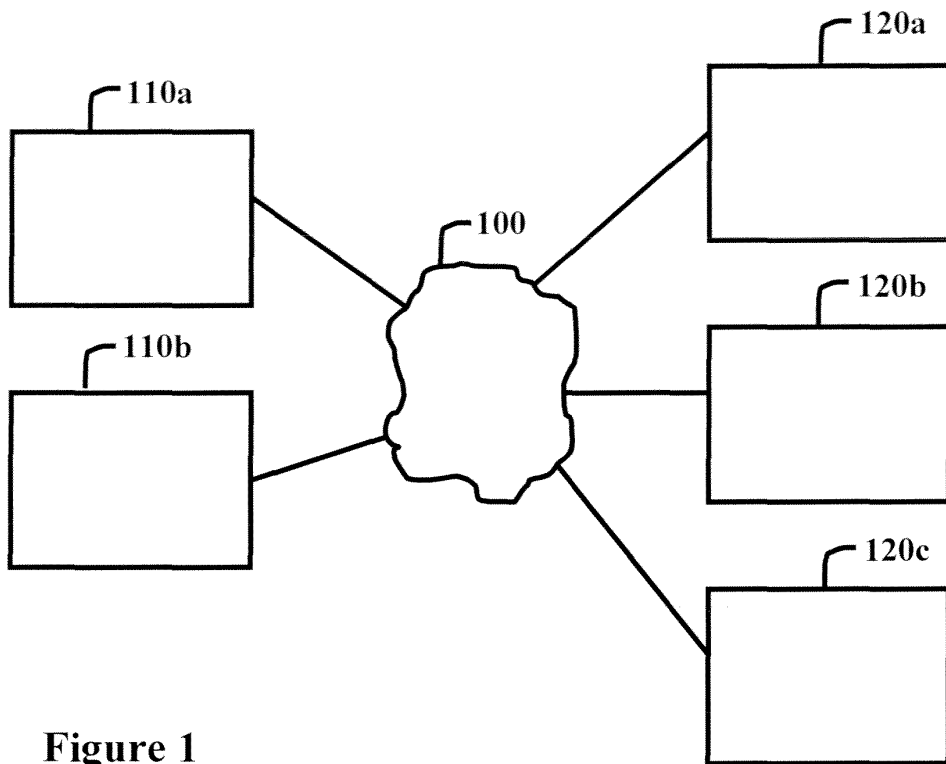


Figure 1

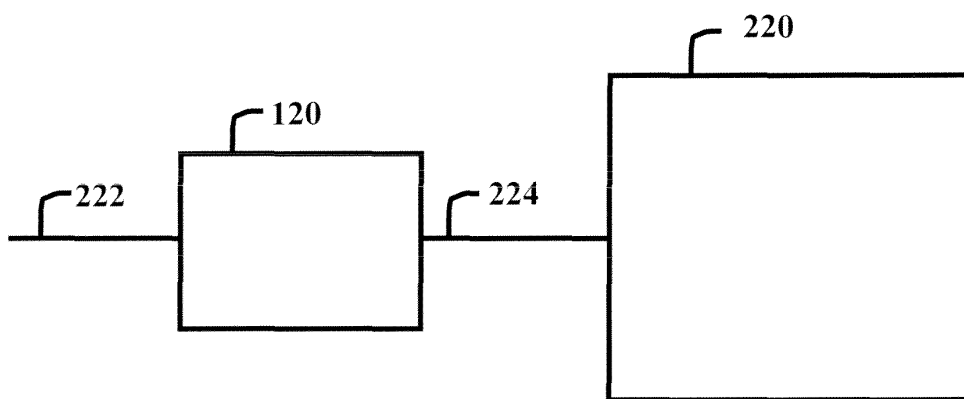


Figure 2

2/4

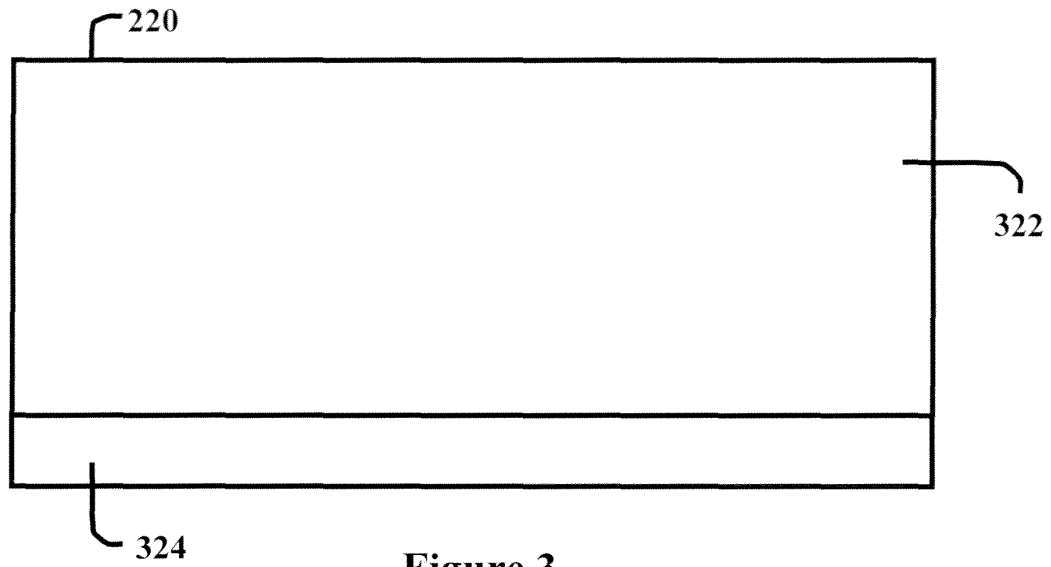


Figure 3

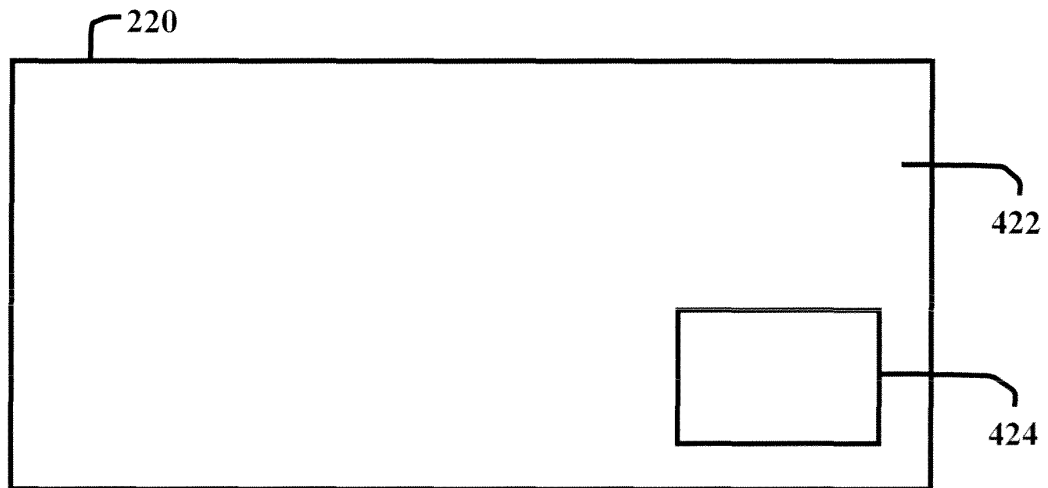


Figure 4

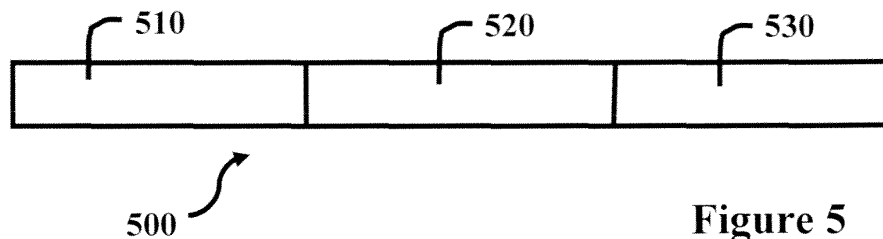


Figure 5

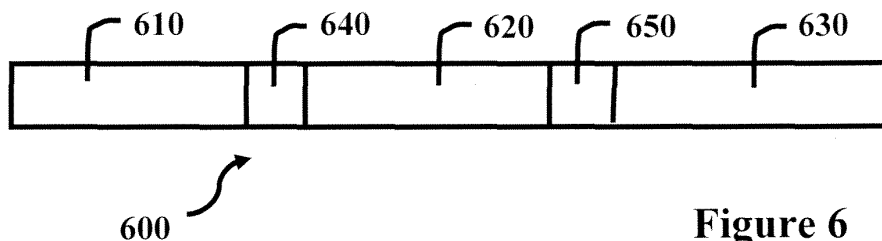


Figure 6

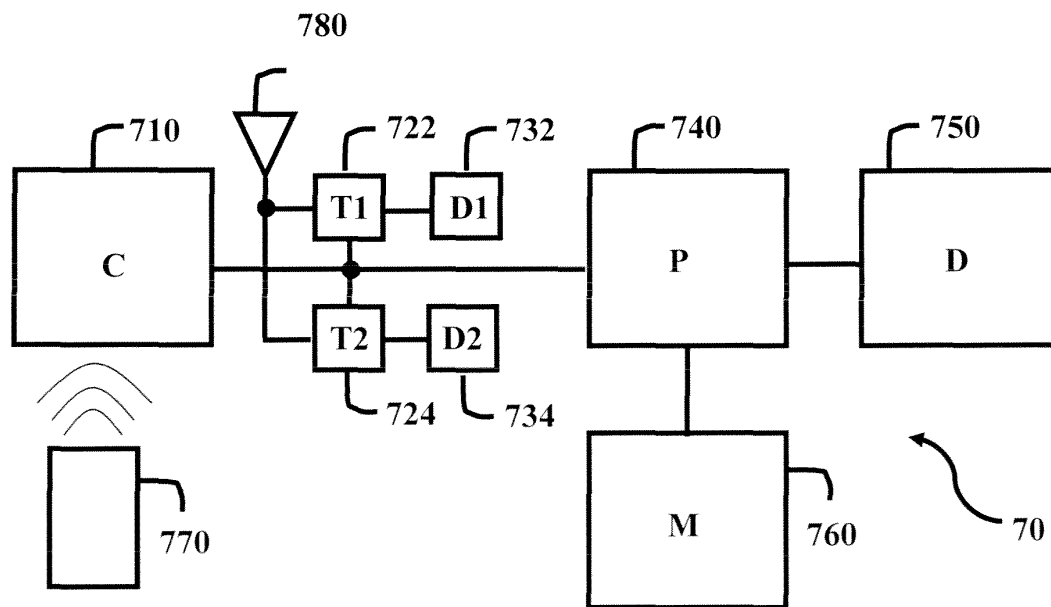
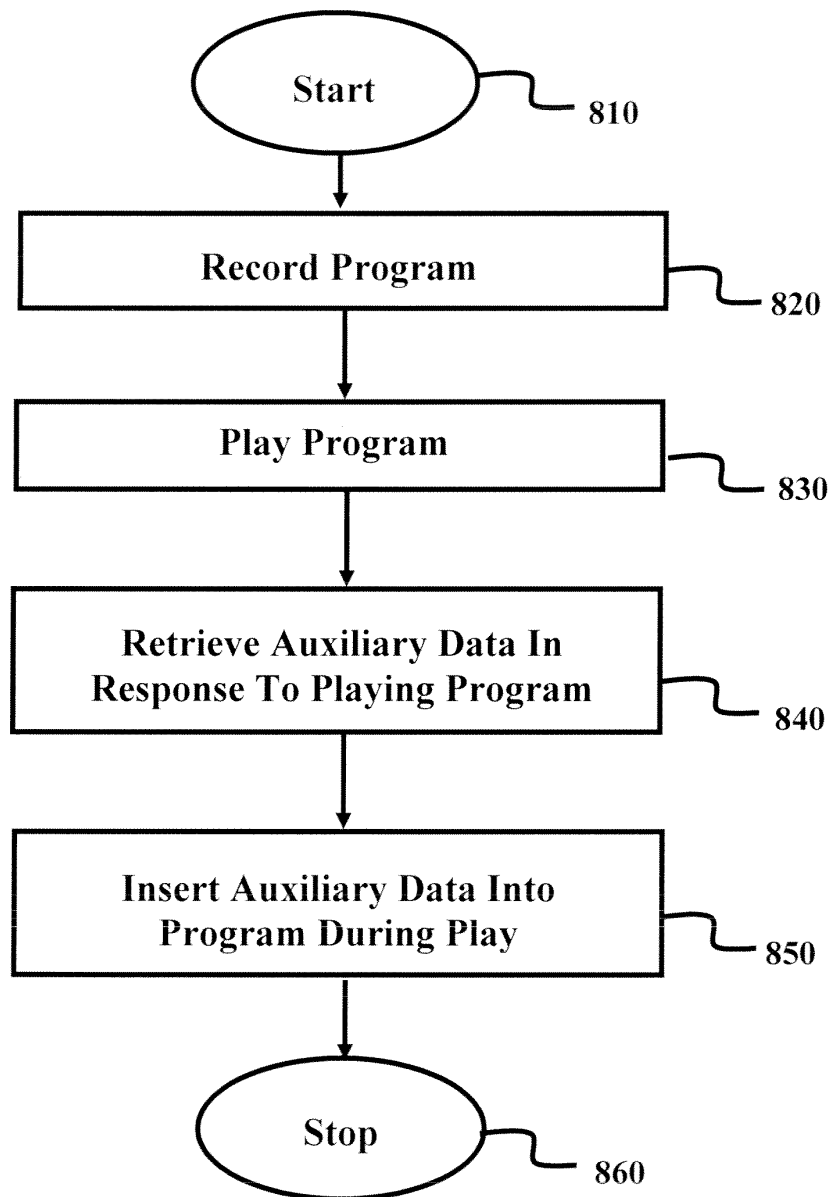


Figure 7

**Figure 8**

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:
NONE

Application Serial No.

Filing Date

Application Serial No.

Filing Date

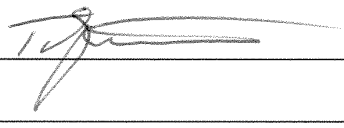
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Wherefore I pray that Letters Patent be granted to me for the invention or discovery described and claimed in the foregoing specification and claims, and I hereby subscribe my name to the foregoing specification and claims, declaration and petition.

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13/279,943	10/24/2011	2827	530	270560-999/2	20	3

CONFIRMATION NO. 7094

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FILING RECEIPT



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Date Mailed: 11/08/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Todd E. Fitzsimmons, Long Beach, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 61/408,759 11/01/2010

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 11/03/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 13/279,943**

Projected Publication Date: 05/03/2012

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System And Method For Adding Auxiliary Data To Time-Shifted Data

Preliminary Class

365

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Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875						Application or Docket Number 13/279,943	
APPLICATION AS FILED - PART I							
(Column 1)		(Column 2)		SMALL ENTITY		OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE(\$)	FEE(\$)		RATE(\$)	FEE(\$)
BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	95		N/A	
SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A	N/A	310		N/A	
EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	125		N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	20	minus 20 = *	x 30 =	0.00	OR		
INDEPENDENT CLAIMS (37 CFR 1.16(h))	3	minus 3 = *	x 125 =	0.00			
APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$310 (\$155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			0.00			
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				0.00			
			TOTAL	530		TOTAL	
* If the difference in column 1 is less than zero, enter "0" in column 2.							
APPLICATION AS AMENDED - PART II							
(Column 1)		(Column 2)		(Column 3)		SMALL ENTITY	
AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE(\$)	ADDITIONAL FEE(\$)		RATE(\$)
	Total (37 CFR 1.16(i))	*	Minus **	=	x	=	OR
	Independent (37 CFR 1.16(h))	*	Minus ***	=	x	=	OR
	Application Size Fee (37 CFR 1.16(s))						OR
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						OR
			TOTAL ADD'L FEE			OR	TOTAL ADD'L FEE
(Column 1)		(Column 2)		(Column 3)		SMALL ENTITY	
AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE(\$)	ADDITIONAL FEE(\$)		RATE(\$)
	Total (37 CFR 1.16(i))	*	Minus **	=	x	=	OR
	Independent (37 CFR 1.16(h))	*	Minus ***	=	x	=	OR
	Application Size Fee (37 CFR 1.16(s))						OR
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						OR
			TOTAL ADD'L FEE			OR	TOTAL ADD'L FEE
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest found in the appropriate box in column 1.							



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
13/279,943	10/24/2011	Todd E. Fitzsimmons	270560-999/2

CONFIRMATION NO. 7094

Todd E. Fitzsimmons
237 Lindero Avenue
Long Beach, CA 90803

PUBLICATION NOTICE



OC000000054081757

Title:System And Method For Adding Auxiliary Data To Time-Shifted Data

Publication No.US-2012-0106920-A1

Publication Date:05/03/2012

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

The publication may be accessed through the USPTO's publically available Searchable Databases via the Internet at www.uspto.gov. The direct link to access the publication is currently <http://www.uspto.gov/patft/>.

The publication process established by the Office does not provide for mailing a copy of the publication to applicant. A copy of the publication may be obtained from the Office upon payment of the appropriate fee set forth in 37 CFR 1.19(a)(1). Orders for copies of patent application publications are handled by the USPTO's Office of Public Records. The Office of Public Records can be reached by telephone at (703) 308-9726 or (800) 972-6382, by facsimile at (703) 305-8759, by mail addressed to the United States Patent and Trademark Office, Office of Public Records, Alexandria, VA 22313-1450 or via the Internet.

In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at www.uspto.gov using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently <http://pair.uspto.gov/>. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at 1-866-217-9197.

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/279,943	10/24/2011	Todd E. Fitzsimmons	270560-999/2	7094
7590 Todd E. Fitzsimmons 237 Lindero Avenue Long Beach, CA 90803			EXAMINER TEKLE, DANIEL T	
			ART UNIT 2481	PAPER NUMBER
			MAIL DATE 01/02/2014	DELIVERY MODE PAPER

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.

Office Action Summary	Application No. 13/279,943	Applicant(s) FITZSIMMONS, TODD E.	
	Examiner DANIEL TEKLE	Art Unit 2481	AIA (First Inventor to File) Status No

-- 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 10/24/2011.
☐ 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) 1-20 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) 1-20 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 10/24/2011 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: ____.

The present application is being examined under the pre-AIA first to invent provisions.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of pre-AIA 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 –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 5, 7-8, 10, 13, 15-16, 18 and 20 rejected under pre-AIA 35 U.S.C. 102(b) based upon a public use or sale of the invention. Gratton US 2009/0238536

1. In regard to claim 1 Gratton teaches a method for adding auxiliary data to data that has been time shifted (...time shifted with commercial...--paragraph 0002), comprising: receiving said data by a receiving device at a first time, wherein said data is selected by a user and has a duration of a first time period ("recorded program" consider to read on claim limitation "a first time receiving data"...--paragraph 0002); storing said data in a memory device (...storing received data...--paragraph 0002); playing said data on a display at a second time in response to a corresponding command provided by said user, wherein said second time is after said first time (...a time shifted capability playing...--paragraph 0002 and fig. 5); receiving auxiliary data by said receiving device at a third time, wherein said third time is one of equal to or after said second time (...receiving commercial after a program recorded...--paragraph 0044); and playing said auxiliary data on said display at a fourth time, wherein said fourth time is after said third time and before a fifth time that is equal to a sum of said second time and said first time period (...playback updated program audio, news, sport, weather...--paragraph 0044).

5. In regard to claim 5 Gratton teaches a method of claim 3, wherein said auxiliary data is played on a bottom portion of said display as a news ticker (paragraph 0044).

7. In regard to claim 7 Gratton teaches method of claim 1, wherein said data includes at least a first portion and a second portion, and said step of playing said auxiliary data further comprises playing said auxiliary data after said first portion and before said second portion (...an option of start and end point of audio/video or commercial program...--paragraph 0020).

8. In regard to claim 7 Gratton teaches method of claim 7, wherein said auxiliary data includes at least one advertisement (paragraph 0044).

10, 13, 15-16. In regard to claim 10, 13, 15-16 reject for the same reason to claim 1, 5, 7 and 8 respectively as outlined above.

18 and 20. In regard to claim 18 and 20 reject for the same reason to claim 1 and 5 respectively as outlined above.

Claim Rejections - 35 USC § 103

The following is a quotation of pre-AIA 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 said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2, 6, 9, 11, 14, 17 and 19 rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Gratton as applied to claim 1 above, and further in view of Harris US 2011/0221964.

2. In regard to claim 2 Gratton teaches a method of claim 1, however Gratton fail to explicitly teach but Harris teaches wherein said step of playing said auxiliary data on said display further comprises playing said auxiliary data on said display at a time at least a portion of said data is being played on said display (...determining a porting of program on display.--paragraph 0036 and fig. 6),

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine the teaching of Harris into a system of Gratton in order to playback commercial while an original program is playback, as a result user can able to see commercial without pausing or breaking the original program.

6. In regard to claim 6 Gratton teaches a method of claim 3, further Harris teaches comprising the step of buffering the superimposition of said auxiliary data over said portion of said data, allowing the user to pause, rewind and replay said superimposition of said auxiliary data over said portion of said data (paragraph 0016).

9. In regard to claim 9 Gratton teaches a method of claim 7, further Harris teaches comprising enabling pause, rewind, and fast-forward features for at least said first portion of said data, and disabling at least said fast-forward feature for said auxiliary data (paragraph 0016).

11, 14 and 17. In regard to claim 11, 14 and 17 reject for the same reason to claim 2, 6 and 9 respectively as outlined above.

Claim 4 and 19 rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Gratton as applied to claim 1 and 18 above, and further in view of Gardner et al. US 2008/0319852.

3. In regard to claim 3 Gratton teaches a method of claim 2,

however Gratton fail to explicitly teach but Gardner et al. teaches wherein said step of playing said auxiliary data on said display further comprises superimposing said auxiliary data over said portion of said data (fig. 2-4 and paragraph 0027),

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine the teaching of Gardner et al. into a system of Gratton in order to superimposing commercial while a portion original program is playback, as a result user can able to see commercial without pausing or breaking the original program.

4. In regard to claim 4 Gratton teaches a method of claim 3, wherein said auxiliary data is semi-transparent, allowing both said auxiliary data and said portion of said data to be seen by said user (fig. 2-4 and paragraph 0027).

19. In regard to claim 19 reject for the same reason to claim 4 as outlined above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 8:00am to 4:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. 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.

/DANIEL TEKLE/
Examiner, Art Unit 2481

/WILLIAM C. VAUGHN JR/
Supervisory Patent Examiner, Art Unit 2481

Notice of References Cited	Application/Control No. 13/279,943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.	
	Examiner DANIEL TEKLE	Art Unit 2481	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2009/0238536	09-2009	Gratton, Max S.	386/54
*	B	US-2008/0319852	12-2008	Gardner et al.	705/14
*	C	US-2011/0221964	09-2011	Harris, Scott C.	348/569
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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BIB DATA SHEET

CONFIRMATION NO. 7094

SERIAL NUMBER 13/279,943	FILING or 371(c) DATE 10/24/2011 RULE	CLASS 386	GROUP ART UNIT 2481	ATTORNEY DOCKET NO. 270560-999/2		
APPLICANTS INVENTORS Todd E. Fitzsimmons, Long Beach, CA; ** CONTINUING DATA ***** This appln claims benefit of 61/408,759 11/01/2010 ** FOREIGN APPLICATIONS ***** ** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** ** SMALL ENTITY ** 11/03/2011						
Foreign Priority claimed ☐ Yes ☒ No 35 USC 119(a-d) conditions met ☐ Yes ☒ No Verified and Acknowledged <u>/DANIEL T TEKLE/</u> Examiner's Signature		☐ Met after Allowance D.T. Initials	STATE OR COUNTRY CA	SHEETS DRAWINGS 4	TOTAL CLAIMS 20	INDEPENDENT CLAIMS 3
ADDRESS Todd E. Fitzsimmons 237 Lindero Avenue Long Beach, CA 90803						
TITLE System And Method For Adding Auxiliary Data To Time-Shifted Data						
FILING FEE RECEIVED 530	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:		☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit			

<i>Index of Claims</i> 	Application/Control No. 13279943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.
	Examiner DANIEL TEKLE	Art Unit 2481

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant
☐ CPA
☐ T.D.
☐ R.1.47

CLAIM		DATE								
Final	Original	12/26/2013								
	1	✓								
	2	✓								
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	19	✓								
	20	✓								

Search Notes 	Application/Control No. 13279943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.
	Examiner DANIEL TEKLE	Art Unit 2481

CPC- SEARCHED		
Symbol	Date	Examiner

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES		
Search Notes	Date	Examiner
EAST SEARCH (US-PGPUB; US-PAT; US-OCR; EPO; JPO; DERWENT; IBM_TDB)	12/26/2013	D.T.
SEARCH QUARY ATTACHED	12/26/2013	D.T.
INVENTOR NAME SEARCHED	12/26/2013	D.T.
386/\$. TEXT SEARCHED	12/26/2013	

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner

/DANIEL TEKLE/ Examiner.Art Unit 2481	
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EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L4	1	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide) same (updat\$2 or outdat\$2) same (DVR or TIVO)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:05
L5	1	(times adj1 shift\$3) same (auxiliary) same ((news adj1 ticker) or crawler or slide) same (updat\$2 or outdat\$2) same (DVR or TIVO)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2013/12/26 18:05
L6	6	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide) same (updat\$2 or outdat\$2)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:05
L7	47	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:27
L8	41	7 not 6	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:27
L9	13	7 not 6 and (DVR or TIVO)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:27
L10	0	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2) same (semi-transparent or transparent) same (disabl\$3 with (Advertisement or ad or commercial or announcement or billboard))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:49

L11	0	((times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2) same (semi-transparent or transparent)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:51
L12	300	((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2) same (semi-transparent or transparent)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:52
L13	3	((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2) same (semi-transparent or transparent) and "386"/\$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:52
L14	102	doser-ingo-tobias.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:58
L15	0	7 and 14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:58
L16	259	zwing-rainer.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:58
L17	0	7 and 16	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:59
L18	57	endress-Wolfgang.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:59
L19	0	7 and 18	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO;	OR	ON	2013/12/26 18:59

EAST Search History

			DERWENT; IBM_TDB			
L21	27	(video) with (commercial) with (transparent)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	OFF	2013/12/26 20:19
L22	23	(video) with (commercial) with (transparent) and @py<="2010"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	OFF	2013/12/26 20:19
L23	3	("20120106920").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/12/26 20:37
S1	3	("20120106920").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/12/26 15:52
S2	2	("20130243397").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/12/26 16:04

EAST Search History (Interference)

< This search history is empty >

12/ 26/ 2013 9:16:06 PM**C:\ Users\ dtekle\ Documents\ EAST\ Workspaces\ 13279943.wsp**

PATENT
270560-999/2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: FITZSIMMONS, TODD

Serial No.: 13/279,943

Filed: 03/21/2013

Title: SYSTEM AND METHOD FOR
PROVIDING INFORMATION TO A
RECIPIENT OF A PHYSICAL MAIL OBJECT

Art Unit: 2481

Examiner: TEKLE, DANIEL T.

Confirmation No.: 7094

AMENDMENT

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated January 2, 2014, please amend the
above-identified application as follows:

IN THE CLAIMS:

The following listing of claims will replace all prior versions, and listings, of the claims in the application:

1-20. (Cancelled)

21. (New) A digital video recorder ("DVR") for time shifting at least a portion of a transmitted video program, comprising:

a tuner for receiving said video program as transmitted;

a memory device for storing said video program, allowing at least a portion of said video program to be played back at a later time;

a controller configured to receive commands from a user of said DVR, wherein a first command changes said DVR from a first playback state to a second playback state, and a second command initiates playback of said video program from said memory device; and

at least one processor configured to (i) provide said video program in its entirety to a display device in response to receiving said second command regardless of a playback state of said DVR if said second command is received during a first period of time, (ii) provide said video program in its entirety to said display device in response to receiving said second command if said second command is received during a second period of time and said DVR is in said first playback state, and (iii) provide only a portion of said video program to said display device in response to receiving said second command if said second command is received during said second period of time and said DVR is in said second playback state, said second period of time being a period of time after said first period of time.

22. (New) The DVR of Claim 21, wherein said controller is configured to receive said commands from a remote control operated by said user of said DVR.

23. (New) The DVR of Claim 21, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes said primary video content and only a portion of said secondary video content.

24. (New) The DVR of Claim 21, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes only said primary video content.

25. (New) The DVR of Claim 24, wherein said memory device is further configured to store at least one time when said secondary video content begins and at least one time when said secondary video content ends.

26. (New) The DVR of Claim 21, wherein said first period of time is a period of time that is less than one week from said transmission of said video program, and said second period of time is any time after said first period of time.

27. (New) The DVR of Claim 24, wherein said secondary video content comprises at least one news ticker.

28. (New) The DVR of Claim 24, wherein said secondary video content comprises at least one advertisement.

29. (New) The DVR of Claim 21, wherein said at least one processor is further configured to (i) retrieve said portion of said video program from said memory device if said second command is received during said second period of time and said DVR is in said second playback state, and (ii) retrieve said video program in its entirety from said memory device if another second command is received at a time thereafter and said DVR is switched to said first playback state at or before said time thereafter.

30. (New) A method for time shifting at least a portion of a video program transmitted to a digital video recorder ("DVR"), comprising:

receiving said video program;

storing said video program on a memory device in said DVR;

receiving a first command from at least one user of said DVR, said first command indicating a playback state of said DVR;

receiving a second command from said at least one user of said DVR, said second command indicating a desire to playback at least a portion of said video program; and

providing said at least a portion of said video program to a display device in response to receiving said second command;

wherein said step of providing said at least a portion of said video program to said display device further comprises (i) providing said video program to said display device in response to receiving said second command regardless of a playback state of said DVR if said second command is received during a first period of time, (ii) providing said video program to said display device in response to receiving said second command if said second command is received during a second period of time and said DVR is in said first playback state, and (iii) providing only a portion of said video program to said display device in response to receiving said second command if said second command is received during said second period of time and said DVR is in said second playback state, said second period of time being a period of time after said first period of time.

31. (New) The method of Claim 30, wherein said step of receiving said video program further comprises receiving said video program from a satellite via an antenna.

32. (New) The method of Claim 30, wherein said step of storing said video program on said memory device in said DVR further comprises storing at least one time of when an omitted portion of said video program begins and at least one time of when said omitted portion of said video program ends, wherein said portion of said video program provided during said second time and when said DVR is in said second playback state does not includes at least said omitted portion.

33. (New) The method of Claim 30, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes said primary video content and only a portion of said secondary video content.

34. (New) The method of Claim 30, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes only said primary video content.

35. (New) The method of Claim 30, wherein said first period of time is a first day after said video program has been transmitted, and said second period of time is a time period thereafter.

36. (New) The method of Claim 30, wherein said first period of time is a period of time that is less than one week from said transmission of said video program, and said second period of time is a time period after said first period of time.

37. (New) The method of Claim 34, wherein said secondary video content is at least one of a news ticker and at least one advertisement.

38. (New) The method of Claim 32, wherein said step of receiving said video program further comprises receiving said video program, said at least one time of when said omitted portion of said video program begins, and said at least one time of when said omitted portion of said video program ends from a satellite, wherein each one of said at least one times is received by said DVR after said video program is stored on said memory device.

39. (New) A digital video recorder ("DVR") for time shifting at least a portion of a video program, said video program includes at least program and auxiliary data, comprising:

- a tuner for receiving said video program;
- a memory device for storing said video program;
- a controller for receiving commands including at least a first command for setting a playback state of said DVR and a second command for initiating a playback of said video program from said memory device; and
- at least one processor for (i) providing said video program to a display device in response to receiving said second command during a first period of time, (ii) providing said video program to said display device in response to receiving said second command during a second period of time if said DVR is in a first playback state, and (iii) providing only a portion of said video program to said display device in response to receiving said second command during said second period of time if said DVR is in a second playback state, wherein said portion of said video program does not includes at least a portion of said auxiliary data.

40. (New) The method of Claim 39, wherein said step of providing only a portion of said video program to said display device further comprises providing other auxiliary data to said display device, wherein said other auxiliary data is received after said video program is stored on said memory device.

REMARKS

Claims 21-40 are pending in this application, with Claims 1-20 cancelled and Claims 21-40 being added as new. The Applicant respectfully requests reconsideration and review of the application in view of the amendments and the following remarks.

Prior to addressing the rejections based on prior art, the Applicant provides a brief overview of the invention. The claimed invention is directed toward a digital video recorder ("DVR") that stores a video program and plays at least a portion of the video program back at a later time (e.g., a time more convenient to the user of the DVR, etc.). Video programs generally include multiple types of data. For example, a video program may include program data (e.g., a movie, a sitcom, etc.) and auxiliary data (e.g., a news ticker, a commercial, etc.), where the auxiliary data is either superimposed over the program data and/or placed between portions of the program data. While the program data may have a relatively long shelf life, the auxiliary data may not. For example, a news ticker or a commercial concerning the evening news may be of no (or limited) value after the evening news has been transmitted. The claimed invention addresses this issue by allowing a user to program the DVR to skip (or omit) at least a portion of the auxiliary data after its value has diminished. The DVR could further be configured to add in new auxiliary data, such as auxiliary data that was transmitted after the video program was stored.

The claimed invention achieves the above advantages by allowing a user of the DVR to set (or program) the DVR into one of two states. In a first state, the DVR is configured to play the program as it was originally recorded (e.g., with both the program and auxiliary data). In a second state, the DVR is configured to play the program data without the auxiliary data (or a portion thereof). In the claimed inventions, the DVR can only be programmed to skip (or omit) auxiliary data once the auxiliary data is no longer of value or is of limited value. To this end, the claimed invention provides that if the video program is being watched within a first period of time (e.g., within a day or two of

the video program being transmitted to the DVR, etc.), then the video program will be played back in its entirety (e.g., including both program and auxiliary data). However, if the video program is being watched within a second period of time (e.g., a week after the video program has been transmitted to the DVR, etc.), then the video program will be played back in its entirety (e.g., including both program and auxiliary data, etc.) if the DVR has been programmed to operate in its first playback state, or in portions (e.g., without at least a portion of the auxiliary data, etc.) if the DVR has been programmed to operate in its second playback state. At any time during the second period of time, the user could also watch the video program with and without auxiliary data (or portions thereof) by watching the video program while the DVR is in a first playback state, and then watching the video program while the DVR is in a second playback state.

In the current Office Action, the Examiner rejected Claims 1, 5, 7, 8, 10, 13, 15, 16, 18 and 20 under 35 U.S.C. § 102(b) for being anticipated by Gratton (U.S. Pub. No. 2009/0238536). The Examiner further rejected Claims 2, 6, 9, 11, 14, 17 and 19 under 35 U.S.C. § 103(a) for being unpatentable over Gratton in view of Harris (U.S. Pub. No. 2011/0221964). The Examiner also rejected Claims 4 and 19 under 35 U.S.C. § 103(a) for being unpatentable over Gratton in view of Harris and Gardner et al. (U.S. Pub. No. 2008/0319852). These rejections, however, are moot in light of the cancellation of Claims 1-20, and the addition of new Claims 21-40. While the original claims were directed toward a system and method for time shifting data, the original claims did not recite a DVR that is configured to play back data differently depending on the time period the data is being played back and the playback state of the DVR. These features are not disclosed in the cited prior art.

In view of the foregoing, the Applicant respectfully submits that Claims 21-40 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited. To the extent it would be helpful to placing this application in condition for allowance, the Applicant encourages the Examiner to contact the undersigned counsel and conduct a telephonic

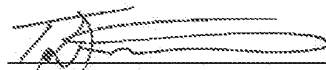
Serial No. 13/279,943
April 2, 2014
Page 11

interview.

While the Applicant does not believe any fees are due, the Commissioner is authorized to charge any fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0639.

Respectfully submitted,

Date: April 2, 2014



Todd E. Fitzsimmons
Applicant
Registration No. 44,683

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Telephone: (213) 430-6000

Electronic Acknowledgement Receipt	
EFS ID:	18658214
Application Number:	13279943
International Application Number:	
Confirmation Number:	7094
Title of Invention:	System And Method For Adding Auxiliary Data To Time-Shifted Data
First Named Inventor/Applicant Name:	Todd E. Fitzsimmons
Correspondence Address:	Todd E. Fitzsimmons - 237 Lindero Avenue - Long Beach CA 90803 US 562-987-1719 tfitzsimmons@omm.com
Filer:	Todd E. Fitzsimmons
Filer Authorized By:	
Attorney Docket Number:	270560-999/2
Receipt Date:	02-APR-2014
Filing Date:	24-OCT-2011
Time Stamp:	22:02:19
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

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Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)		
1		Amendment.pdf	3023175 9e72374d2e46a8be20399a3b39e960350b0ec7c4	yes	11		
Multipart Description/PDF files in .zip description							
	Document Description	Start	End				
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1				
	Claims	2	8				
	Applicant Arguments/Remarks Made in an Amendment	9	11				
Warnings:							
Information:							
Total Files Size (in bytes):			3023175				
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.							

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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875				Application or Docket Number 13/279,943		Filing Date 10/24/2011		☐ To be Mailed	
ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO									
APPLICATION AS FILED – PART I									
(Column 1)		(Column 2)							
FOR		NUMBER FILED		NUMBER EXTRA		RATE (\$)		FEE (\$)	
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))		N/A		N/A		N/A			
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))		N/A		N/A		N/A			
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))		N/A		N/A		N/A			
TOTAL CLAIMS (37 CFR 1.16(i))		minus 20 =		*		X \$ =			
INDEPENDENT CLAIMS (37 CFR 1.16(h))		minus 3 =		*		X \$ =			
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))		If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$310 (\$155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).							
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))									
* If the difference in column 1 is less than zero, enter "0" in column 2.						TOTAL			
APPLICATION AS AMENDED – PART II									
(Column 1)		(Column 2)		(Column 3)					
AMENDMENT	04/02/2014	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)		ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	* 20	Minus	** 20	= 0	X \$40 =		0	
	Independent (37 CFR 1.16(h))	* 3	Minus	*** 3	= 0	X \$210 =		0	
	☐ Application Size Fee (37 CFR 1.16(s))								
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))								
						TOTAL ADD'L FEE		0	
(Column 1)		(Column 2)		(Column 3)					
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)		ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	*	Minus	**	=	X \$ =			
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X \$ =			
	☐ Application Size Fee (37 CFR 1.16(s))								
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))								
						TOTAL ADD'L FEE			
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.									

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PATENT
270560-999/2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: FITZSIMMONS, TODD

Serial No.: 13/279,943

Filed: 10/24/2011

Title: SYSTEM AND METHOD FOR ADDING
AUXILIARY DATA TO TIME-SHIFTED DATA

Art Unit: 2481

Examiner: TEKLE, DANIEL T.

Confirmation No.: 7094

REVISED TRANSMITTAL TO AMEND TITLE

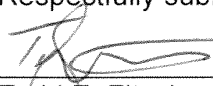
Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated January 2, 2014, the Applicant filed an Amendment dated April 2, 2014. The cover page of the Amendment, however, inadvertently included an incorrect title and filing date. Please note that the title and filing date should have been "System and Method for Adding Auxiliary Data to Time-Shifted Data" and "10/24/2011," respectively, as correctly identified above.

Respectfully submitted,

Date: April 3, 2014



Todd E. Fitzsimmons
Applicant
Registration No. 44,683

400 South Hope Street, 10th Floor
Los Angeles, CA 90071-2899
Telephone: (213) 430-6000

Electronic Acknowledgement Receipt	
EFS ID:	18668437
Application Number:	13279943
International Application Number:	
Confirmation Number:	7094
Title of Invention:	System And Method For Adding Auxiliary Data To Time-Shifted Data
First Named Inventor/Applicant Name:	Todd E. Fitzsimmons
Correspondence Address:	Todd E. Fitzsimmons - 237 Lindero Avenue - Long Beach CA 90803 US 562-987-1719 tfitzsimmons@omm.com
Filer:	Todd E. Fitzsimmons
Filer Authorized By:	
Attorney Docket Number:	270560-999/2
Receipt Date:	03-APR-2014
Filing Date:	24-OCT-2011
Time Stamp:	17:19:54
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

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Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Transmittal Letter	Transmittal.PDF	36216 2191abcf788609e1a803fe2188db88c431c b6e8	no	1
Warnings:					
The page size in the PDF is too large. The pages should be 8.5 x 11 or A4. If this PDF is submitted, the pages will be resized upon entry into the Image File Wrapper and may affect subsequent processing					
Information:					
Total Files Size (in bytes):			36216		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					

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CHANGE OF CORRESPONDENCE ADDRESS Application Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	13/279,943
	Filing Date	10/24/2011
	First Named Inventor	Fitzsimmons, Todd
	Art Unit	2481
	Examiner Name	Tekle, Daniel T.
	Attorney Docket Number	270560-999/2

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☒ Applicant/Inventor

☐ Assignee of record of the entire interest. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number _____

Signature 

Typed or Printed Name Todd Fitzsimmons

Date 4/3/2014	Telephone (213) 430-7522
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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ *Total of one (1) forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Electronic Acknowledgement Receipt	
EFS ID:	18669329
Application Number:	13279943
International Application Number:	
Confirmation Number:	7094
Title of Invention:	System And Method For Adding Auxiliary Data To Time-Shifted Data
First Named Inventor/Applicant Name:	Todd E. Fitzsimmons
Correspondence Address:	Todd E. Fitzsimmons - 237 Lindero Avenue - Long Beach CA 90803 US 562-987-1719 tfitzsimmons@omm.com
Filer:	Todd E. Fitzsimmons
Filer Authorized By:	
Attorney Docket Number:	270560-999/2
Receipt Date:	03-APR-2014
Filing Date:	24-OCT-2011
Time Stamp:	18:09:36
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

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Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Change of Address	Correspondence.PDF	61275 9e8cb5daaf0971b63c8dbad9a529edd1a39f249	no	1
Warnings:					
The page size in the PDF is too large. The pages should be 8.5 x 11 or A4. If this PDF is submitted, the pages will be resized upon entry into the Image File Wrapper and may affect subsequent processing					
Information:					
Total Files Size (in bytes):			61275		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/279,943	10/24/2011	Todd E. Fitzsimmons	270560-999/2	7094

7590 07/16/2014
Secured Mail Solutions, LLC
Suite 253
9550 S. Eastern Ave.
Las Vegas, NV 89123

EXAMINER

TEKLE, DANIEL T

ART UNIT	PAPER NUMBER
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2481

MAIL DATE	DELIVERY MODE
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07/16/2014

PAPER

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.

Office Action Summary	Application No. 13/279,943	Applicant(s) FITZSIMMONS, TODD E.	
	Examiner DANIEL TEKLE	Art Unit 2481	AIA (First Inventor to File) Status No

-- 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 04/02/2014.
☐ 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) 21-40 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) 21-40 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 10/24/2011 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: ____.

The present application is being examined under the pre-AIA first to invent provisions.

Response to Arguments

Applicant's arguments filed 04/02/2014 have been fully considered but they are not persuasive.

Applicant argument in regard to the new set of claims as presented on page 10 of applicant remark said "...depending on the time period the data is being playback and the playback state of the DVR...".

In response the examiner respectfully disagrees. Gratton teaches a commercial message announcing a "this weekend only" sale that is originally broadcast during a recorded program may be obsolete by the time the user views the recorded program the following week. To address this problem, the audio portion of the commercial may be replaced with updated audio data announcing a future sale date or other more recent information. The same may be true of information presented in news, weather, and sports programs, as well as other types of audio/video streams...--paragraph 0044.

Claim Rejections - 35 USC § 112

Claim 32 and 38 rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor, or for pre-AIA the applicant regards as the invention.

The claim limitation "...omitted portion..." not described on the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of pre-AIA 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 said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21-26, 28-36 and 38-40 rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Gratton US 2009/0238536.

21. In regard to claim 1 Gratton teaches a digital video recorder ("DVR") for time shifting at least a portion of a transmitted video program (...time shifted with commercial...--paragraph 0002), comprising: a tuner for receiving said video program as transmitted (fig. 2 and paragraph 0012); a memory device for storing said video program (...storing received data...--paragraph 0002), allowing at least a portion of said video program to be played back at a later time (...second audio/video stream 212 playback based on replacement...--fig. 2); a controller configured to receive commands from a user of said DVR (...DVR...--paragraph 0001, receiving a command from a user...--paragraph 0037); wherein a first command changes said DVR from a first playback state to a second playback state, and a second command initiates playback of said video program from said memory device (...playback first or second based on user command...--paragraph 0036-0037); and at least one processor (...the control logic 520 includes a processor, such as a microprocessor, microcontroller, digital signal processor (DSP), or the like for execution of software configured to perform the various control functions...--paragraph 0034) configured to (i) provide said ~~video~~ program in its entirety to a display device in response to

receiving said second command regardless of a playback state of said DVR if said second command is received during a first period of time. (ii) provide said ~~video~~ program in its entirety to said display device in response to receiving said second command if said second command is received during a second period of time and said DVR is in said first playback state, and (iii) provide only a portion of said ~~video~~ program to said display device in response to receiving said second command if said second command is received during said second period of time and said DVR is in said second playback state, said second period of time being a period of time after said first period of time (...DVR..—paragraph 0101...playback first or second based on user command...--paragraph 0036-0037, playback updated program audio, news, sport, weather...--paragraph 0044),

however Gratton fail to explicitly teach the replacement part is a video, **Official Notice is taken that both the concept and the advantage of updating by replace a video segment are well known and expected in the art. Thus, it would have been obvious to one skilled in the art, at the time of the applicant's invention** to combine updating a video segment into a system of Gratton in order to updated with present time, as a result user would not watching unwanted data.

22. In regard to claim 22 Gratton teaches a DVR of Claim 21, wherein said controller is configured to receive said commands from a remote control operated by said user of said DVR (...playback first or second based on user command...--paragraph 0036-0037).

23. In regard to claim 23 Gratton teaches a DVR of Claim 21, wherein said video program includes at least primary, and secondary video content, and said portion of said video program that is provided to said to said display device if said second command is received during said second of time and said DVR is in said second playback state includes said primary video content and only a portion of said secondary video content (...playback first or second based on

user command...--paragraph 0036-0037).

24. In regard to claim 24 Gratton teaches a DVR of Claim 21, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes only said primary video content (...playback first or second based on user command...--paragraph 0036-0037).

25. In regard to claim 25 Gratton teaches a DVR of Claim 24, wherein said memory device is further configured to store at least one time when said secondary video content begins and at least one time when said secondary video content ends (playback updated program audio, news, sport, weather...--paragraph 0044).

26. In regard to claim 26 Gratton teaches a DVR of Claim 21, wherein said first period of time is a period of time that is less than one week from said transmission of said video program, and said second period of time is any time after said first period of time (paragraph 0044).

28. In regard to claim 28 Gratton teaches a DVR of Claim 24, wherein said secondary video content comprises at least one advertisement (playback updated program audio, news, sport, weather....--paragraph 0044).

29. In regard to claim 29 Gratton teaches a DVR of Claim 21, wherein said at least one processor is further configured to (i) retrieve said portion of said video program from said memory device if said second command is received during said second period of time and said DVR is in said second playback state, and (ii) retrieve said video program its entirety from said memory device if another second command is received at a time thereafter and said DVR is

switched to said first playback state at or before said time thereafter (...playback first or second based on user command...--paragraph 0036-0037).

31. In regard to claim 31 Gratton teaches a method of claim 30, wherein said step of receiving said video program from comprises receiving said video program from a satellite via an antenna (fig. 5).

32. In regard to claim 32 Gratton teaches a method of claim 30, wherein said step of storing said video program on said memory device in said DVR further comprises storing at least one time of when an omitted portion of said video program begins and at least one time of when said omitted portion of said video program ends, wherein said portion of said video program provided said second time and when said DVR is in said second playback state does not includes at least said omitted portion (fig. 3).

38. In regard to claim 32 Gratton teaches a method of Claim 32, wherein said step of receiving said video program further comprises receiving said video program, said at least one time of when said omitted portion of said video program begins, and said at least one time of when said omitted portion of said video program ends from a satellite, wherein each one of said at least one times is received by said DVR after said video program is stored on said memory device (fig. 3).

30, 33-35. In regard to claim 30, 33-35 reject for the same reason to claim 21, 23-23 and 26 respectively as outlined above.

36-31. In regard to claim 36-37 reject for the same reason to claim 26 and 27 respectively as outlined above.

39. In regard to claim 39 reject for the same reason to claim 21 as outlined above.

40. In regard to claim 40 Gratton teaches a method of Claim 39, wherein said step of providing only a portion of said video program to said display device further comprises providing other auxiliary data to said display device, wherein said other auxiliary data is received after said video program is stored on said memory device (...storing received data...--paragraph 0002).

Claim Rejections - 35 USC § 103

The following is a quotation of pre-AIA 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 said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 27 and 37 rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Gratton as applied to claim 1 above, and further in view of Harris US 2011/0221964.

27 and 37. In regard to claim 27 and 37 Gratton teaches a DVR of Claim 24, wherein said secondary video content comprises at least one news ticker (...determining a porting of program on display...--paragraph 0036 and fig. 6),

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine the teaching of Harris into a system of Gratton in order to playback commercial while an original program is playback, as a result user can able to see commercial without pausing or breaking the original program.

Art Unit: 2481

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith US 7,634,785

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 8:00am to 4:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. 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.

/DANIEL TEKLE/
Examiner, Art Unit 2481

/WILLIAM C. VAUGHN JR/
Supervisory Patent Examiner, Art Unit 2481

Application/Control Number: 13/279,943
Art Unit: 2481

Page 10

Notice of References Cited	Application/Control No. 13/279,943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.	
	Examiner DANIEL TEKLE	Art Unit 2481	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2009/0238536	09-2009	Gratton, Max S.	386/54
*	B	US-2008/0319852	12-2008	Gardner et al.	705/14
*	C	US-2011/0221964	09-2011	Harris, Scott C.	348/569
*	D	US-7,634,785	12-2009	Smith, Geoffrey R	725/34
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Search Notes 	Application/Control No. 13279943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.
	Examiner DANIEL TEKLE	Art Unit 2481

CPC- SEARCHED		
Symbol	Date	Examiner
H04N5/775 or G11B27/34 or H04N5/85 or H04N9/8042 or G11B27/105	7/10/2014	D.T.

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES		
Search Notes	Date	Examiner
EAST SEARCH (US-PGPUB; US-PAT; US-OCR; EPO; JPO; DERWENT; IBM_TDB)	12/26/2013	D.T.
SEARCH QUARY ATTACHED	12/26/2013	D.T.
INVENTOR NAME SEARCHED	12/26/2013	D.T.
386/\$. TEXT SEARCHED	12/26/2013	D.T.
SEARCH UPDATED	7/1/2014	D.T.
CPC CLASS/SUBCLASS SEARCHED	7/1/2014	D.T.

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner

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EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	23	(playback or reprod\$5) with (update) with (commercial or ad or advertisement) and (H04N5/775 or G11B27/34 or H04N5/85 or H04N9/8042 or G11B27/105).cpc.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 22:49
L2	4	(playback or reprod\$5) with (update) with (commercial or ad or advertisement) and (H04N5/775).cpc.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 22:49
L3	17	(playback or reprod\$5) with (update) with (commercial or ad or advertisement) and (H04N5/\$).cpc.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 22:58
L4	7	(playback or reprod\$5) with (update) with (commercial or ad or advertisement) and (H04N9/8042).cpc.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 22:59
L5	7	4 not 2	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 22:59
L6	8	(playback or reprod\$5) with (update) with (commercial or ad or advertisement) and (H04N9/\$).cpc.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 22:59
S1	3	("20120106920").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/12/26 15:52
S2	2	("20130243397").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/12/26 16:04

S3	1	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide) same (updat\$2 or outdat\$2) same (DVR or TIVO)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:05
S4	1	(times adj1 shift\$3) same (auxiliary) same ((news adj1 ticker) or crawler or slide) same (updat\$2 or outdat\$2) same (DVR or TIVO)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2013/12/26 18:05
S5	6	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide) same (updat\$2 or outdat\$2)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:05
S6	47	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:27
S7	41	S6 not S5	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:27
S8	13	S6 not S5 and (DVR or TIVO)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:27
S9	0	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2) same (semi-transparent or transparent) same (disabl\$3 with (Advertisement or ad or commercial or announcement or billboard))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:49
S10	0	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2) same (semi-transparent or transparent)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:51
S11	300	((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2) same (semi-	US-PGPUB; USPAT; USOCR; FPRS; EPO;	OR	ON	2013/12/26 18:52

		transparent or transparent)	JPO; DERWENT; IBM_TDB			
S12	3	((news adj1 ticker) or crawler or slide or Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2) same (semi-transparent or transparent) and "386"/\$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:52
S13	102	doser-ingo-tobias.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:58
S14	0	S6 and S13	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:58
S15	259	zwing-rainer.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:58
S16	0	S6 and S15	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:59
S17	57	endress-Wolfgang.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:59
S18	0	S6 and S17	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:59
S19	27	(video) with (commercial) with (transparent)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	OFF	2013/12/26 20:19
S20	23	(video) with (commercial) with (transparent) and @py<="2010"	US-PGPUB; USPAT; USOCR;	OR	OFF	2013/12/26 20:19

			FPRS; EPO; JPO; IBM_TDB			
S21	3	("20120106920").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/12/26 20:37
S22	2	("20090238536").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/07/10 10:02
S23	2	("20110221964").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/07/10 10:33
S24	101	(playback or reprod\$5) with (update) with (commercial or ad or advertisement)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 10:39
S25	13	(playback or reprod\$5) with (update) with (commercial or ad or advertisement) and "386"/\$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 10:40
S26	11	S25 and @py<="2011"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 10:40
S27	3	(playback or reprod\$5) with (update) with (time) with (commercial or ad or advertisement) and "386"/\$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 11:02
S28	2	("20100310232").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/07/10 16:25
S29	3	("20120106920").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT;	OR	OFF	2014/07/10 16:26

EAST Search History

			BM_TDB			
S30	2	("20080319852").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; BM_TDB	OR	OFF	2014/07/10 17:21

EAST Search History (Interference)

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7/ 10/ 2014 10:59:52 PM

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<i>Index of Claims</i> 	Application/Control No. 13279943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.
	Examiner DANIEL TEKLE	Art Unit 2481

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant		☐ CPA		☐ T.D.		☐ R.1.47			
CLAIM		DATE							
Final	Original	12/26/2013	07/01/2014						
	1	✓	-						
	2	✓	-						
	3	✓	-						
	4	✓	-						
	5	✓	-						
	6	✓	-						
	7	✓	-						
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	31		✓						
	32		✓						
	33		✓						
	34		✓						
	35		✓						
	36		✓						

<i>Index of Claims</i> 	Application/Control No. 13279943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.
	Examiner DANIEL TEKLE	Art Unit 2481

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant		☐ CPA		☐ T.D.		☐ R.1.47			
CLAIM		DATE							
Final	Original	12/26/2013	07/01/2014						
	37		✓						
	38		✓						
	39		✓						
	40		✓						

Doc code: RCEX

Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (07-09)

Approved for use through 07/31/2012. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL **(Submitted Only via EFS-Web)**

Application Number	13/279,943	Filing Date	2013-03-21	Docket Number (if applicable)	270560-999/2	Art Unit	2481
First Named Inventor	Fitzsimmons, Todd			Examiner Name	Tekle, Daniel T.		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

☐ Other _____

☒ Enclosed

☒ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☐ Other _____

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____.
 (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

☒ The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to
 Deposit Account No 506455

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☐ Patent Practitioner Signature

☒ Applicant Signature

Doc code: RCEX

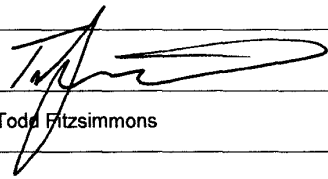
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (07-09)

Approved for use through 07/31/2012. OMB 0651-0031

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Applicant Signature			
Applicant 1		Remove	
Signature		Date (YYYY-MM-DD)	2014-09-16
Name	Todd Fitzsimmons		
Click ADD for additional Applicant Signature		Add	

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PATENT
270560-999/2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: FITZSIMMONS, TODD

Serial No.: 13/279,943

Filed: 03/21/2013

Title: SYSTEM AND METHOD FOR
PROVIDING INFORMATION TO A
RECIPIENT OF A PHYSICAL MAIL OBJECT

Art Unit: 2481

Examiner: TEKLE, DANIEL T.

Confirmation No.: 7094

AMENDMENT

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated July 16, 2014, and in conjunction with a Request for Continued Examination (RCE), please amend the above-identified application as follows:

IN THE CLAIMS:

The following listing of claims will replace all prior versions, and listings, of the claims in the application:

1-20. (Cancelled)

21. (Currently amended) A digital video recorder ("DVR") for time shifting at least a portion of a transmitted video program, comprising:

a tuner for receiving said video program as transmitted, said video program including at least first, second and third portions, wherein said second portion as transmitted is configured to follow said first portion, and said third portion as transmitted is configured to follow said second portion;

a memory device for storing said video program, allowing at least a portion of said video program to be played back at a later time;

a controller configured to receive commands from a user of said DVR, wherein a first command changes said DVR from a first playback state to a second playback state, and a second command initiates playback of said video program from said memory device; and

at least one processor configured to (i) provide said video program in its entirety to a display device in response to receiving said second command regardless of a playback state of said DVR if said second command is received during a first period of time, (ii) provide said video program in its entirety to said display device in response to receiving said second command if said second command is received during a second period of time and said DVR is in said first playback state, and (iii) provide only a portion of said video program to said display device in response to receiving said second command if said second

command is received during said second period of time and said DVR is in said second playback state, said portion of said video program including at least said first and third portions of said video program, wherein said third portion of said video program is provided to said display device immediately following said first portion of said video program if said second command is received during said second period of time and said DVR is in said second playback state;

wherein said second period of time being is a period of time after said first period of time.

22. (Previously presented) The DVR of Claim 21, wherein said controller is configured to receive said commands from a remote control operated by said user of said DVR.

23. (Previously presented) The DVR of Claim 21, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes said primary video content and only a portion of said secondary video content.

24. (Previously presented) The DVR of Claim 21, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes only said primary video content.

25. (Previously presented) The DVR of Claim 24, wherein said memory device is further configured to store at least one time when said secondary video content begins and at least one time when said secondary video content ends.

26. (Previously presented) The DVR of Claim 21, wherein said first period of time is a period of time that is less than one week from said transmission of said video program, and said second period of time is any time after said first period of time.

27. (Cancelled)

28. (Previously presented) The DVR of Claim 24, wherein said secondary video content comprises at least one advertisement.

29. (Previously presented) The DVR of Claim 21, wherein said at least one processor is further configured to (i) retrieve said portion of said video program from said memory device if said second command is received during said second period of time and said DVR is in said second playback state, and (ii) retrieve said video program in its entirety from said memory device if another second command is received at a time thereafter and said DVR is switched to said first playback state at or before said time thereafter.

30. (Currently amended) A method for time shifting at least a portion of a video program transmitted to a digital video recorder ("DVR"), comprising:

receiving said video program, said video program including at least first, second and third portions, wherein said second portion as transmitted is configured to follow said first portion, and said third portion as transmitted is configured to follow said second portion;

storing said video program on a memory device in said DVR;

receiving a first command from at least one user of said DVR, said first command indicating a playback state of said DVR;

receiving a second command from said at least one user of said DVR, said second command indicating a desire to playback at least a portion of said video program; and

providing said at least a portion of said video program to a display device in response to receiving said second command;

wherein said step of providing said at least a portion of said video program to said display device further comprises (i) providing said video program to said display device in response to receiving said second command regardless of a playback state of said DVR if said second command is received during a first period of time, (ii) providing said video program to said display device in response to receiving said second command if said second command is received during a second period of time and said DVR is in said first playback state, and (iii) providing only a portion of said video program to said display device in response to receiving said second command if said second command is received during said second period of time and said DVR is in said second playback state, said portion of said video program including at least said first and second portions of said video program, wherein said third portion of said video program is provided to said display device immediately following said first portion of said video program if said second command is received during said second period of

time and said DVR is in said second playback state:

wherein said second period of time ~~being~~ is a period of time after said first period of time.

31. (Previously presented) The method of Claim 30, wherein said step of receiving said video program further comprises receiving said video program from a satellite via an antenna.

32. (Currently amended) The method of Claim 30, wherein said step of storing said video program on said memory device in said DVR further comprises storing at least one time of when ~~an omitted portion~~ said second portion of said video program begins and at least one time of when said ~~omitted portion~~ second portion of said video program ends, wherein said portion of said video program provided during said second time and when said DVR is in said second playback state does not ~~includes~~ include at least said ~~omitted~~ second portion.

33. (Currently amended) The method of Claim 30, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said ~~to said~~ display device if said second command is received during said second period of time and said DVR is in said second playback state includes said primary video content and only a portion of said secondary video content.

34. (Currently amended) The method of Claim 30, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said ~~to said~~ display device if said second command is received during said second period of time and said DVR is in said second playback state includes only said primary video content.

35. (Previously presented) The method of Claim 30, wherein said first period of time is a first day after said video program has been transmitted, and said second period of time is a time period thereafter.

36. (Previously presented) The method of Claim 30, wherein said first period of time is a period of time that is less than one week from said transmission of said video program, and said second period of time is a time period after said first period of time.

37. (Currently amended) The method of Claim 34, wherein said secondary video content is ~~at least one of a news ticker and~~ at least one advertisement.

38. (Currently amended) The method of Claim 32, wherein said step of receiving said video program further comprises receiving said video program, said at least one time of when said ~~omitted~~ second portion of said video program begins, and said at least one time of when said ~~omitted~~ second portion of said video program ends from a satellite, wherein each one of said at least one times is received by said DVR after said video program is stored on said memory device.

39. (Currently amended) A digital video recorder ("DVR") for time shifting at least a first portion of a video program, said first portion of said video program includes at least program and auxiliary data consists of first, second and third portions, wherein said second portion as transmitted is configured to follow said first portion, and said third portion as transmitted is configured to follow said second portion, comprising:

a tuner for receiving said video program;

a memory device for storing said video program;

a controller for receiving commands including at least a first command for setting a playback state of said DVR and a second command for initiating a playback of said video program from said memory device; and

at least one processor for (i) providing said first portion of said video program in its entirety to a display device in response to receiving said second command during a first period of time, (ii) providing said first portion of said video program in its entirety to said display device in response to receiving said second command during a second period of time if said DVR is in a first playback state, and (iii) providing only a portion said first and third portions of said video program to said display device in response to receiving said second command during said second period of time if said DVR is in a second playback state, wherein said third portion of said video program does not include at least a portion of said auxiliary data is provided to said display device immediately following said first portion of said video program if said second command is received during said second period of time and said DVR is in said second playback state.

40. (Currently amended) The method of Claim 39, wherein said step of providing only a first and third portions of said video program to said display device further comprises providing other auxiliary data to said display device, wherein said other auxiliary data is received after said video program is stored on said memory device include primary content and said second portion includes secondary content.

REMARKS

Claims 21-26 and 28-40 are pending in this application, with Claims 1-20 and 27 being cancelled, and Claims 21, 30, 32-34, and 37-40 being amended. The Applicant respectfully requests reconsideration and review of the application in view of the amendments and the following remarks.

The Examiner rejected Claim 32 and 38 under 35 U.S.C. § 112, second paragraph, for being indefinite. Office Action at p. 2. In particular, the Examiner stated that the feature "omitted portion" is not described in the specification. *Id.* The Applicant respectfully disagrees. The specification provides that a video program can include program data (see Fig. 6 at 610, 620, 630) and auxiliary data (see Fig. 6 at 640, 650), and that DVR may be configured to turn off (or omit) the auxiliary data (see, e.g., p. 15, ll. 8-27). For example, if a user is watching a first football game (program data), and does not wish to see updates on a second football game (auxiliary data) (e.g., because the user is recording the second game and plans on watching it later), the DVR can be configured to turn off (or omit) the updates (auxiliary data). To this end, the specification provides:

For example, a user who is recoding a first sporting event and watching a second sporting event, either in real-time or time-shifted, may not want to receive updates (e.g., in the form of news tickers) on the first sporting event. Thus, a user may be able to program the processor 740 to display only program data, and not auxiliary data, or filter the auxiliary data so that only certain information is displayed, or certain information is not displayed.

See p. 15, ll. 19-27. Nonetheless, in an effort to expedite a timely Notice of Allowance, the Applicant has amended Claims 32 and 38 to replace the term "omitted portion" with the term "second portion," which is supported by the specification and drawings (e.g., Fig. 6). Thus, the rejection of Claims 32 and 38 should be withdrawn.

Prior to addressing the rejections based on prior art, the Applicant provides a

brief overview of the invention. The claimed invention is directed toward a digital video recorder ("DVR") that stores a video program and plays at least a portion of the video program back at a later time (e.g., a time more convenient to the user of the DVR, etc.). Video programs generally include multiple types of data. For example, a video program may include program data (e.g., a movie, a sitcom, etc.) and auxiliary data (e.g., a news ticker, a commercial, etc.), where the auxiliary data is either superimposed over the program data and/or placed between portions of the program data. While the program data may have a relatively long shelf life, the auxiliary data may not. For example, a news ticker or a commercial concerning the evening news may be of no (or limited) value after the evening news has been transmitted. The claimed invention addresses this issue by allowing a user to program the DVR to skip (or omit) at least a portion of the auxiliary data after its value has diminished.

The claimed invention achieves the above advantages by allowing a user of the DVR to set (or program) the DVR into one of two states. In a first state, the DVR is configured to play the program as it was originally recorded (e.g., with both the program and auxiliary data). In a second state, the DVR is configured to play the program data without the auxiliary data (or a portion thereof). In the claimed inventions, the DVR can only be programmed to skip (or omit) auxiliary data once the auxiliary data is no longer of value or is of limited value. To this end, the claimed invention provides that if the video program is being watched within a first period of time (e.g., within a day or two of the video program being transmitted to the DVR, etc.), then the video program will be played back in its entirety (e.g., including both program and auxiliary data). However, if the video program is being watched within a second period of time (e.g., a week after the video program has been transmitted to the DVR, etc.), then the video program will be played back in its entirety (e.g., including both program and auxiliary data, etc.) if the DVR has been programmed to operate in its first playback state, or in portions (e.g., without at least a portion of the auxiliary data, etc.) if the DVR has been programmed to operate in its second playback state. At any time during the second period of time, the

user could also watch the video program with and without auxiliary data (or portions thereof) by watching the video program while the DVR is in a first playback state, and then watching the video program while the DVR is in a second playback state.

In an effort to clarify the claimed invention, the Applicant has amended Claim 21 to provide that the video program includes “at least first, second and third portions, wherein said second portion as transmitted is configured to follow said first portion, and said third portion as transmitted is configured to follow said second portion.” Claim 21 has also been amended to provide that if a second command (initiating playback) is received during a second period of time (e.g., when the auxiliary data has diminished value) and the DVR is in a second playback state (e.g., indicating that the user wants to turn off (or omit) the auxiliary data), then “only a portion of said video program [is provided] to said display device ... [and] said portion of said video program include[s] at least said first and third portions ... [and] said third portion of said video program is provided to said display device immediately following said first portion of said video program.” ***In other words, under these conditions, the second portion is omitted, and the third portion is provided to the display device immediately after the first portion.*** Similar amendments have been made to Claims 30 and 39.

In the current Office Action, the Examiner rejected Claims 21-26, 28-36 and 38-40 under 35 U.S.C. § 103(a) for being unpatentable over Gratton (U.S. Pub. No. 2009/0238536). The Examiner further rejected Claims 27 and 37 under 35 U.S.C. § 103(a) for being unpatentable over Gratton in view of Harris (U.S. Pub. No. 2011/0221964). The Applicant traverses these rejections.

Gratton provides a system and method for replacing audio data in a recorded audio/video stream. The Examiner argues that because the DVR in Gratton replaces the original audio with new audio if the original audio is outdated (see, e.g., Para. 0044), or if the user chooses to play the new audio (see, e.g., Para. 0040), it discloses a processor configured to “provide only a portion of said video program to said display device in response to receiving said second command [initiating playback] if said

second command [initiating playback] is received during said second period of time and said DVR is in said second playback state [indicating a user's desire to omit a portion of the video program]." Assuming that the Examiner is correct, ***Gratton still does not disclose a processor that ignores the user's request to omit a portion of the video program if the second command [initiating playback] is received during a first period of time.*** In other words, it does not disclose a processor configured to "provide said video program in its entirety to a display device in response to receiving said second command [initiating playback] regardless of a playback state of said DVR [regardless of whether the user has chosen to omit a portion of the video program] if said second command [initiating playback] is received during a first period of time." See Claim 21.

Nonetheless, in an effort to expedite a timely Notice of Allowance, the Applicant has amended Claim 21 to further distinguish it over Gratton. Claim 21 now provides that the video program includes "at least first, second and third portions, wherein said second portion as transmitted is configured to follow said first portion, and said third portion as transmitted is configured to follow said second portion." Claim 21 has also been amended to provide that if the second command (initiating playback) is received during the second period of time and the DVR is in the second playback state (indicating the user's desire to omit the auxiliary data) then the processor is configured to "provide only a portion of said video program to said display device ... said portion of said video portion including at least said first and third portions of said video program, wherein said third portion of said video program is provided to said display device immediately following said first portion of said video program." These features are not disclosed in Gratton. In other words, ***Gratton does not omit a second portion of video data, allowing the third portion to play right after the first portion. Instead, Gratton replaces the original audio data with new audio data.***

Because these features are not disclosed in Gratton, the rejection of independent Claim 21, and the rejections of independent Claims 30 and 39, which includes similar

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September 16, 2014
Page 13

features, should be withdrawn. Further, the rejections of Claims 22-26, 28, 29, 31-38 and 40, which depend from the foregoing independent claims, should also be withdrawn.

In view of the foregoing, the Applicant respectfully submits that Claims 21-26 and 28-40 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited. To the extent it would be helpful to placing this application in condition for allowance, the Applicant encourages the Examiner to contact the undersigned counsel and conduct a telephonic interview.

To the extent necessary, the Commissioner is authorized to charge \$600 for the Request for Continued Examination (RCE), pursuant to 37 C.F.R. § 1.17(e)(1), and any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-6455.

Respectfully submitted,

Date: September 16, 2014



Todd E. Fitzsimmons
Applicant
Registration No. 44,683

FITZSIMMONS IP LAW
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Electronic Patent Application Fee Transmittal				
Application Number:		13279943		
Filing Date:		24-Oct-2011		
Title of Invention:		System And Method For Adding Auxiliary Data To Time-Shifted Data		
First Named Inventor/Applicant Name:		Todd E. Fitzsimmons		
Filer:		Todd E. Fitzsimmons		
Attorney Docket Number:		270560-999/2		
Filed as Small Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Request for Continued Examination	2801	1	600	600
Total in USD (\$)				600

Electronic Acknowledgement Receipt	
EFS ID:	20158425
Application Number:	13279943
International Application Number:	
Confirmation Number:	7094
Title of Invention:	System And Method For Adding Auxiliary Data To Time-Shifted Data
First Named Inventor/Applicant Name:	Todd E. Fitzsimmons
Correspondence Address:	Secured Mail Solutions, LLC - Suite 253 9550 S. Eastern Ave. Las Vegas NV 89123 US 7024627223 todd@securedmailsolutions.com
Filer:	Todd E. Fitzsimmons
Filer Authorized By:	
Attorney Docket Number:	270560-999/2
Receipt Date:	16-SEP-2014
Filing Date:	24-OCT-2011
Time Stamp:	21:59:59
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$600

RAM confirmation Number	5941				
Deposit Account	506455				
Authorized User					
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees) Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees) Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document supply fees) Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees) Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)					
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Request for Continued Examination (RCE)	RCE_Filed.pdf	82150 6ccd28a4ecae95966a2ae7f3449d6412fe9a d1b3	no	2
Warnings:					
This is not a USPTO supplied RCE SB30 form.					
Information:					
2		Amendment_Filed.pdf	568932 7dc98bb0e833027525cda766db2aa74d374 15ad6	yes	13
	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Amendment Submitted/Entered with Filing of CPA/RCE		1	1	
	Claims		2	8	
	Applicant Arguments/Remarks Made in an Amendment		9	13	
Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	29963 67044be6ffebded292829d144d4d25611c2 08679	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			681045		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875				Application or Docket Number 13/279,943		Filing Date 10/24/2011		☐ To be Mailed				
ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO												
APPLICATION AS FILED – PART I												
(Column 1)		(Column 2)										
FOR		NUMBER FILED		NUMBER EXTRA		RATE (\$)		FEE (\$)				
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))		N/A		N/A		N/A						
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))		N/A		N/A		N/A						
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))		N/A		N/A		N/A						
TOTAL CLAIMS (37 CFR 1.16(j))		19 minus 20 =		*		X \$ =						
INDEPENDENT CLAIMS (37 CFR 1.16(h))		3 minus 3 =		*		X \$ =						
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))		If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$310 (\$155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).										
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))												
* If the difference in column 1 is less than zero, enter "0" in column 2.						TOTAL						
APPLICATION AS AMENDED – PART II												
(Column 1)		(Column 2)		(Column 3)								
AMENDMENT	09/16/2014		CLAIMS REMAINING AFTER AMENDMENT			HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE (\$)		ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))		* 19		Minus	** 20	=		X \$ =			
	Independent (37 CFR 1.16(h))		* 3		Minus	*** 3	=		X \$ =			
	☐ Application Size Fee (37 CFR 1.16(s))											
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))											
						TOTAL ADD'L FEE						
(Column 1)		(Column 2)		(Column 3)								
AMENDMENT			CLAIMS REMAINING AFTER AMENDMENT			HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE (\$)		ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))		*		Minus	**	=		X \$ =			
	Independent (37 CFR 1.16(h))		*		Minus	***	=		X \$ =			
	☐ Application Size Fee (37 CFR 1.16(s))											
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))											
						TOTAL ADD'L FEE						
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.										LIE /PEGGY YARBOROUGH/		

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 11/06/2014
SECURED MAIL SOLUTIONS, LLC
SUITE 253
9550 S. EASTERN AVE.
LAS VEGAS, NV 89123

EXAMINER

TEKLE, DANIEL T

ART UNIT

PAPER NUMBER

2481

DATE MAILED: 11/06/2014

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/279,943	10/24/2011	Todd E. Fitzsimmons	270560-999/2	7094

TITLE OF INVENTION: System And Method For Adding Auxiliary Data To Time-Shifted Data

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$480	\$0	\$0	\$480	02/06/2015

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax **(571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 11/06/2014

SECURED MAIL SOLUTIONS, LLC
SUITE 253
9550 S. EASTERN AVE.
LAS VEGAS, NV 89123

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/279,943	10/24/2011	Todd E. Fitzsimmons	270560-999/2	7094

TITLE OF INVENTION: System And Method For Adding Auxiliary Data To Time-Shifted Data

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$480	\$0	\$0	\$480	02/06/2015

EXAMINER	ART UNIT	CLASS-SUBCLASS
TEKLE, DANIEL T	2481	386-230000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) The names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credits any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ Applicant certifying micro entity status. See 37 CFR 1.29
- ☐ Applicant asserting small entity status. See 37 CFR 1.27
- ☐ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____



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.
13/279,943	10/24/2011	Todd E. Fitzsimmons	270560-999/2	7094

EXAMINER	
TEKLE, DANIEL T	

ART UNIT	PAPER NUMBER
2481	

DATE MAILED: 11/06/2014

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (Applications filed on or after May 29, 2000)

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Notice of Allowability	Application No. 13/279,943	Applicant(s) FITZSIMMONS, TODD E.	
	Examiner DANIEL TEKLE	Art Unit 2481	AIA (First Inventor to File) Status No

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/16/2014.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2. ☐ 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.

3. ☒ The allowed claim(s) is/are 1-26 and 28-40. As a result of the allowed claim(s), 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.

4. ☐ 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)).
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)	5. ☐ Examiner's Amendment/Comment
2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____	6. ☒ Examiner's Statement of Reasons for Allowance
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material	7. ☐ Other _____
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____	

/DANIEL TEKLE/ Examiner, Art Unit 2481	/WILLIAM C. VAUGHN JR/ Supervisory Patent Examiner, Art Unit 2481
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The present application is being examined under the pre-AIA first to invent provisions.

Reasons for allowance

The following is an examiner's statement of reasons for allowance: Independent claim 21, 30 and 39 present limitation as a whole that are allowable over the prior art, recites the uniquely distinct features for "(iii) provide only a portion of said video program to said display device in response to receiving said second command if said second command is received during said second period of time and said DVR is in said second playback state, said portion of said video program including at least said first and third portions of said video program, wherein said third portion of said video program is provided to said display device immediately following said first portion of said video program if said second command is received during said second period of time and said DVR is in said second playback state; wherein said second period of time is a period of time after said first period of time" and all in combination with all limitations in the independent claims. The closest prior art of Gratton US 2009/0238536 disclose a method for replacing audio data within a recorded audio/video stream is presented. In the method, a first audio/video stream including audio data, video data, and supplemental data is stored. Location information is received which references the supplemental data to identify a location within the first audio/video stream. The location information is received in a data file separately from the first audio/video stream. Also received is an audio data segment. At least a portion of the audio data of the first audio/video stream is replaced at the identified location with the audio data segment to produce a second audio/video stream. At least a portion of the second audio/video stream is then transferred for presentation.....---Abstract, either singularly or in combination, fail to anticipate or render the above underlined limitation obvious.

1. The dependent claims further limit the independent claims and are considered allowable on the same basis as the independent claims as well as for the further limitations set forth.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee.

Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. **Claims 21-26, 28-39 AND 40** are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117.

The examiner can normally be reached on 8:00am to 4:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. 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.

Application/Control Number: 13/279,943
Art Unit: 2481

Page 4

/DANIEL TEKLE/
Examiner, Art Unit 2481

/WILLIAM C. VAUGHN JR/
Supervisory Patent Examiner, Art Unit 2481

Notice of References Cited	Application/Control No. 13/279,943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.	
	Examiner DANIEL TEKLE	Art Unit 2481	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2011/0221964	09-2011	Harris, Scott C.	348/569
*	B	US-2009/0238536	09-2009	Gratton, Max S.	386/54
*	C	US-7,634,785	12-2009	Smith, Geoffrey R	725/34
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	3	("20120106920").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/11/03 04:48
L2	2	("7634785").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/11/03 04:53
L3	2	("20090238536").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/11/03 05:02
L4	0	Fitzsimmons-Todd.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	OFF	2014/11/03 05:07
L5	0	Fitzsimmons-Todd.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	OFF	2014/11/03 05:08
L6	12	Fitzsimmons near2 Todd.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	OFF	2014/11/03 05:08
S1	3	("20120106920").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/12/26 15:52
S2	2	("20130243397").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO;	OR	OFF	2013/12/26 16:04

			JPO; DERWENT; IBM_TDB			
S3	1	(times adj1 shift\$3) same ((news adj1 ticker) or crawler or slide) same (updat\$2 or outdat\$2) same (DVR or TIVO)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:05
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S7	41	S6 not S5	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:27
S8	13	S6 not S5 and (DVR or TIVO)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:27
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		Advertisement or ad or commercial or announcement or billboard) same (updat\$2 or outdat\$2) same (semi-transparent or transparent)	USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB			18:52
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S13	102	doser-ingo-tobias.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:58
S14	0	S6 and S13	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:58
S15	259	zwing-rainer.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:58
S16	0	S6 and S15	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/12/26 18:59
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S22	2	("20090238536").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/07/10 10:02
S23	2	("20110221964").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/07/10 10:33
S24	101	(playback or reprod\$5) with (update) with (commercial or ad or advertisement)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 10:39
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S28	2	("20100310232").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/07/10 16:25
S29	3	("20120106920").PN.	US-PGPUB; USPAT; USOCR;	OR	OFF	2014/07/10 16:26

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S35	7	S34 not S32	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2014/07/10 22:59
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S37	2	("7634785").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/11/02 20:59
S38	1	13/495495	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	OFF	2014/11/02 21:04

S39	1	13/249061	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	OFF	2014/11/02 21:06
S40	3	("20090103902").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2014/11/02 22:13
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EAST Search History (Interference)

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S48	0	((time adj1 shift\$3) same (auxiliary) same (commercial or ad or advertisement) same (skip\$4 or omit\$4 or jump\$3) same (DVR or	US- PGPUB; USPAT;	OR	ON	2014/11/03 00:38

EAST Search History

		TIVO)).clm.	UPAD			
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11/ 3/ 2014 5:09:44 AM

C:\Users\dtekle\Documents\EAST\Workspaces\13279943.wsp

Issue Classification 	Application/Control No. 13279943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.	
	Examiner DANIEL TEKLE	Art Unit 2481	

CPC					
Symbol				Type	Version
H04N		5	775	F	2013-01-01
H04N		5	783	I	2013-01-01
H04N		21	4147	I	2013-01-01
G11B		27	105	I	2013-01-01
H04N		21	4263	I	2013-01-01
H04N		21	4316	I	2013-01-01
H04N		21	4325	I	2013-01-01
H04N		21	4438	I	2013-01-01
H04N		21	4622	I	2013-01-01
H04N		21	812	I	2013-01-01
H04N		21	8126	I	2013-01-01
H04N		21	8456	I	2013-01-01

CPC Combination Sets						
Symbol			Type	Set	Ranking	Version

/DANIEL TEKLE/ Examiner.Art Unit 2481 (Assistant Examiner)	11/02/2014 (Date)	Total Claims Allowed: 19	
/WILLIAM C VAUGHN JR/ Supervisory Patent Examiner.Art Unit 2481 (Primary Examiner)	11/03/2014 (Date)	O.G. Print Claim(s) 1	O.G. Print Figure 4

Issue Classification 	Application/Control No. 13279943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.
	Examiner DANIEL TEKLE	Art Unit 2481

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47															
Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
-	1	-	17	12	33										
-	2	-	18	13	34										
-	3	-	19	14	35										
-	4	-	20	15	36										
-	5	1	21	16	37										
-	6	2	22	17	38										
-	7	3	23	18	39										
-	8	4	24	19	40										
-	9	5	25												
-	10	6	26												
-	11	-	27												
-	12	7	28												
-	13	8	29												
-	14	9	30												
-	15	10	31												
-	16	11	32												

/DANIEL TEKLE/ Examiner.Art Unit 2481 (Assistant Examiner)	11/02/2014 (Date)	Total Claims Allowed: 19	
/WILLIAM C VAUGHN JR/ Supervisory Patent Examiner.Art Unit 2481 (Primary Examiner)	11/03/2014 (Date)	O.G. Print Claim(s) 1	O.G. Print Figure 4

Search Notes 	Application/Control No. 13279943	Applicant(s)/Patent Under Reexamination FITZSIMMONS, TODD E.
	Examiner DANIEL TEKLE	Art Unit 2481

CPC- SEARCHED		
Symbol	Date	Examiner
H04N5/775 or G11B27/34 or H04N5/85 or H04N9/8042 or G11B27/105	7/10/2014	D.T.

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner

SEARCH NOTES		
Search Notes	Date	Examiner
EAST SEARCH (US-PGPUB; US-PAT; US-OCR; EPO; JPO; DERWENT; IBM_TDB)	12/26/2013	D.T.
SEARCH QUARY ATTACHED	12/26/2013	D.T.
INVENTOR NAME SEARCHED	12/26/2013	D.T.
386/\$. TEXT SEARCHED	12/26/2013	D.T.
SEARCH UPDATED	7/1/2014	D.T.
CPC CLASS/SUBCLASS SEARCHED	7/1/2014	D.T.
SEARCH UPDATED	11/2/2014	D.T.

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner
	INTERFERENCE SEARCHED	11/2/2014	D.T.

/DANIEL TEKLE/ Examiner.Art Unit 2481	
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PATENT
270560-999/2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: FITZSIMMONS, TODD

Serial No.: 13/279,943

Filed: 10/24/2011

Title: SYSTEM AND METHOD FOR ADDING
AUXILIARY DATA TO TIME-SHIFTED DATA

Art Unit: 2481

Examiner: TEKLE, DANIEL T.

Confirmation No.: 7094

AMENDMENT AFTER NOTICE OF ALLOWANCE

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Allowance dated November 6, 2014, please amend
the above-identified application as follows:

Serial No. 13/279,943
November 7, 2014
Page 2

IN THE TITLE:

Please amend the Title of the present application as follows:

System and Method for ~~Adding Auxiliary Data to Time Shifted Data~~ Time Shifting
at Least a Portion of a Video Program

IN THE SPECIFICATION:

Please amend the Abstract of the present application as follows:

ABSTRACT

A system and method is provided for ~~adding auxiliary data to time-shifted data~~ time shifting a video program. In one embodiment, ~~data is transmitted from a data source to a receiver via a data distribution means. The receiver, which may be configured to function as both a receiver and a DVR, is configured to add auxiliary data to time-shifted data. The receiving device is configured to acquire auxiliary data at the time the time-shifted data is being played, and to add the auxiliary data to the time-shifted data so that both the time-shifted data and the auxiliary data are displayed to a user on a display. By acquiring data at (or around) the time the time-shifted data is being played, it is more likely that the auxiliary data has value to the user, thereby increasing the value of the time-shifted data to the content owner, the content provider and advertiser.~~ In an alternate embodiment, the auxiliary data is removed only after its value has diminished.

IN THE CLAIMS:

The following listing of claims will replace all prior versions, and listings, of the claims in the application:

1-20. (Cancelled)

21. (Previously presented) A digital video recorder ("DVR") for time shifting at least a portion of a transmitted video program, comprising:

a tuner for receiving said video program as transmitted, said video program including at least first, second and third portions, wherein said second portion as transmitted is configured to follow said first portion, and said third portion as transmitted is configured to follow said second portion;

a memory device for storing said video program, allowing at least a portion of said video program to be played back at a later time;

a controller configured to receive commands from a user of said DVR, wherein a first command changes said DVR from a first playback state to a second playback state, and a second command initiates playback of said video program from said memory device; and

at least one processor configured to (i) provide said video program in its entirety to a display device in response to receiving said second command regardless of a playback state of said DVR if said second command is received during a first period of time, (ii) provide said video program in its entirety to said display device in response to receiving said second command if said second command is received during a second period of time and said DVR is in said first playback state, and (iii) provide only a portion of said video program to said display device in response to receiving said second command if said second command is received during said second period of time and said DVR is in said

second playback state, said portion of said video program including at least said first and third portions of said video program, wherein said third portion of said video program is provided to said display device immediately following said first portion of said video program if said second command is received during said second period of time and said DVR is in said second playback state;

wherein said second period of time is a period of time after said first period of time.

22. (Previously presented) The DVR of Claim 21, wherein said controller is configured to receive said commands from a remote control operated by said user of said DVR.

23. (Previously presented) The DVR of Claim 21, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes said primary video content and only a portion of said secondary video content.

24. (Previously presented) The DVR of Claim 21, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes only said primary video content.

25. (Previously presented) The DVR of Claim 24, wherein said memory device is further configured to store at least one time when said secondary video content begins and at least one time when said secondary video content ends.

26. (Previously presented) The DVR of Claim 21, wherein said first period of time is a period of time that is less than one week from said transmission of said video program, and said second period of time is any time after said first period of time.

27. (Cancelled)

28. (Previously presented) The DVR of Claim 24, wherein said secondary video content comprises at least one advertisement.

29. (Previously presented) The DVR of Claim 21, wherein said at least one processor is further configured to (i) retrieve said portion of said video program from said memory device if said second command is received during said second period of time and said DVR is in said second playback state, and (ii) retrieve said video program in its entirety from said memory device if another second command is received at a time thereafter and said DVR is switched to said first playback state at or before said time thereafter.

30. (Previously presented) A method for time shifting at least a portion of a video program transmitted to a digital video recorder ("DVR"), comprising:

receiving said video program, said video program including at least first, second and third portions, wherein said second portion as transmitted is configured to follow said first portion, and said third portion as transmitted is configured to follow said second portion;

storing said video program on a memory device in said DVR;

receiving a first command from at least one user of said DVR, said first command indicating a playback state of said DVR;

receiving a second command from said at least one user of said DVR, said second command indicating a desire to playback at least a portion of said video program; and

providing said at least a portion of said video program to a display device in response to receiving said second command;

wherein said step of providing said at least a portion of said video program to said display device further comprises (i) providing said video program to said display device in response to receiving said second command regardless of a playback state of said DVR if said second command is received during a first period of time, (ii) providing said video program to said display device in response to receiving said second command if said second command is received during a second period of time and said DVR is in said first playback state, and (iii) providing only a portion of said video program to said display device in response to receiving said second command if said second command is received during said second period of time and said DVR is in said second playback state, said portion of said video program including at least said first and second portions of said video program, wherein said third portion of said video program is provided to said display device immediately following said first portion of said video program if said second command is received during said second period of

time and said DVR is in said second playback state;

wherein said second period of time is a period of time after said first period of time.

31. (Previously presented) The method of Claim 30, wherein said step of receiving said video program further comprises receiving said video program from a satellite via an antenna.

32. (Previously presented) The method of Claim 30, wherein said step of storing said video program on said memory device in said DVR further comprises storing at least one time of when said second portion of said video program begins and at least one time of when said second portion of said video program ends, wherein said portion of said video program provided during said second time and when said DVR is in said second playback state does not include at least said second portion.

33. (Previously presented) The method of Claim 30, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes said primary video content and only a portion of said secondary video content.

34. (Previously presented) The method of Claim 30, wherein said video program includes at least primary and secondary video content, and said portion of said video program that is provided to said display device if said second command is received during said second period of time and said DVR is in said second playback state includes only said primary video content.

35. (Previously presented) The method of Claim 30, wherein said first period of time is a first day after said video program has been transmitted, and said second period of time is a time period thereafter.

36. (Previously presented) The method of Claim 30, wherein said first period of time is a period of time that is less than one week from said transmission of said video program, and said second period of time is a time period after said first period of time.

37. (Previously presented) The method of Claim 34, wherein said secondary video content is at least one advertisement.

38. (Previously presented) The method of Claim 32, wherein said step of receiving said video program further comprises receiving said video program, said at least one time of when said second portion of said video program begins, and said at least one time of when said second portion of said video program ends from a satellite, wherein each one of said at least one times is received by said DVR after said video program is stored on said memory device.

39. (Previously presented) A digital video recorder ("DVR") for time shifting at least a first portion of a video program, said first portion of said video program consists of first, second and third portions, wherein said second portion as transmitted is configured to follow said first portion, and said third portion as transmitted is configured to follow said second portion, comprising:

- a tuner for receiving said video program;

- a memory device for storing said video program;

- a controller for receiving commands including at least a first command for setting a playback state of said DVR and a second command for initiating a playback of said video program from said memory device; and

- at least one processor for (i) providing said first portion of said video program in its entirety to a display device in response to receiving said second command during a first period of time, (ii) providing said first portion of said video program in its entirety to said display device in response to receiving said second command during a second period of time if said DVR is in a first playback state, and (iii) providing only said first and third portions of said video program to said display device in response to receiving said second command during said second period of time if said DVR is in a second playback state, wherein said third portion of said video program is provided to said display device immediately following said first portion of said video program if said second command is received during said second period of time and said DVR is in said second playback state.

40. (Previously presented) The method of Claim 39, wherein said first and third portions of said video program include primary content and said second portion includes secondary content.

Serial No. 13/279,943
November 7, 2014
Page 11

REMARKS

Claims 21-26 and 28-40 are pending in this application, with Claims 1-20 and 27 being previously cancelled. The Applicant would like to thank the Examiner for the indication of allowable subject matter in Claims 1-26 and 28-40. See Notice of Allowance dated November 6, 2014. Prior to issuance, the Applicant has amended the Title and a portion of the Abstract to be consistent with the allowed subject matter, which is directed toward a system and method for time shifting at least a portion of a video program. The Applicant respectfully requests entry of the foregoing amendments pursuant to 37 C.F.R. § 1.312 (see *also* MPEP § 714.16). If the Examiner has any issue with the foregoing amendments, the Applicant encourages the Examiner to contact the undersigned counsel to discuss the same.

While the Applicant does not believe any fees are due, the Commissioner is authorized to charge any fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0639.

Respectfully submitted,

Date: November 7, 2014



Todd E. Fitzsimmons
Applicant
Registration No. 44,683

FITZSIMMONS IP LAW
14739 S. Vermont Ave.
Gardena, CA 90247
Telephone: (213) 500-1178

Electronic Acknowledgement Receipt	
EFS ID:	20650099
Application Number:	13279943
International Application Number:	
Confirmation Number:	7094
Title of Invention:	System And Method For Adding Auxiliary Data To Time-Shifted Data
First Named Inventor/Applicant Name:	Todd E. Fitzsimmons
Correspondence Address:	SECURED MAIL SOLUTIONS, LLC - SUITE 253 9550 S. EASTERN AVE. LAS VEGAS NV 89123 US 7024627223 todd@securedmailsolutions.com
Filer:	Todd E. Fitzsimmons
Filer Authorized By:	
Attorney Docket Number:	270560-999/2
Receipt Date:	10-NOV-2014
Filing Date:	24-OCT-2011
Time Stamp:	13:52:47
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

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Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Amendment_After_Allowance_Filed.pdf	352987 c2929a7a33b3c8ecb6f6a391cf53c45cba40ee50	yes	11
	Multipart Description/PDF files in .zip description				
	Document Description		Start		End
	Amendment after Notice of Allowance (Rule 312)		1		1
	Specification		2		3
	Claims		4		10
	Applicant Arguments/Remarks Made in an Amendment		11		11
Warnings:					
Information:					
Total Files Size (in bytes):			352987		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax **(571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 11/06/2014
SECURED MAIL SOLUTIONS, LLC
SUITE 253
9550 S. EASTERN AVE.
LAS VEGAS, NV 89123

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/279,943	10/24/2011	Todd E. Fitzsimmons	270560-999/2	7094

TITLE OF INVENTION: System And Method For Adding Auxiliary Data To Time-Shifted Data

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$480	\$0	\$0	\$480	02/06/2015

EXAMINER	ART UNIT	CLASS-SUBCLASS
TEKLE, DANIEL T	2481	386-230000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) The names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Todd Fitzsimmons
 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credits any overpayment, to Deposit Account Number 506455 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ Applicant certifying micro entity status. See 37 CFR 1.29
- ☐ Applicant asserting small entity status. See 37 CFR 1.27
- ☐ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature Todd Fitzsimmons
 Typed or printed name Todd Fitzsimmons

Date 11/10/2014
 Registration No. 44,683

Electronic Patent Application Fee Transmittal				
Application Number:		13279943		
Filing Date:		24-Oct-2011		
Title of Invention:		System And Method For Adding Auxiliary Data To Time-Shifted Data		
First Named Inventor/Applicant Name:		Todd E. Fitzsimmons		
Filer:		Todd E. Fitzsimmons		
Attorney Docket Number:		270560-999/2		
Filed as Small Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Utility Appl Issue Fee	2501	1	480	480
Publ. Fee- Early, Voluntary, or Normal	1504	1	0	0

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension-of-Time:				
Miscellaneous:				
Total in USD (\$)				480

Electronic Acknowledgement Receipt	
EFS ID:	20654474
Application Number:	13279943
International Application Number:	
Confirmation Number:	7094
Title of Invention:	System And Method For Adding Auxiliary Data To Time-Shifted Data
First Named Inventor/Applicant Name:	Todd E. Fitzsimmons
Correspondence Address:	SECURED MAIL SOLUTIONS, LLC - SUITE 253 9550 S. EASTERN AVE. LAS VEGAS NV 89123 US 7024627223 todd@securedmailsolutions.com
Filer:	Todd E. Fitzsimmons
Filer Authorized By:	
Attorney Docket Number:	270560-999/2
Receipt Date:	10-NOV-2014
Filing Date:	24-OCT-2011
Time Stamp:	16:29:14
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$480

RAM confirmation Number	2963				
Deposit Account	506455				
Authorized User					
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees) Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees) Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document supply fees) Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees) Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)					
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Issue Fee Payment (PTO-85B)	Issue_Fee_Filed.pdf	98132	no	1
			5cd3ec8c8e3f1aafb4bf2b01a586cea644209f99		
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	31778	no	2
			7f3df4beb87602de941de4112139aa754f3bc84		
Warnings:					
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Total Files Size (in bytes):			129910		
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
13/279,943	10/24/2011	2481	530	270560-999/2	20	3

CONFIRMATION NO. 7094

CORRECTED FILING RECEIPT



OC000000071949791

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LAS VEGAS, NV 89123

Date Mailed: 11/20/2014

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Inventor(s)

Todd E. Fitzsimmons, Long Beach, CA;

Applicant(s)

Todd E. Fitzsimmons, Long Beach, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 61/408,759 11/01/2010

Foreign Applications for which priority is claimed (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.) - None.

Foreign application information must be provided in an Application Data Sheet in order to constitute a claim to foreign priority. See 37 CFR 1.55 and 1.76.

If Required, Foreign Filing License Granted: 11/03/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 13/279,943**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System And Method For Time Shifting at Least a Portion of a Video Program

Preliminary Class

386

Statement under 37 CFR 1.55 or 1.78 for AIA (First Inventor to File) Transition Applications: No

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Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

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NOT GRANTED

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/279,943	10/24/2011	Todd E. Fitzsimmons	270560-999/2	7094

7590 12/11/2014
SECURED MAIL SOLUTIONS, LLC
SUITE 253
9550 S. EASTERN AVE.
LAS VEGAS, NV 89123

EXAMINER

TEKLE, DANIEL T

ART UNIT	PAPER NUMBER
----------	--------------

2481

MAIL DATE	DELIVERY MODE
-----------	---------------

12/11/2014

PAPER

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.

Response to Rule 312 Communication	Application No. 13/279,943	Applicant(s) FITZSIMMONS, TODD E.
	Examiner DANIEL TEKLE	Art Unit 2481
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- 1. ☒ The amendment filed on <u>10 November 2014</u> under 37 CFR 1.312 has been considered, and has been: a) ☐ entered. b) ☒ entered as directed to matters of form not affecting the scope of the invention. c) ☐ disapproved because the amendment was filed after the payment of the issue fee. Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue. d) ☐ disapproved. See explanation below. e) ☐ entered in part. See explanation below.		
/WILLIAM C. VAUGHN JR/ Supervisory Patent Examiner, Art Unit 2481		/DANIEL TEKLE/ Examiner, Art Unit 2481



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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
13/279,943	10/24/2011	2481	530	270560-999/2	20	3

CONFIRMATION NO. 7094

CORRECTED FILING RECEIPT



OC000000072339601

SECURED MAIL SOLUTIONS, LLC
SUITE 253
9550 S. EASTERN AVE.
LAS VEGAS, NV 89123

Date Mailed: 12/11/2014

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Inventor(s)

Todd E. Fitzsimmons, Long Beach, CA;

Applicant(s)

Todd E. Fitzsimmons, Long Beach, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 61/408,759 11/01/2010

Foreign Applications for which priority is claimed (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.) - None.

Foreign application information must be provided in an Application Data Sheet in order to constitute a claim to foreign priority. See 37 CFR 1.55 and 1.76.

If Required, Foreign Filing License Granted: 11/03/2011

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 13/279,943**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System And Method For Time Shifting at Least a Portion of a Video Program

Preliminary Class

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Statement under 37 CFR 1.55 or 1.78 for AIA (First Inventor to File) Transition Applications: No

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Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4258).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/279,943	01/06/2015	8929710	270560-999/2	7094

7590 12/17/2014
SECURED MAIL SOLUTIONS, LLC
SUITE 253
9550 S. EASTERN AVE.
LAS VEGAS, NV 89123

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 364 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Todd E. Fitzsimmons, Long Beach, CA;

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AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
filed in the U.S. District Court Eastern District of Texas on the following

☐ Trademarks or ☐ Patents. (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 2:22-cv-00335	DATE FILED 8/29/2022	U.S. DISTRICT COURT Eastern District of Texas
PLAINTIFF DIGITAL BROADCASTING SOLUTIONS, LLC		DEFENDANT DISH NETWORK, L.L.C. and DISH TECHNOLOGIES, L.L.C.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 8,929,710	6/6/2015	Digital Broadcasting Solutions, LLC
2 9,538,122	1/3/2017	Digital Broadcasting Solutions, LLC
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy