

- 48 -

What is Claimed is:

1. An augmented reality game system comprising:

a head-mounted display operable to overlay virtual indicia onto a physical playfield;

5 memory comprising video game logic operable to provide a video game;

a processor for utilizing said video game logic to provide video game indicia to said head-mounted display based on said video game logic, wherein
10 said processor is coupled to said memory and said head-mounted display;

a detector for determining landscape characteristics of said physical playfield, wherein said video game logic utilizes said landscape
15 characteristics in providing said video game; and

a locating device operable to determine the physical location of said locating device on the physical playfield, wherein said video game logic utilizes the physical location of said locating device
20 in providing said video game.

2. A location-based game system comprising:
memory comprising video game logic for providing a video game;

a processor operable to utilize said
5 video game logic to provide said video game;

at least one manual control;

a locating device operable to determine the physical location of said locating device on a physical playfield; and

- 49 -

10 a switch that determines whether said at
least one manual control or said locating device
determines the location of a video game character in
said video game.

3. A location-based game system for
providing a video game comprising:

 a handheld game device comprising:

 a locating device operable to
5 determine a physical location for said locating device,
wherein said physical location determines a virtual
location for a virtual game character in a virtual
playfield of said video game; and

 a playmat having indicia representative
10 of said virtual playfield comprising:

 a length L, wherein said length L
is utilized by said video game;

 a width W, wherein said length W is
utilized by said video game.

Amendments to the Claims:

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

Listing of Claims:

1-3. (cancelled).

4. (new) A head-mounted device comprising:
a processor;

a display that displays 3-D video game indicia with respect to a physical playfield based on video game logic associated with a video game;

a detector for determining landscape characteristics of said physical playfield, wherein said video game logic utilizes said landscape characteristics in providing said video game; and

a device for updating the physical location of said device on said physical playfield, wherein said video game logic utilizes the physical location of said device in providing said video game.

5. (new) The head-mounted device of claim 4, wherein said detector includes reflecting sensing.

6. (new) The head-mounted device of claim 4, wherein said detector includes a camera.

7. (new) The head-mounted device of claim 4, wherein said display is a transparent display.

8. (new) The head-mounted device of claim 4, wherein said display is a non-transparent display.

9. (new) The head-mounted device of claim 4, wherein said display is a non-transparent display and said detector is a camera.

10. (new) The head-mounted device of claim 4, wherein said display is a transparent display and said detector is a camera.

11. (new) The head-mounted device of claim 4, wherein said device includes a global positioning system.

12. (new) The head-mounted device of claim 4, wherein said device includes a local positioning system.

13. (new) The head-mounted device of claim 4, wherein said device includes an accelerometer.

14. (new) The head-mounted device of claim 4, wherein said device includes an accelerometer and a global positioning system.

15. (new) The head-mounted device of claim 4, wherein said display is a non-transparent display, said device includes an accelerometer, and said detector includes a camera.

16. (new) The head-mounted device of claim 4, wherein said display is a transparent display, said device

includes an accelerometer, and said detector includes a camera.

17. (new) The head-mounted display of claim 4, wherein the pitch of said head-mounted display are utilized in said video game.

18. (new) The head-mounted display of claim 4, wherein the roll of said head-mounted display are utilized in said video game.

19. (new) The head-mounted display of claim 4, further comprising a manually-defined visibility.

20. (new) The head-mounted display of claim 4, wherein the pitch, roll, and direction of said head-mounted display are utilized in said video game.

21. (new) The head-mounted display of claim 4, further comprising a first manually-defined option of an AR topology and a second manually-defined option of a VR topology.

22. (new) The head-mounted display of claim 4, wherein said detector is utilized periodically.

23. (new) The head-mounted display of claim 4, wherein said detector is utilized before the start of said video game.



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.
16/221,380	12/14/2018	Jeffrey David Mullen	JDM/008 CON4	8437
32733	7590	04/11/2019	EXAMINER	
JEFFREY D. MULLEN			ELISCA, PIERRE E	
2212 Hassinger Lane				
Glenshaw, PA 15116				
			ART UNIT	PAPER NUMBER
			3715	
			MAIL DATE	DELIVERY MODE
			04/11/2019	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.

Notice of Pre-AIA or AIA Status

DETAILED ACTION

Notice of Pre-AIA or AIA Status

1. The present application is being examined under the pre-AIA first to invent provisions.
2. This communication is in response to Application No. 16/221,380 filed 12/14/2018.
3. Claims 1-3 are pending and have been examined.
4. This application is a continuation of U.S. application No. 15 140,451 818,041 filed on 04/27/2016 now U.S Pat. No. 10,179,277 See MPEP 201.07. In accordance with MPEP 609.02 A.2 and MPEP 2001.06 (b) (last paragraph), the Examiner has reviewed and considered the prior art cited in the Parent Application. Also in accordance with MPEP 2001.06 (b) (last paragraph), all documents cited or considered 'of record' in the Parent Application are now considered cited or 'of record' in this application. Additionally, Applicant(s) are reminded that a listing of the information cited or 'of record' in the Patent Application need not be resubmitted in this application unless Applicants desire the information to be printed on a patent issuing from this application. See MPEP 609.02 A. 2. Finally, Applicants are reminded that the prosecution history of the Patent Application is relevant in this application.

Double Patenting

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

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the reference application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement. See MPEP § 717.02 for applications subject to examination under the first inventor to file provisions of the AIA as explained in MPEP § 2159. See MPEP §§ 706.02(I)(1) - 706.02(I)(3) for applications not subject to examination under the first inventor to file provisions of the AIA. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO Internet website contains terminal disclaimer forms which may be used. Please visit www.uspto.gov/forms/. The filing date of the application in which the form is filed determines what form (e.g., PTO/SB/25, PTO/SB/26, PTO/AIA/25, or PTO/AIA/26) should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal Disclaimers, refer to <http://www.uspto.gov/patents/process/file/efs/guidance/eTD-info-l.jsp>.

6. Claims 1-3 are rejected under the judicially created doctrine of obviousness-type **double patenting** as being unpatentable over claims 1-20 of U.S. Pat. No. 10/179,277. Although the conflicting claims are not identical, they are not patentably distinct from each other because both define inventions that are obvious variations of each other achieving the same end result. Accordingly, it would have been obvious to those in possession of the invention defined by claims 1-3 to observe that these limitations recite in claims 1-3 are already included in claims 1-20 of U.S. Pat. No. 10/179,277. One of ordinary skill in the art would have realized that by adding the limitation of: "a head-mounted display operable to overlay virtual indicia onto a physical playfield, and memory comprising video game logic operable to provide a video game" is an obvious expedient since the remaining elements, defined in the claims. In re Karlson, 136 USPQ 184 (CCPA 1963).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to PIERRE E ELISCA whose telephone number is (571)272-6706. The Examiner can normally be reached on Monday -Thursday; 6:30AM- 5:30PM. Hoteler.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Hu Kang can be reached on 571 270 1344 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.

/PIERRE E ELISCA/
Primary Examiner, Art Unit 3715

Amendments to the Claims:

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

Listing of Claims:

1-3. (cancelled).

4. (previously presented) A head-mounted device comprising:

a processor;

a display that displays 3-D video game indicia with respect to a physical playfield based on video game logic associated with a video game;

a detector for determining landscape characteristics of said physical playfield, wherein said video game logic utilizes said landscape characteristics in providing said video game; and

a device for updating the physical location of said device on said physical playfield, wherein said video game logic utilizes the physical location of said device in providing said video game.

5. (previously presented) The head-mounted device of claim 4, wherein said detector includes reflecting sensing.

6. (previously presented) The head-mounted device of claim 4, wherein said detector includes a camera.

7. (previously presented) The head-mounted device of claim 4, wherein said display is a transparent display.

8. (previously presented) The head-mounted device of claim 4, wherein said display is a non-transparent display.

9. (previously presented) The head-mounted device of claim 4, wherein said display is a non-transparent display and said detector is a camera.

10. (previously presented) The head-mounted device of claim 4, wherein said display is a transparent display and said detector is a camera.

11. (previously presented) The head-mounted device of claim 4, wherein said device includes a global positioning system.

12. (previously presented) The head-mounted device of claim 4, wherein said device includes a local positioning system.

13. (previously presented) The head-mounted device of claim 4, wherein said device includes an accelerometer.

14. (previously presented) The head-mounted device of claim 4, wherein said device includes an accelerometer and a global positioning system.

15. (previously presented) The head-mounted device of claim 4, wherein said display is a non-transparent display, said device includes an accelerometer, and said detector includes a camera.

16. (previously presented) The head-mounted device of claim 4, wherein said display is a transparent display, said device includes an accelerometer, and said detector includes a camera.

17. (previously presented) The head-mounted display of claim 4, wherein the pitch of said head-mounted display are utilized in said video game.

18. (previously presented) The head-mounted display of claim 4, wherein the roll of said head-mounted display are utilized in said video game.

19. (previously presented) The head-mounted display of claim 4, further comprising a manually-defined visibility.

20. (previously presented) The head-mounted display of claim 4, wherein the pitch, roll, and direction of said head-mounted display are utilized in said video game.

21. (previously presented) The head-mounted display of claim 4, further comprising a first manually-defined option of an AR topology and a second manually-defined option of a VR topology.

22. (previously presented) The head-mounted display of claim 4, wherein said detector is utilized periodically.

23. (previously presented) The head-mounted display of claim 4, wherein said detector is utilized before the start of said video game.

REMARKS/ARGUMENTS

Summary of Applicant's Amendments

The Examiner rejected claims 1-3 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 10,179,277.

The Double Patenting Rejection

The Examiner rejected claims 1-3 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent Application No. 10/179,277.

The present application, however, includes pending claims 4-23 - not claims 1-3. Applicant assumes the Examiner has rejected the pending claims under an obviousness-type double patenting rejection.

In this manner, without prejudice, and solely in order to expedite prosecution, applicant has filed herewith a Terminal Disclaimer.

Accordingly, applicant respectfully requests the Examiner's rejections be withdrawn.

Conclusion

Applicant respectfully submits that this application, including the pending claims, is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

The Director is hereby authorized to charge any fees required in conjunction with this filing, or credit

any overpayment of the same, to Deposit Account No. 50-3855, Order No. JDM/008 CON4.

Respectfully Submitted,

/Jeffrey D. Mullen/
Jeffrey D. Mullen
Applicant (Reg. No. 52,056)
Customer No. 32733
2212 Hassinger Lane
Glenshaw, PA 15116
Mobile: (914) 837-7741