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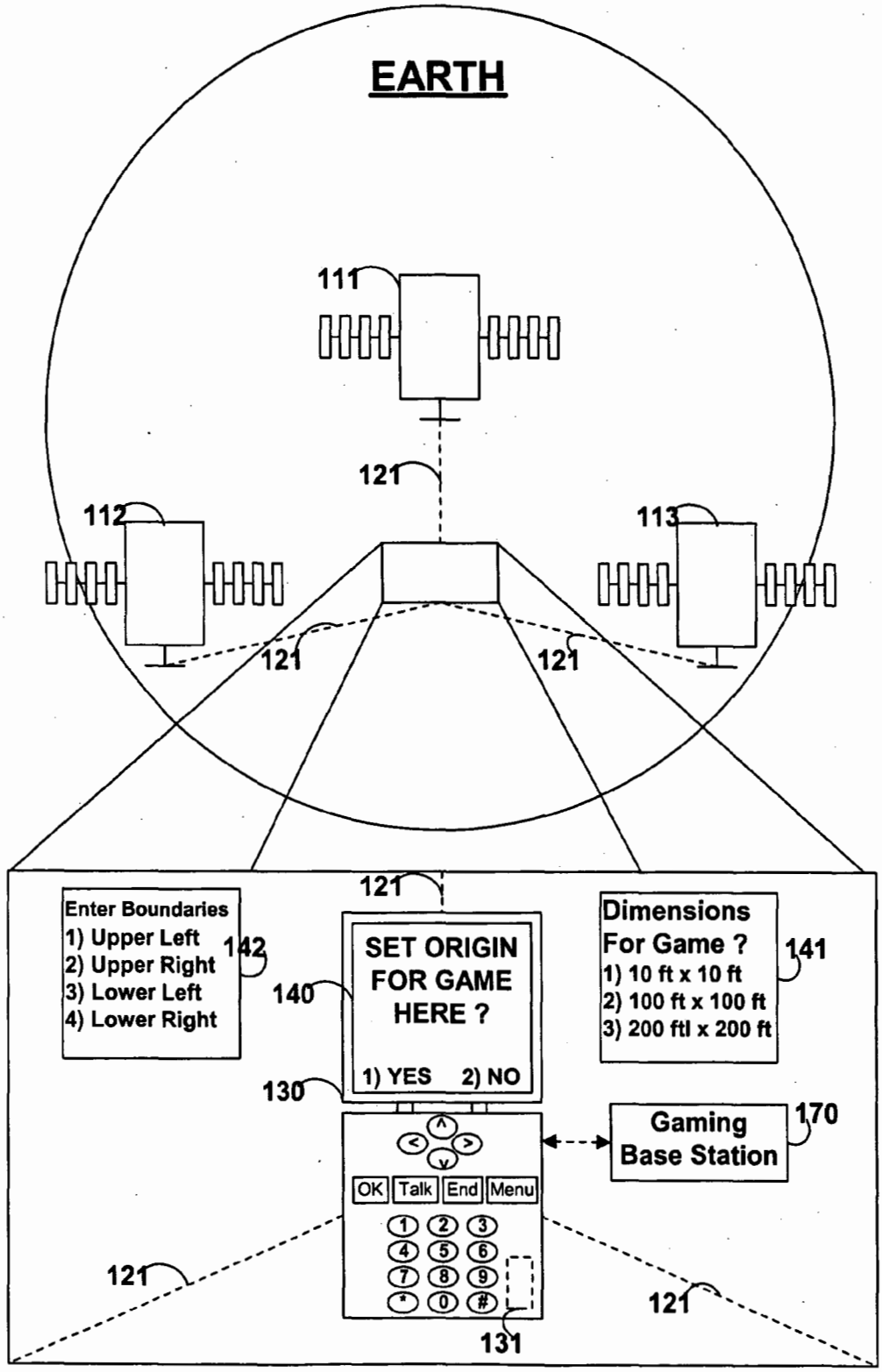


FIG. 1

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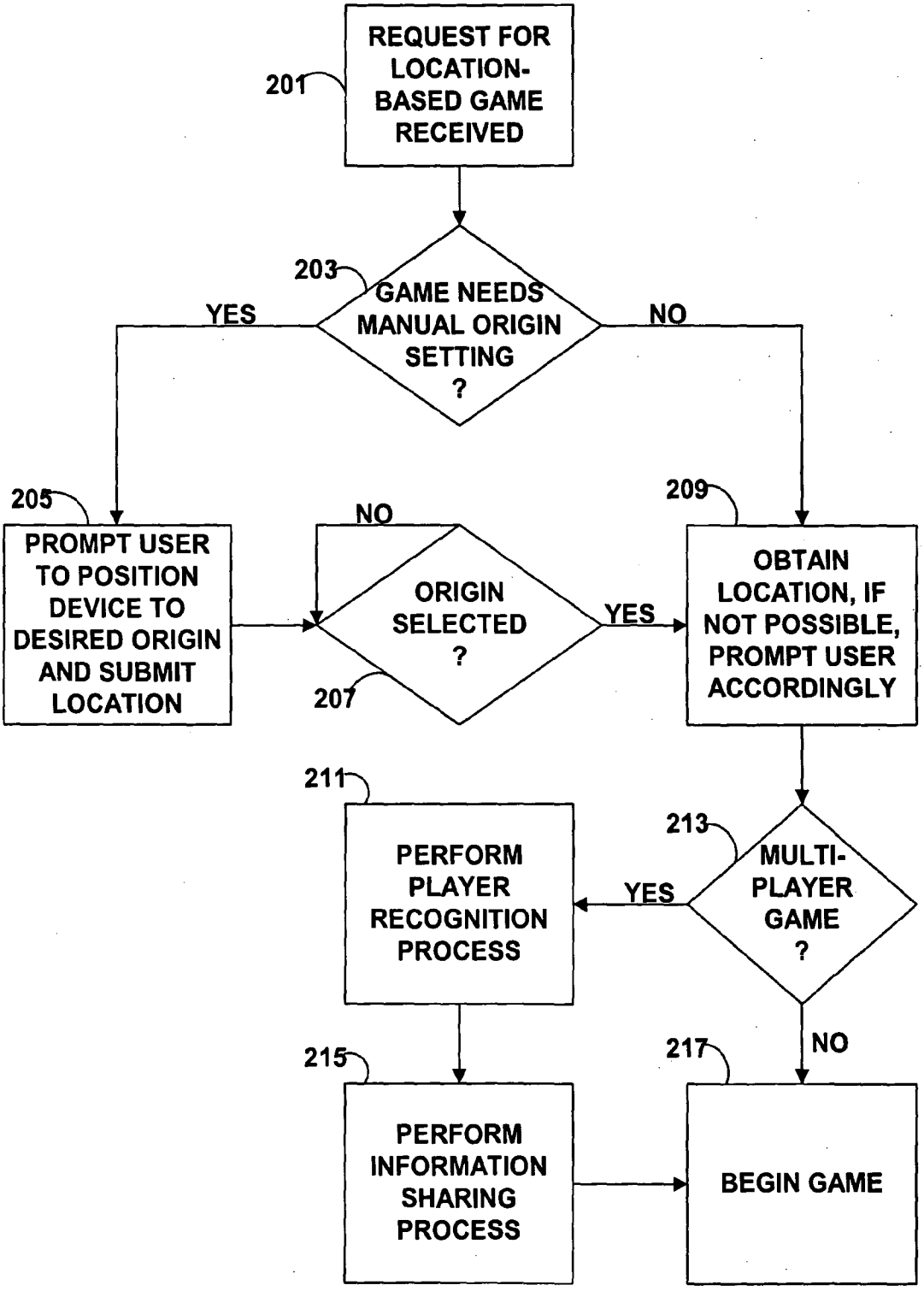


FIG. 2

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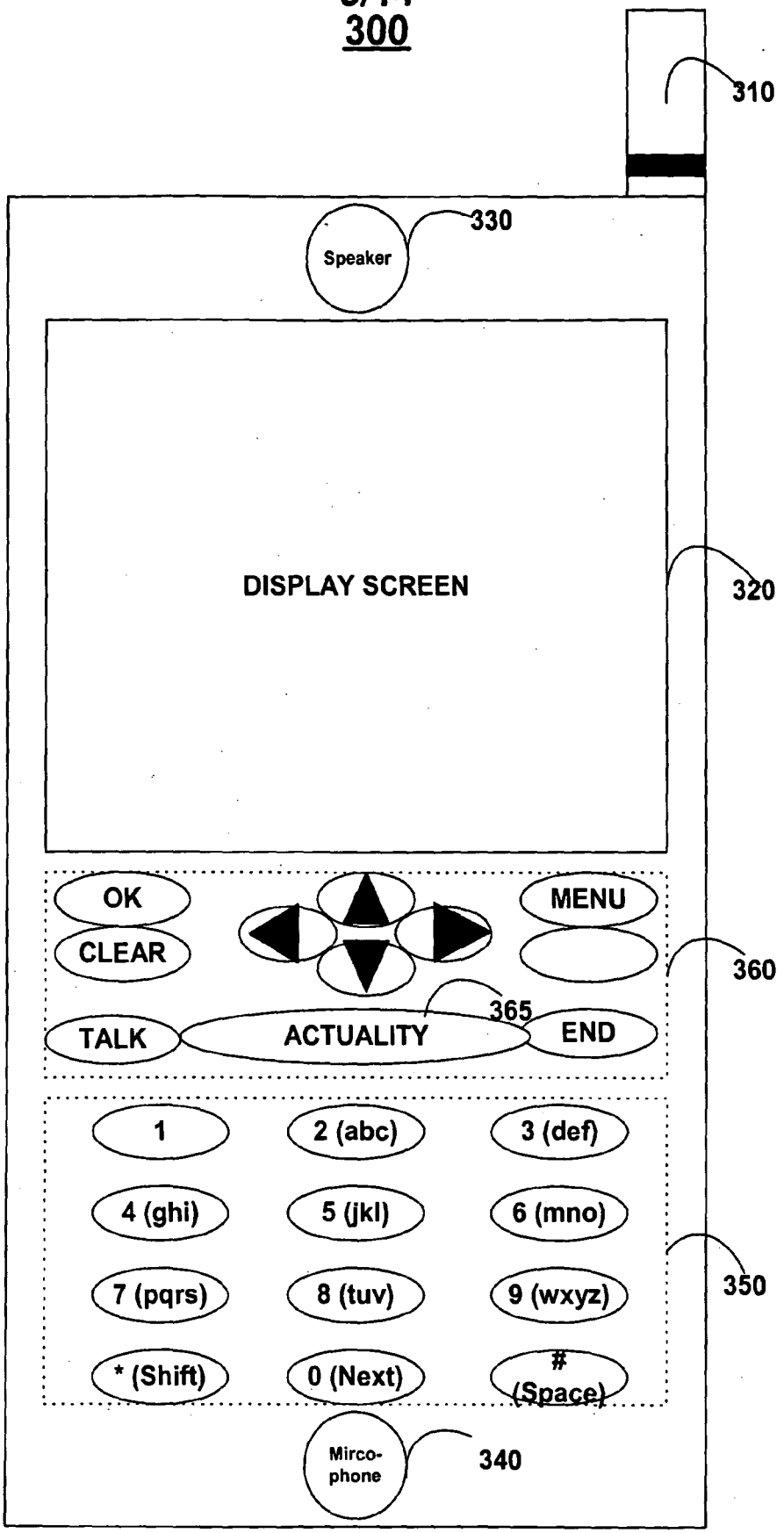


FIG. 3

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PICK LOCATION BASED GAME

1) PACMAN
2) Frogger
3) Track
4) SPACE INVADERS
5) BUBBLES
6) TREASURE HUNTERS
7) ZELDA
8) PONG
9) Football

450

YOU PICKED PACMAN!

PACMAN is a location-based game, pressing OK will mark your current location as pacman's origin in the maze. Press OK to begin. You will need an open area of 200 feet x 200 feet to play the game.

475

PACMAN IS A MULTI-PLAYER GAME

If you want to play with a remote player press 1 and enter in player device ID or send this game ID, ID#PAC52312, to player.

If a local player wants to join, have player place device within 1 feet of this device.

FIG. 4

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MULTIPLAYER FOUND

One additional device has been found. Chose your character from the list of available characters.

1) PACMAN

2) Ghost

550

Rules for Actuality PACMAN

Actuality PACMAN lets you play as PACMAN. Since you have selected Pacman, your mission is to literally run through the maze, your device will represent pacman's location, and gobble pellets while you flee ghosts (3 computer controlled, 1 player controlled). When powered up, you can consume ghosts, you cannot go through walls. Hitting a wall will recalibrate or position (or in certain modes simply cost you 100 points).

575

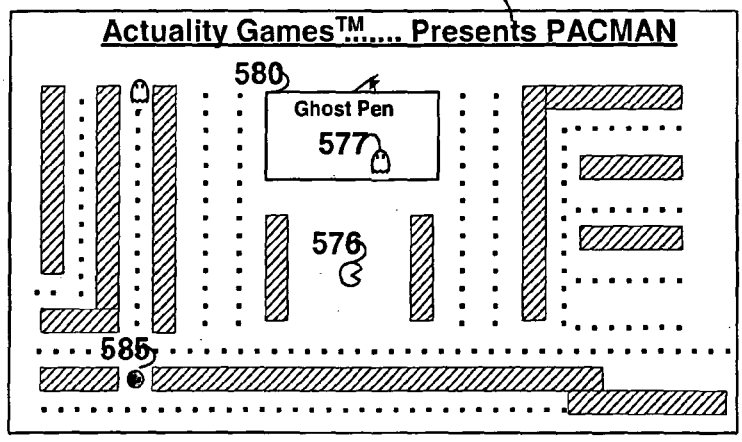


FIG. 5

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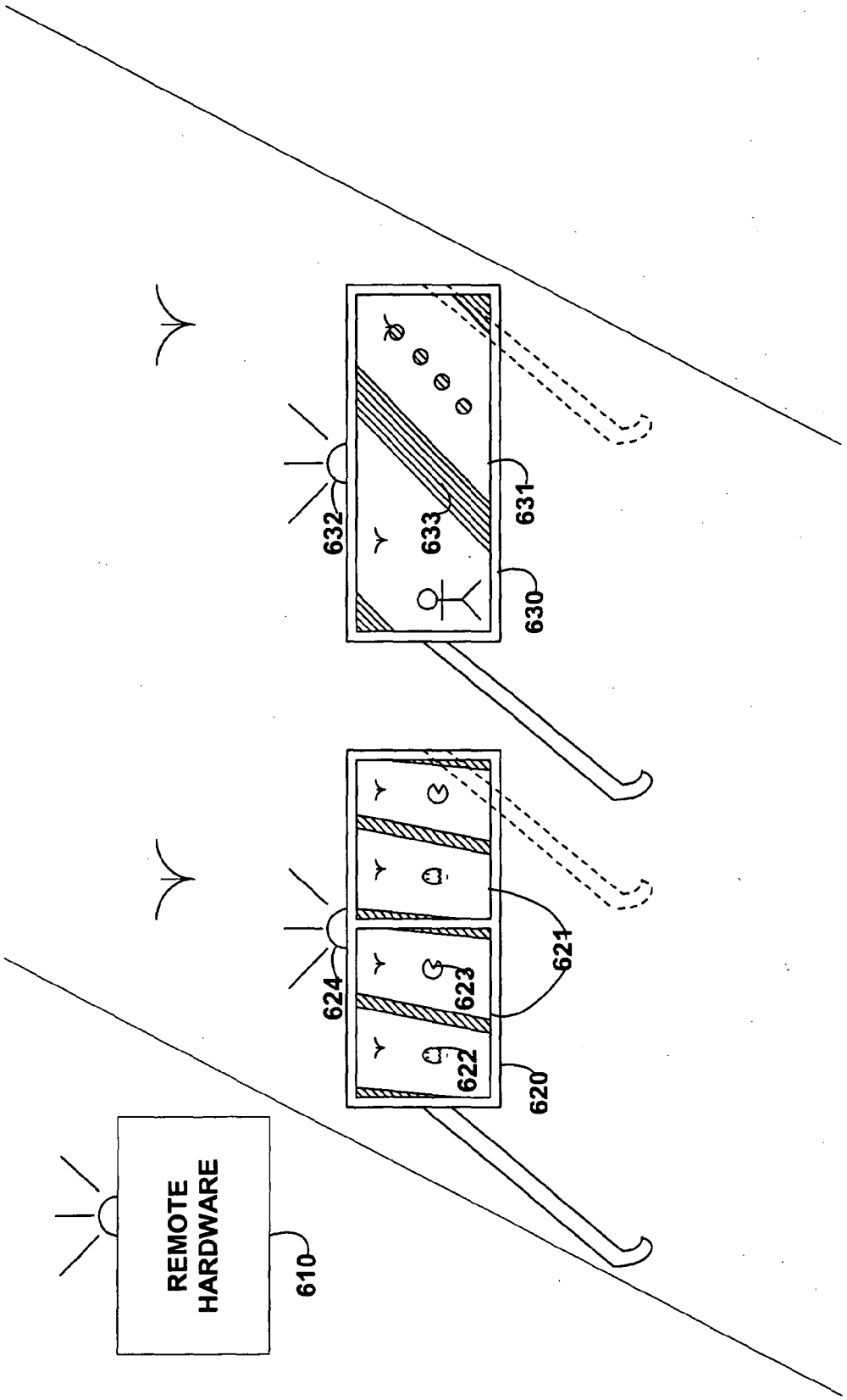


FIG. 6

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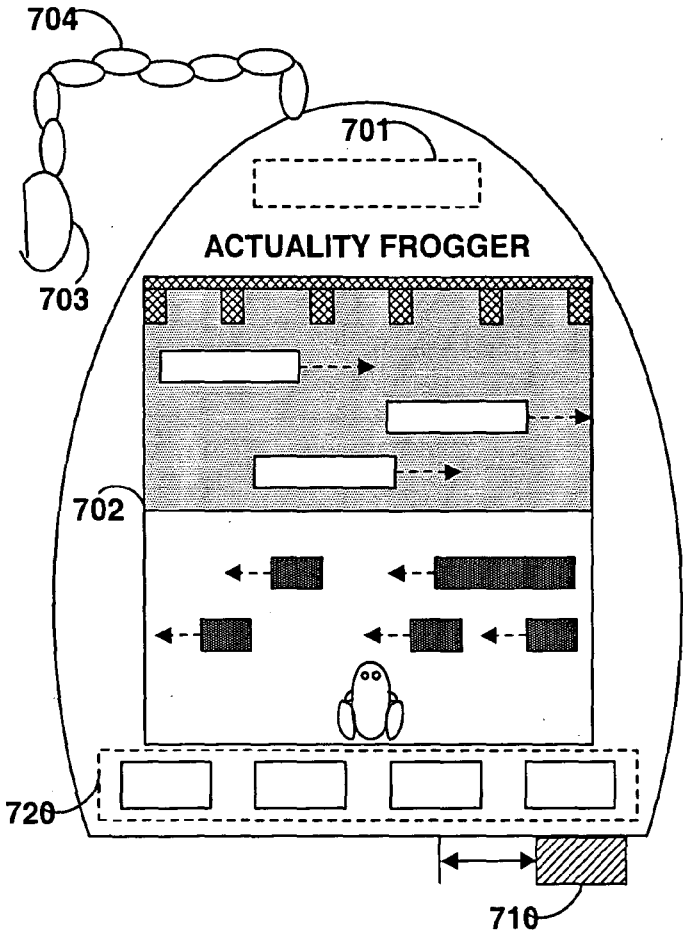


FIG. 7

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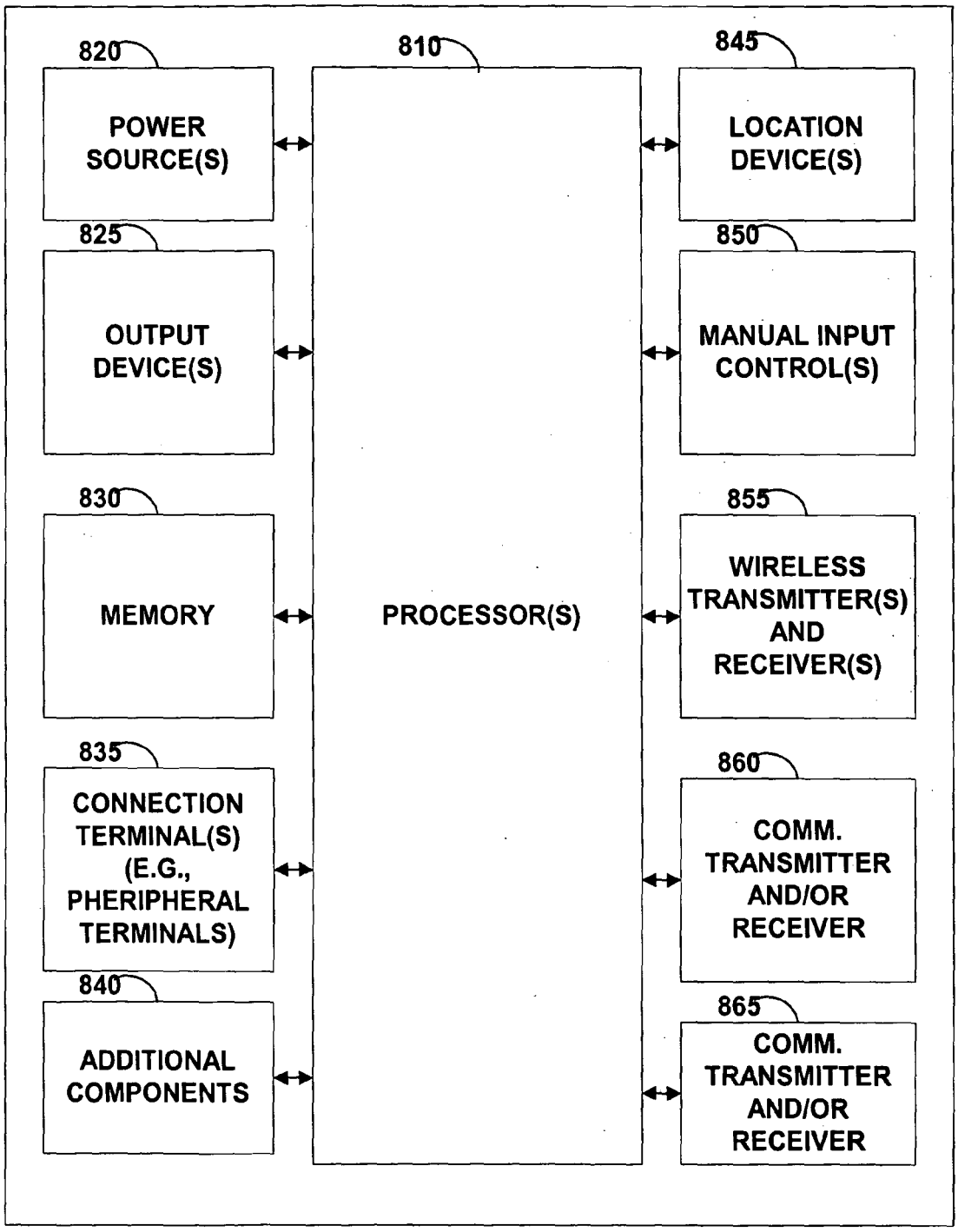


FIG. 8

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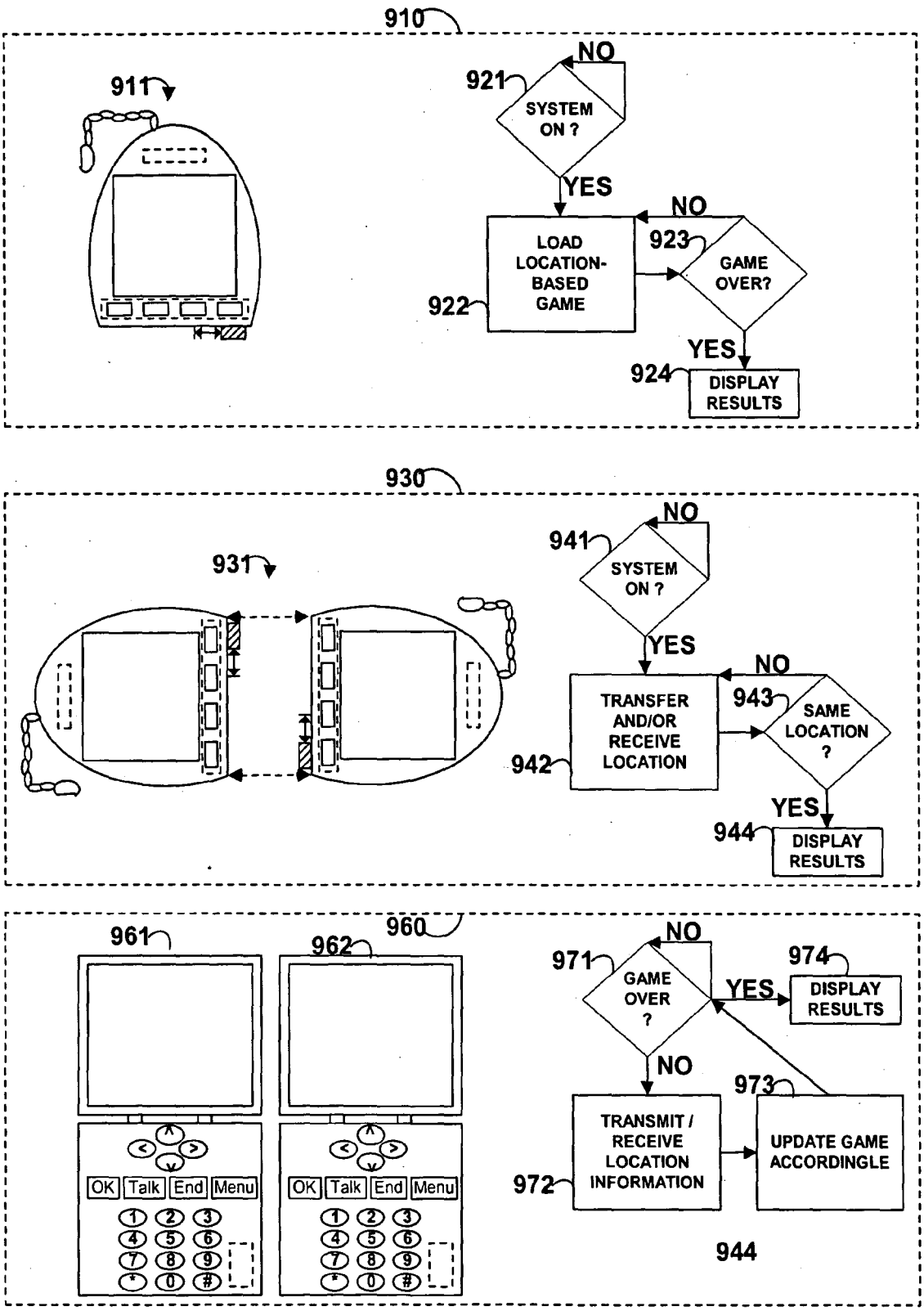


FIG. 9

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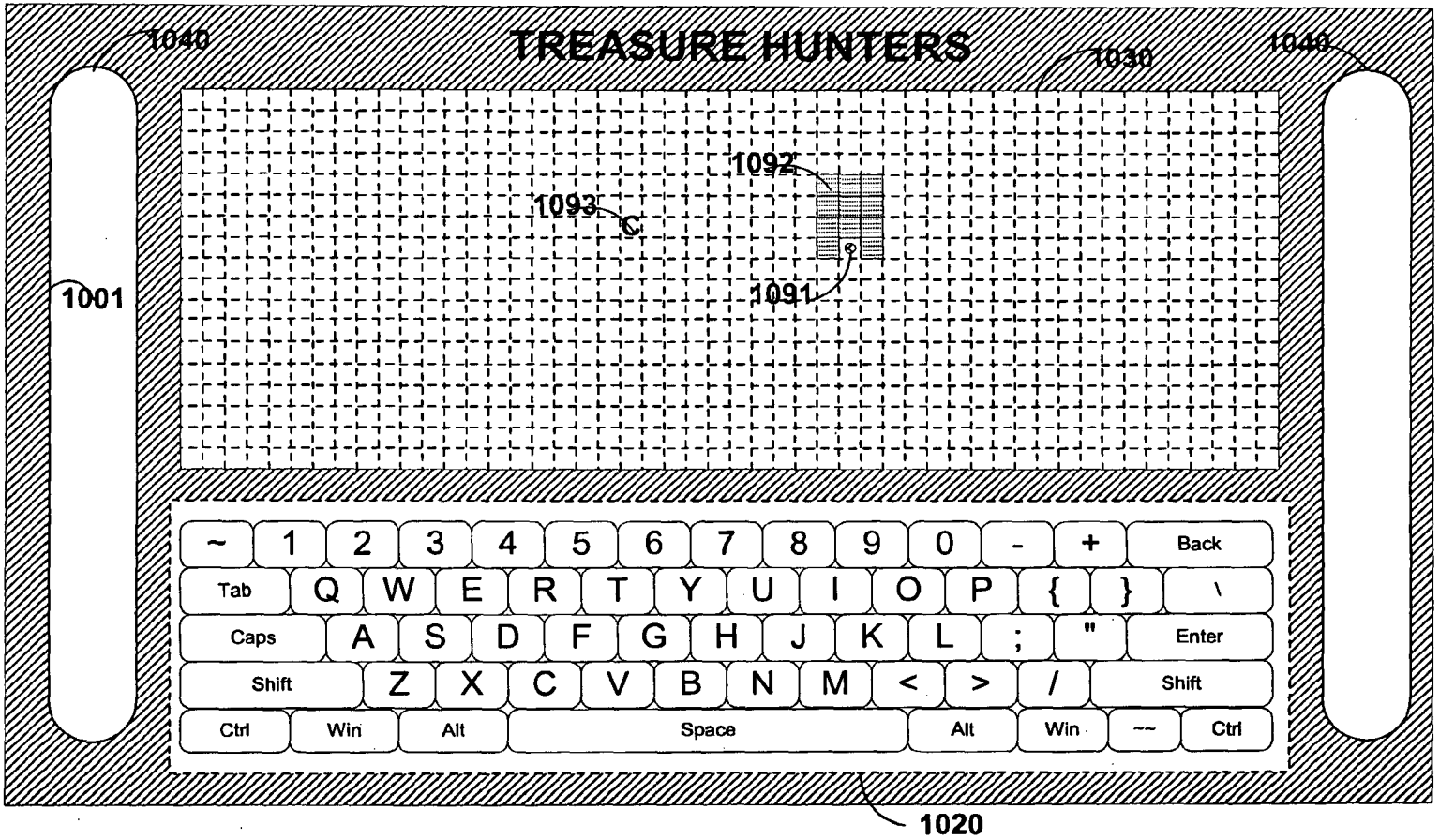


FIG. 10

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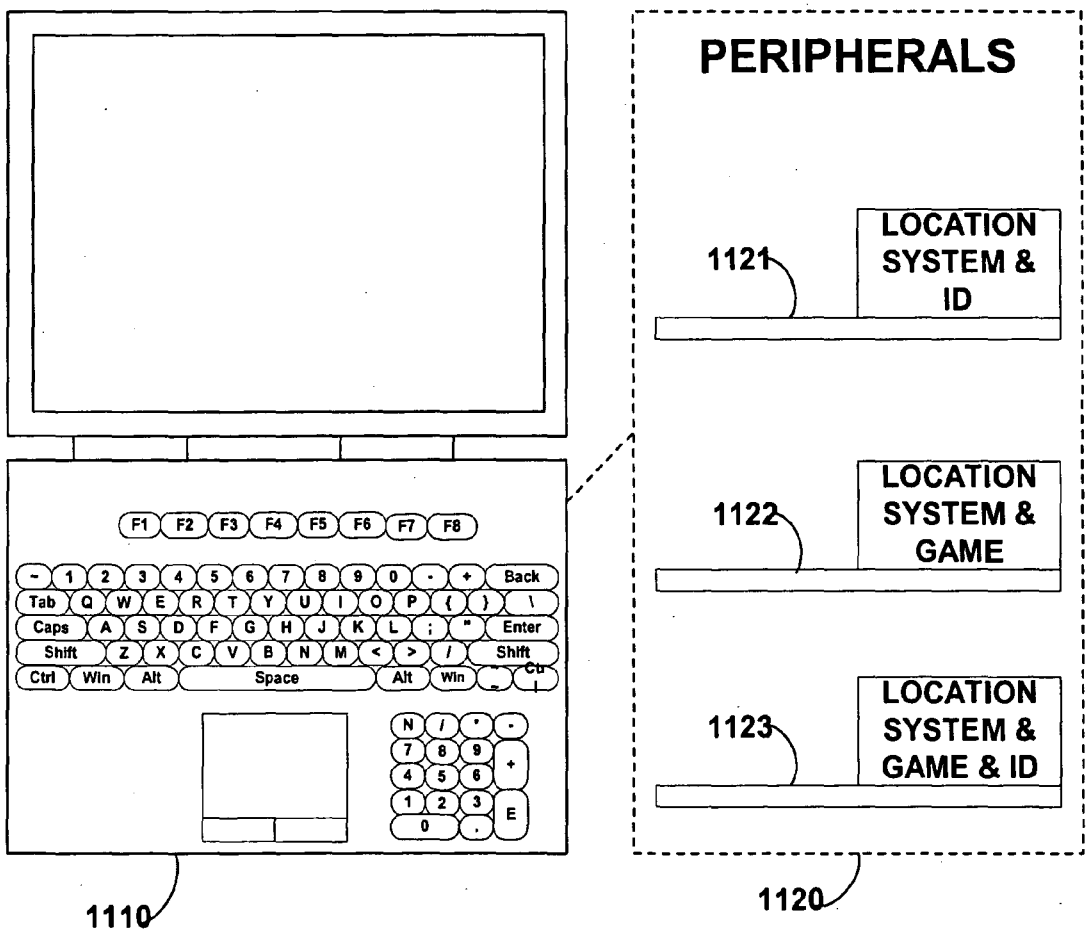


FIG. 11

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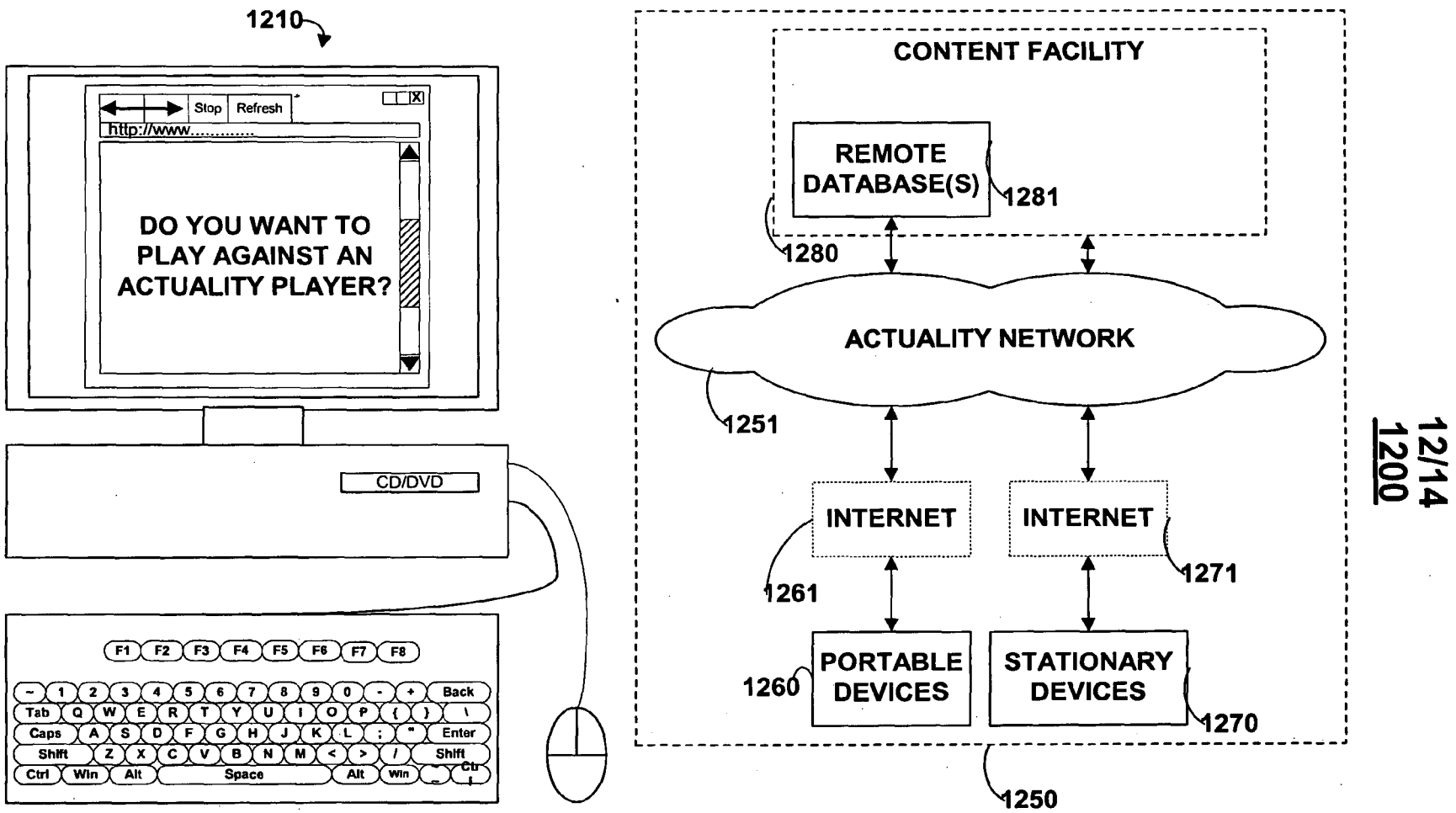


FIG. 12

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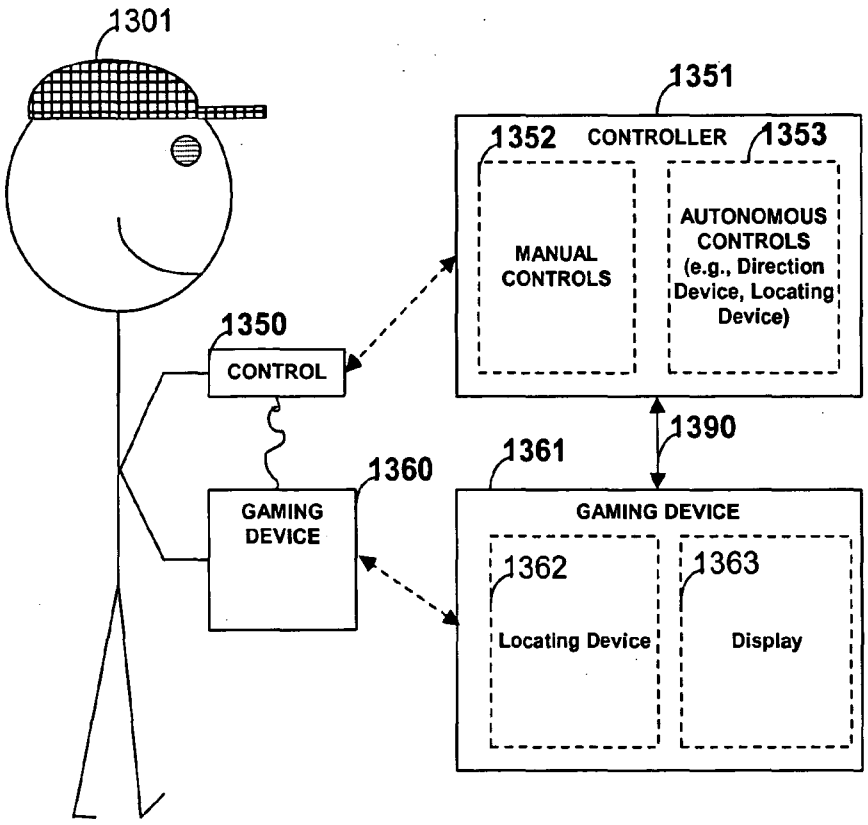


FIG. 13

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1400

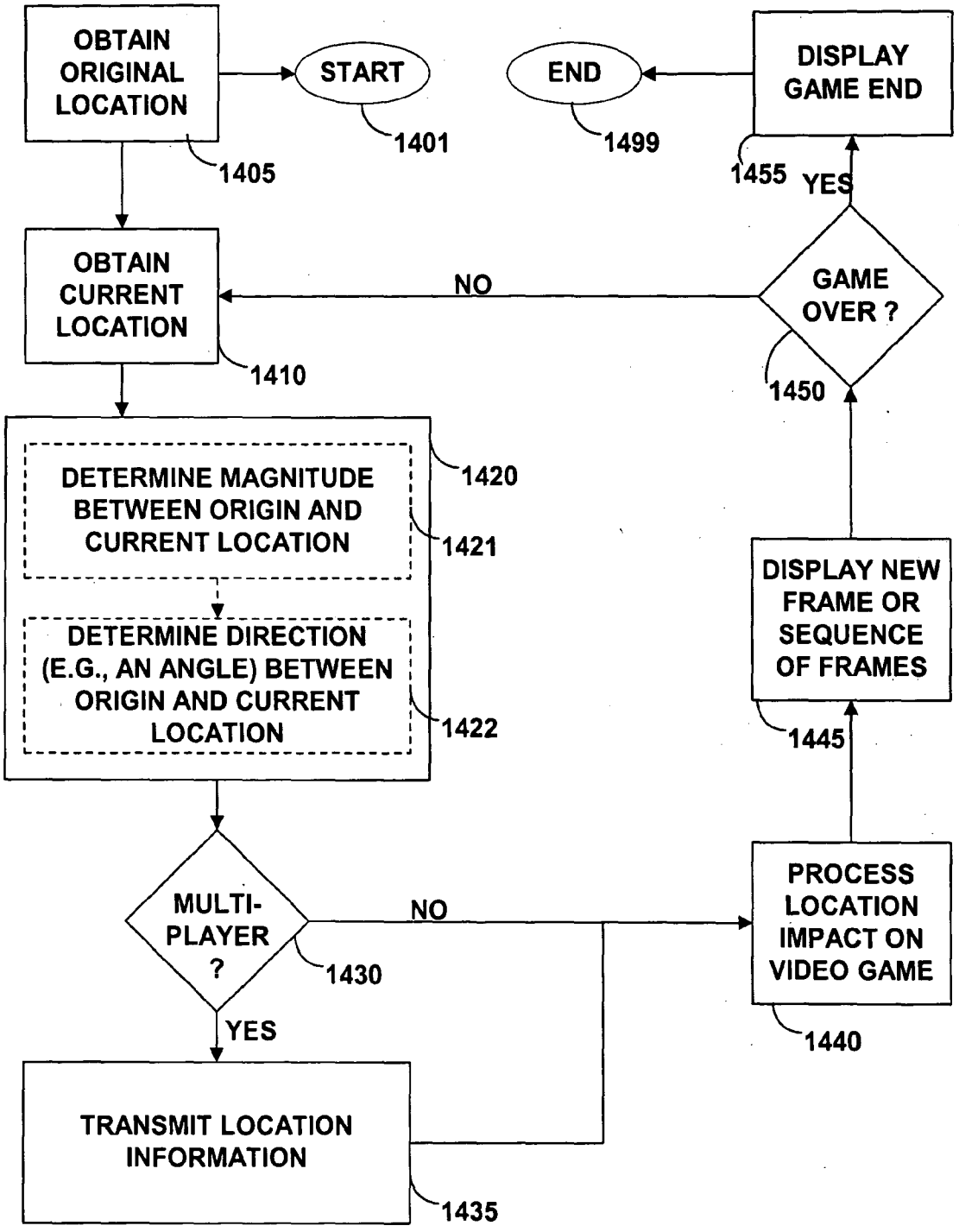


FIG. 14

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SMALL ENTITY
JDM/005

DECLARATION

I, Jeffrey D. Mullen, declare that I am a citizen of the United States of America, respectively residing at and having post office addresses at 1 Mercer Court, Scarsdale, New York 10583; and

that I verily believe myself to be the original and first inventor of the invention or discovery in:

SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

which is described and claimed in the attached specification, and for which a patent is sought;

that I have reviewed and do understand the content of said specification, including the claims, and acknowledge my duty to disclose to the United States Patent and Trademark Office information known by myself to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

that I do not know and do not believe that this invention or discovery was ever known or used in the United States of America before my invention or discovery thereof, or patented or described in any printed publication in any country before my invention or discovery thereof, or more than one year prior to this application; or in public use or on sale in the United States of America more than one year prior to this application; that this invention or discovery has not been patented or made the subject of an inventor's certificate issued before the date of this application in

any country foreign to the United States of America on an application filed by myself or my legal representatives or assigns more than twelve months prior to this application; and that no application for patent or inventor's certificate on this invention or discovery has been filed in any country foreign to the United States of America by myself or my legal representatives or assigns;

I hereby claim the benefit under Title 35, United States Code § 119(e) to the United States provisional applications listed below.

60/499,810	September 2, 2003
(Application Serial No.)	(Filing Date)
60/---,----	August 20, 2004
(Application Serial No.)	(Filing Date)

(Docket No. JDM/007 titled "Wireless Devices With Flexible Monitors and Keyboards")

and I request that communications be sent to:

Jeffrey D. Mullen
1 Mercer Court
Scarsdale, New York 10583

and that telephone calls be directed to:

Jeffrey D. Mullen
(914) 837-7741

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

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I declare, further, that I understand the English language and 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 issuing thereon.

09/01/2004
Date

Jeffrey D. Mullen

Express Mail No.
EV371754078US

Amendments to the Specification:

Please replace paragraph 1, located on page 1 of the specification, with the following paragraph that shows amendments.

-- This application is a continuation of U.S. Patent Application No. 10/932,536, filed on September 1, 2004, which claims the benefit of U.S. Provisional Application No. 60/499,810, filed on September 2, 2003, both of which are incorporated by reference herein in their entirety.—

Please replace paragraph 2, located on page 1 of the specification, with the following paragraph that shows amendments.

-- ~~This application~~ U.S. Patent Application No. 10/932,536, filed on September 1, 2004, also claims the benefit of U.S. Provisional Patent Application No. ~~—/———,———~~ 60/603,481 filed on August 20, 2004 and titled "Wireless Devices With Flexible Monitors and Keyboards," ~~Keyboards" (Docket No. JDM/007)~~ both of which ~~is~~ are hereby incorporated by reference herein in ~~its~~ their entirety.—

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled).

19. (new) A system comprising:

a wireless telephone having a locating device, wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said video game, and said control signals are provided by said locating device.

20. (new) The system of claim 19, wherein said locating device is a positioning device.

21. (new) The system of claim 19, wherein said locating device is a movement measurement device.

22. (new) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, and said first control signals are provided by said first locating device; and

a second a wireless telephone having a second locating device, wherein second control signals are utilized to control a second video game character in said

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video game and said second control signals are provided by said second locating device.

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Electronic Patent Application Fee Transmittal

Application Number:	
Filing Date:	
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Utility Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Utility filing Fee (Electronic filing)	4011	1	75	75
Utility Search Fee	2111	1	250	250
Utility Examination Fee	2311	1	100	100
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Miscellaneous:				
			Total in USD ($)	**425**

SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

Cross-Reference to Related Application

[0001] This application claims the benefit of U.S. Provisional Patent Application No. 60/499,810 filed on September 2, 2003 which is hereby incorporated by reference herein in its entirety.

[0002] This application claims the benefit of U.S. Provisional Patent Application No. --/---,--- filed on August, 20, 2004 titled "Wireless Devices With Flexible Monitors and Keyboards" (Docket No. JDM/007) which is hereby incorporated by reference herein in its entirety.

Background of the Invention

[0003] This invention relates to video games and video game systems.

[0004] Virtual reality games have been developed where a user places a helmet on his/her head and is immersed into an alternate reality via a display located in the helmet. This user is then allowed to move through an alternate reality by means of a joystick. The user is displayed the alternate reality

from a first person perspective. A user is limited in actual physical movement by means of a very small (e.g., 48 inches) enclosed virtual reality platform. Such traditional virtual reality systems are deficient because of the need for additional, unneeded manual actions to be made to move a joystick in order to move the user through the alternate reality. It is therefore desirable to provide a game system with improved user controls.

[0005] Traditional virtual reality systems are also unsafe because a user cannot visually see his/her physical environment. Guard rails are typically provided such that a user cannot stray from the virtual reality platform. Yet, a user may become distorted in the alternate reality and lose a sense of direction as to where such rails are located. Thus, a user may dangerously contact such guard rails or foreign objects introduced onto a virtual reality platform. It is therefore desirable to provide safer game systems.

[0006] Traditionally heavy computer hardware, multiple platforms, large interconnection wires, and numerous manual control devices are required to immerse more than one user in the same alternate reality. Such virtual reality systems typically cost in the tens of thousands, to hundreds of thousands, of dollars. It is therefore desirable provide an economical video game system with improved functionality. It is also desirable to provide software that can realize improved gaming systems in traditional devices such as wireless telephones.

[0007] Zingy.com offers wireless telephone ringers for sale and download. Zingy.com allows a user to enter in a wireless telephone number and a

corresponding wireless telephone model a website. The user, however, must set up a user profile through a user identification process that includes sending a text message containing a confirmation code to the wireless telephone number. A user must enter in this confirmation code on the website to confirm that the user is in possession of the wireless telephone. Desired ringers must be paid for, and downloaded, one at a time. After a particular ringer has been purchased, that user is sent, via a text message, a Wireless Access Protocol (WAP) address. Such an address must be manually extracted from the text message, or entered directly into a browser, in order to be directed to the location of the desired ringer. The user's wireless telephone will then ask the user if the material is OK to download. Only one ringer may be downloaded to a wireless device at a time. It is therefore desirable to provide improved data interchange capabilities for a wireless device.

[0008] Sprint offers a VISION PCS service in which the internet location of a Global Content Descriptor file (.GCD file) must be sent, via text messaging, to a Sprint VISION PCS wireless telephone in order to download a file (e.g., a ringer) from a website (e.g., Zingy.com). This .GCD file contains a variety of data fields that tell the wireless telephone, the size of the file, the title of the file, the creator of the file, the file type, and file's internet storage location. Traditional wireless telephones contain programs that use the information of the .GCD file. For example, if the size of the file, as described by the .GCD file, is too large then the wireless telephone will prompt the user that the file is too large to

download. Such systems are deficient because two files must be transferred in order to manually obtain a download of a single file. It is therefore desirable to provide a wireless telephone that does not need to download a .GCD file, or a similar file, in order to download content.

Summary of the Invention

[0009] The present invention provides an actual, reality-based video game in which a user's physical (actual) location on a playfield, reflects a virtual game character's virtual location in a video game environment. In this manner, an actual-reality (hereinafter "actuality") video game system may be provided. Generally, an actuality game is a location-based game where a user's location on a physical playfield corresponds to a video game character's location on a virtual video game playfield. Multiple types of other location-based games are also provided.

[0010] Multiple type of displays are provided that realize a variety of different types of location-based games. For example, a gaming system is provided in which a user's actual environment is completely visible to a user. In this manner, a game system that provides a visible physical playfield may be provided. A display (e.g., a monitor) may be provided to display the video game to a user. A location device may be included in the video game system such that the actual location of the video game system may be obtained and utilized, for example, to control the location of a virtual video game character on a virtual playfield. In this manner, the user is provided as choice wether

or not to view either the physical playing field or the game system display while operating the game.

[0011] As per another example, a game system is provided with a transparent display such that virtual indicial may be presented on portions of the display. Such virtual indicia may be configured to block, manipulate, or overlay a portion of a user's actual, physical environment. In this manner, a game system that provides a semi-visible physical playfield may be provided. Such displays may be, for example, flexible, transparent, and head-mounted display. Alternatively, such virtual indicia may be displayed directly on the retina through the use of light emitting elements. One advantage of a semi-visible environment game system is that the system allows a user to travel safely at fast speeds through a physical environment. The is because the user may be able to see all of, or part of, his/her physical environment.

[0012] In such a game system that provides a semi-visible environment, a user may go to a soccer field, mount a semi-visible environment gaming system display over his/her field-of-view, download a "goalie" video game, and practice blocking penalty kicks that are shown through the display. Expanding this example, as a virtual ball is virtually kicked on the head-set, the user may change locations to try and block the ball. In this manner, the gaming system may use the user's location to render the next frame of images display on the user's display. Thus, if a user moves one foot to the left towards the ball, the video game system may render the ball to be one foot closer to the user in the next frame.

[0013] Yet another game system is provided in which the video game display completely immerses a user into a virtual reality so that a user cannot see his/her physical environment. . In this manner, a game system that provides a non-visible physical playfield may be provided. Location information may be utilized, for example, to determine a virtual character's location (e.g., a particular first-person perspective) in the virtual realm.

[0014] At any time during gameplay, a user's location may be used as a reference by the video game or another user's video game. For example, a child in his/her backyard in the U.S. may play a game of virtual PACMAN with his/her father that is located in a park in Japan. At the beginning of such a multiplayer game, information about the starting location of each user may be utilized as a points of reference for the game. Accordingly, the game system may transmit the child's location with respect to the child's starting location to his/her father's game system. The father's game system may then utilize this information to determine where the child would be if the two user's were playing on the same physical playfield. Accordingly, the father and child may play the same actuality game together even though the father and the child are on opposite sides of the world.

[0015] A visor may be provided that includes a transparent display such that virtual objects can be overlayed/placed onto the user's actual, physical environment. If the game is a reincarnation of the classic game of PACMAN, maze walls may be provided to a transparent display. Thus, a user may see the actual environment that the user is running through (e.g., the

actual, physical playfield) and also see the maze walls that he/she has to follow (e.g., the virtual playfield).

[0016] Any device with a locating device and a display may be programmed to be at least a visible environment game system. For example, a wireless telephone with a Global Positioning System (GPS) system may be utilized as a visible environment game system that plays, for example, actuality games. As introduced above, one actuality game may be a reincarnation of the classic game of PACMAN. Such a game may include a multiplayer mode where multiple players may simultaneously play the game. Control of, for example, PACMAN may be provided by changing the location of the wireless telephone. A different player could use a different game system (e.g., a different wireless telephone) to control a ghost in the same game. Such a different user may be located on a remote playfield (e.g., in a park in Japan). Thus, a user may look down at a display screen, see his/her character, and run around his/her physical environment in order to similary run his/her virtual character through a virtual maze. Communication devices may be included in such multiplayer game systems such that individual gaming systems may communicate location information to each other or a remote storage device. Such a remote storage device (e.g., a remote database) may be periodically updated with each user's location information and periodically accessed by each user's device to obtain, for example, the other user's location. Accordingly, the ability of a wireless telephone to transmit/receive data may be utilized to realize multiplayer actuality games or other location-

based games. Alternatively, the devices may establish a direct communications link with each other.

[0017] Additional locating devices, or directional devices, may be placed on a user to obtain additional transparent controls (e.g., controls where a user does not have to perform an unnatural action). For example, a GPS device (or any type of locating device) may be placed on a user's hand. A hand-word locating device may be used to obtain the location of a user's hand in a three-dimensional field. Therefore, the height, latitude, and longitude of the user's hand may control the height and position of a virtual game character's hand (or other movement).

[0018] As per another example, a locating device may be provided on a head-mounted display that determines how the head-mounted display moves with respect to a reference point. In this manner, the video game may be provided with signals representative of the direction that the user's head is pointed towards. A directional electronic compass is also provided through the configuration of two location devices (e.g., two GPS devices). If, for example, one location device is placed in one location of a portable gaming system (e.g., the front of a visor) and a second location device placed in a second location of the portable gaming system (e.g., the back of a visor) then the direction the visor is pointing may be determined be determining the location of these two location devices.

[0019] Additional locating and/or directional devices may be provided on other actual objects (e.g., a sword, gun, baseball bat) such that the location of these objects may also be utilized to provide input to the location-based video game. For example, multiple

locating devices may be provided in a baseball bat such that a user may play an actuality game of baseball.

[0020] Simplistic examples of a location-based game system are provided (e.g., a dedicated non-communicating one-player game system). Such systems may be constructed and marketed for considerably less than conventional hardware (e.g., less than the cost of a wireless telephone).

[0021] Additional manual controls may be provided to increase the functionality of a game system of the present invention. Such manual controls may be, for example, buttons and/or joysticks.

[0022] A data interchange may also be provided. Users may upload content from a wireless telephone and allow different users (e.g., selected users) to download content to their different wireless devices (e.g., a wireless Personal Electronic Device). Interactive games are provided to wireless telephones by, for example, including a database that can store a player's progress in the game.

[0023] An automatic content update, or an automatic content download, may be provided to a wireless telephone user. Such an update may be the result of a paid subscription for such periodic updates. A wireless telephone is provided that includes the ability to have non-service provider automatic updates without the consent of the wireless telephone's user every time data is downloaded. A wireless telephone is also provided that is operable to download a file directly without a .GCD, or similar, file.

[0024] Conversion components are also provided that may provide a location-based game functionality to a non-located enabled device. For example, a peripheral

with a game, a locating device, and a wireless transmitter/receiver, may is provided that may interface with a particular non-location enabled device. Such a peripheral may be operable to interface with PCMCIA slots or USB ports. In this manner, a laptop user may purchase a conversion component so that the laptop is operable to play a particular location-based game or take on the attributed of a location-based gaming system.

[0025] A stationary game system is provided that interacts with an actual-location based video game system of the present invention. In this manner, a user of a stationary gaming system (e.g., a home Personal Computer) may play a game against the user of an actuality gaming system. Using PACMAN as an example, the stationary user may control a ghost with a joystick while the location-based user controls PACMAN with his/her physical location on a physical playfield. A handicap may be given to the stationary user such that the actual-location based user is provided with an advantage (e.g., the handicap's player may move slower).

Brief Description of the Drawings

[0026] The above and other features of the present invention, its nature and various advantages will be more apparent upon consideration of the following detailed description, taken in conjunction with the accompanying drawings, in which like reference characters refer to like parts throughout, and in which:

[0027] FIG. 1 is an illustration of one embodiment of a gaming system topology constructed in accordance with the principles of the present invention;

[0028] FIG. 2 is a flow chart for a variety of functionalities that may be included in a gaming system constructed in accordance with the principles of the present invention;

[0029] FIG. 3 is an illustration of a wireless telephone for use as a gaming system constructed in accordance with the principles of the present invention;

[0030] FIGS. 4-5 are illustrations of user interfaces, and accompanying functionality, constructed in accordance with principles of the present invention;

[0031] FIG. 6 is an illustration of one embodiment of a gaming system constructed in accordance with the principles of the present invention;

[0032] FIG. 7 is an illustration of one embodiment of a gaming system constructed in accordance with the principles of the present invention;

[0033] FIG. 8 is an illustration of a game system architecture constructed in accordance with the principles of the present invention;

[0034] FIG. 9 are illustrations of multiple game system configurations constructed in accordance with the principles of the present invention;

[0035] FIG. 10 is an illustration of a gaming system constructed in accordance with the principles of the present invention;

[0036] FIG. 11 are illustrations of gaming system peripherals constructed in accordance with the principles of the present invention;

[0037] FIG. 12 is an illustration of a gaming system network constructed in accordance with the principles of the present invention;

[0038] FIG. 13 is an illustration of a gaming system constructed in accordance with the principles of the present invention; and

[0039] FIG. 14 is an illustration of a flow chart of a multiplayer game that shares location information constructed in accordance with the principles of the present invention.

Detailed Description of the Drawings

[0040] U.S. Patent Application No. 10/400,296 filed on March 25, 2003 titled "Systems and Methods for Locating Wireless Telephones and Security Measures for the Same" (Docket No. JDM/002) is hereby incorporated by reference herein in its entirety.

[0041] U.S. Patent Application No. 10/797,801 filed on March 9, 2004 titled "Systems and Methods for Providing Remote Incoming Call Notification for Wireless Telephones" (Docket No. JDM/004) is hereby incorporated by reference herein in its entirety.

[0042] FIG. 1 shows gaming system 100 in which locating device 131 receives location signals from satellites 111-113. Persons skilled in the art will appreciate that satellites 111-113 may be transmitters placed around a physical playfield (e.g., may be placed around/suspend above the perimeter of a physical playfield). Wireless telephone 130 may house locating device 131 and may provide a location-based game on display 140.

[0043] To initiate a location-based game, a user may be prompted to set an origin for the game trough a

Graphical User Interface (GUI). Alternatively, an origin may be set automatically. Furthermore, a GUI may be provided that prompts a user on how much free physical space is needed on all sides of the origin for gameplay. Such a functionality may allow a user to locate a proper spot on an actual, physical playfield before gameplay begins or to allow a video game to establish a reference location. The dimensions of the physical playfield may be operable to be changed by a user. For example, a user may be provided with a number of physical playfield dimensions to choose from as shown in GUI 411.

[0044] In multiplayer embodiments, for example, a user may determine playfield dimensions and an opponent may be, for example, requested to confirm that user's selected dimensions (or display that user's selected dimensions). Alternatively, each user may select different dimensions for their local, physical playfield and control signals may be appropriately scaled as will be discussed below. Default dimensions for the physical playfield may be utilized by a video game and displayed to a user. Such dimensions may be changed during operation of the video game (e.g., a game may be PAUSED, taken to a different physical, playfield, and the physical playfield dimensions may be changed before the game is RESTARTED).

[0045] Persons skilled in the art will appreciate that location-based video games may be initially configured in a variety of ways by a user. For example, a user may be provided with a GUI that includes a number of choices as to the shape of an physical playfield (e.g., a circle, square, or rectangle). As per another example, GUI 412 may be

provided in which a user may go to a physical playfield boundary that the user desires and establish that location as a location boundary for a game. Dimensions information may be utilized by a video game system to determine how to scale location-based inputs. For example, if a user is playing an actualty game of PACMAN then a user movement in a 10 ft. x 10 ft. physical playfield may result in PACMAN moving faster than that same user movement in a 100 ft. x 100 ft. foot physical playfield. Accordingly, a video game system may scale location inputs such that a person playing on a 10 ft. x 10 ft. playfield may play in the same virtual playfield (although multiple displays may display the virtual playfield) as a user playing on a 100 ft. x 100 ft. playfield. A program may scale user inputs based on, for example, the dimensions (e.g., size) of both user's playfield or scale to a user defined or default playfield. Control signals may be transmitted to other game systems such that scaling is taken into account. For example, transmitted control signals may represent the direction and magnitude that a current player's location is away from that user's origin. Dimension information for a user's physical playfield may also be transmitted to other user's game system. Using any one of a number of scaling methods, a user's movement North of his/her physical playfield origin by 10% may cause an opponent to view, on the opponent's display, movement of the user's video game character to a location 10% North of the opponent's origin.

[0046] Persons skilled in the art will appreciate that a variety of locating devices may be utilized. For example, a Global Positioning System (GPS) may be

utilized. Alternatively, a Local Positioning System (hereafter "LPS") may be utilized. Additionally, the difference in two locations provided by a locating device (e.g., the magnitude and direction of a location to an origin) may be utilized to move a character in a video game playfield (or provide other control signals to the video game system). Similarly, devices that measure movement (e.g., an accelerometer) may be utilized as a locating device. Accordingly, acceleration information may be translated into location information and this location information may be utilized as a control signal (e.g., for changing the location of a video game character).

[0047] Person skilled in the art will also appreciate that any type of device may be configured into a gaming system of the present invention. In addition to wireless telephones (e.g., cellular or PCS wireless telephones), laptops, Personal Digital Assistants (e.g., PDAs), Blackberries, Personal Electronic Device (PED), iPODs, or any other portable electronic device may be utilized.

[0048] Multiple portable gaming systems may be operable to directly communicate with each other (e.g., Cellular, PCS, WiFi, radio, satellite, or infrared communications) in order to achieve a variety of functionality. For example, portable gaming systems may communicate location information directly with one another in order to increase the speed in transferring location information. Alternatively, one or more remote storage devices (e.g., a database or memory) may be provided that stores location information for one or more users. Portable gaming devices may routinely retrieve other user's location information from such a

remote storage device. Portable gaming devices may also routinely write location information for a particular user to such a remote storage device either periodically, continually, or as soon as a new location reading has been completed.

[0049] To decrease the weight of a portable gaming device, a base station (e.g., base station 170) may be provided that includes components that may otherwise be included in a portable gaming system. For example, a satellite communications device may weigh more than a WiFi device. In this manner, a WiFi transmitter/receiver may be included in the portable gaming device to relay the portable devices location information to the base station. The base station may then use, for example, the satellite communications transmitter/receiver to update location information on a remote storage device. Alternatively, the base station may include, for example, the remote storage device for one or more portable devices.

[0050] Base stations (e.g., base station 170) may also include a majority of the processing circuitry for a gaming system. For example, a portable gaming device may be provided with a display, a locating device, and a transmitter/receiver. This portable gaming device may periodically transmit location information to a base station. The base station may use this information as an input to a video game being played, render a new frame for the portable display, and forward this newly rendered frame (that takes into account the impact of the new location-based control signal) to the portable gaming device. Multiple portable devices may utilize one base station. Similarly, one portable device may utilize multiple

base stations. Base stations may also communicate information between each other.

[0051] FIG. 2 shows flow chart 200 that includes a variety of different functionalities that may be included in a location-based gaming system. Persons skilled in the art will appreciate that any number of steps may be added to, or removed from, flow chart 200. Generally, flow chart 200 may be utilized in a location-based game where the location of a user on a defined physical playfield, or that user's latitude/longitude information in the world, is utilized as a control signal to a location-based game. In one embodiment, such control signals may, for example, replace a tradition joystick such that a user's physical location is utilized as the main control device for a game (e.g., control a character's location in a video game's virtual playfield).

[0052] Step 201 occurs when a request for a location-based game is received. This may be simply a user turning ON a location-based gaming system (e.g., turning ON a dedicated PACMAN location-based system) or a user selecting a location-based game from a list of location-based games. If a list of games is provided such games may be stored locally (e.g., on the gaming system). Alternatively, the list may be stored remotely, or locally, and a selected game may be downloaded from a remote location (e.g., wirelessly from a remote database). A cost may be associated with such location-based games and a user may be required to agree to purchase the game or rent the game for a period of time. Such game downloads may be free of charge. A subscription (e.g., an yearly or monthly billed subscription) may be purchased by the user such

that all location based games are free to download while the subscription lasts (e.g., has not expired). Alternatively, an amount of time for gameplay may be purchased (e.g., 10 hours).

[0053] Step 201 may alternatively commence when a user starts a game on a location-based gaming system. Step 201 may also commence when a user agrees to join a game (e.g., a different user requests that the user plays a multiplayer location-based game).

[0054] Step 203 determines if the game needs an origin setting. Persons skilled in the art will appreciate that many embodiments of a location-based gaming system may operate without the need to set an origin. For example, the longitude and latitude of the location of a user in the world may be utilized as a control signal. For example, if the location-based game is a single-player game of PACMAN then the game may utilize multiple instances of the user's location to determine the change in location and translate this change in location into a control signal to move PACMAN through a virtual video-game playfield such as a maze. As per another example, an origin-functionality may not be utilized, although it may be utilized in some embodiments, in a location-based game where the actual location of a user in the world is a control signal. For example, one location based game may provide control signals depending upon the city that the user is located in (e.g., New York City may cause one control signal to be provided while Washing D.C. may provide a different control signal to be provided). If a game does utilize an origin setting then, for example, step 217 may occur.

[0055] As stated above the game may autonomously set an origin for the game. As such step 209 may be initiated from step 201. In this manner, step 203 may not be included in a gaming system. Generally, step 203 is included to emphasize the varieties of gaming systems that may be provided.

[0056] If a game, or gaming system, needs a manual origin setting then, for example, step 205 may occur. Step 205 may prompt a user to position the device at a desired origin. Step 207 may then wait for a user to submit the origin (e.g., for a user to select a physical location as the start of a game). Persons skilled in the art will appreciate that even if an origin is not utilized by a video game, or video game system, that a user may still be provided with a display screen that allows a user to find a clear area before gameplay. In this manner, a "when you find an open area, and are ready to begin gameplay, press OK" display screen may be provided for a game, or game system, that does not utilize an origin as a reference location. Persons skilled in the art will also appreciate that in some embodiments, a user may select a perimeter by, for example, going to locations on the perimeters (e.g., the corners of a rectangle) and recording these perimeter locations. The video game, or video game system may utilize such perimeter locations to derive an origin. An origin-based game may, or may not utilize, perimeter locations. Additionally, setting a perimeter may encompass a variety of embodiments. For example, a location reading outside of a perimeter may still be utilized as a control signal (e.g., to deduct a particular number of points from a user's score). Alternatively, only

location readings inside (and possibly even on) the perimeter may be utilized by a particular gaming system embodiment.

[0057] Step 207 may reiterated until a user selects a location as the origin for gameplay. Once a user selects a location for the origin of gameplay the device may record (e.g., in local memory or in remote memory such as a remote database) the location of the selected origin (e.g., by obtaining the location from a locating device) and use this location as a reference location during gameplay. Multiple features may be provided as the result of including, for example, one or more reference/origin values. As shown above, one such feature may be a multiplayer feature where the players may be located on different physical playfields.

[0058] Step 209 may be initiated, for example, after an origin is selected in step 207 or autonomously after step 203, or step 201, occurs. Step 209 may then take a reading of one or more locations for a user's locating device to determine a reference location (e.g., an origin). Step 209 may obtain location information for a period of time (e.g., 1 minute) and average the location information together to obtain a reference location. During this time a display screen may be displayed to the user along the lines of "stay perfectly still while we calibrate the game with your current location." Persons skilled in the art will appreciate that additional configuration steps may be provided. For example, a user may be asked to take a step forward and a step back, and shown the speed of the movement of a video game character based on that movement so the user may determine if the game-speed is

acceptable (and if not, change the perimeter of the game or the scaling of user movement to character movement). In this manner, step 209 may also begin tracking the user's location continually, or periodically.

[0059] At any time, a user may be prompted if a multiplayer game is desired. For example, a user may be prompted if a multiplayer game is desired in step 213. Step 211 may be included in flow chart 200 to located nearby players that can play the game. For example, a communications device may send out a signal to determine if any other similar, or compatible, devices are on the physical playfield (or a surrounding area). Alternatively, a player exchange may be provided in which the communications device sends a signal to the exchange noting that the user is desires to play a particular game in a multiplayer mode. If another player desires to play the game on the exchange then, for example, the two player's gaming systems may autonomously be configured with information about each others origin so that a multiple-player game may be initiated. Persons skilled in the art will appreciate that the origin of a users device does not need to be transmitted to the other users in a multiplayer game. Instead, control signals may be translated into control signals that a different user's device may utilize. For example, instead of transmitting an origin, a device may transmit a signal that represents a particular distance and direction (e.g., 5 feet North or 10% North of the physical playfield). Generally, such multiplayer control signals may assume that each user started at an origin and that each user's device recorded such an origin. As can be seen, multiple

methods may be utilized to SYNC the location-aspect of multiple location-based gaming devices.

[0060] Various other multiplayer configurations may also be provided. For example, a user may enter in the phone number of a wireless telephone and request if the user of that wireless telephone wants to play a multiplayer game wants to be played. Accordingly, the requested wireless telephone may be anywhere (e.g., halfway across the world) and still be requested to commence play on the same virtual, video-game playfield (e.g., by uploading data to a remote server or communicating directly with the wireless telephone). Step 215 may be utilized to initialize any communications link needed between the gaming devices (e.g., communications to a common remote memory device such as a database). Step 217 may be utilized to begin gameplay of a location-based video game.

[0061] FIG. 3 shows wireless telephone 300 constructed in accordance with the principles of the present invention. Wireless telephone 300 preferably includes speaker 330, antenna 310, display screen 320, control keys 360, alpha-numeric keys 350, and microphone 340. Wireless telephone 300 also preferably may include, for example, a communications transmitter (not shown), communications receiver (not shown), memory (not shown), positioning device such as a GPS or LPS (not shown), and a microprocessor (not shown). Control keys 360 may include any number of joystick, control buttons, or other user interfaces (e.g., speech recognition controls). Such control keys 360 may be utilized to provide, for example, additional control signals to a location-based game or gaming system (e.g., a control may be utilized as a FIRE or ACTION

button). Controls may also be included in wireless telephone 300 that are directed to location-based games and, in some instances, are used exclusively for location-based games. For example, ACTUALITY button 165 may be included on wireless telephone 300 that, when pressed, provides a location-based game, a list of location-based game, or a location-based game service. The use of ACTUALITY button 165 may alternatively, automatically log a user into a location-based game network that may provide not only location based games but additional information such as, for example how many users are requesting opponents for a particular game.

[0062] Persons skilled in the art will appreciate that a gaming device dedicated to a single game (e.g., FROGGER) may be easily incorporated into a device the size of, for example, a traditional Tamagochi device. Such dedicated devices may be sold relatively cheaply (e.g., $40). A gaming device may also accept cartridges of different games so as to reduce the need of purchasing a new location device with the purchase of a game. As discussed above, games can also be wirelessly downloaded to a portable gaming device or a traditional commercial device if that commercial device includes, for example, a locating device.

[0063] FIG. 4 shows display screens 425, 450, and 475 that may be provided to a gaming device.

[0064] Display screen 425 displays a list of location-based games that a user can choose from. Display screen 425 may display information other than just the title of each game. For example, display screen 425 may also display the dimensions of the physical playfield that is needed to play the game (or

the preferred or default dimensions). Display screen 425 may also display information related to if a different user has requested an opponent to play the game (or the number of different user's waiting for an opponent). Any game list be scrollable, or partitioned into multiple display screens, such that a large number of games may be included on the list.

[0065] The games on such a list may be stored locally (e.g., in onboard memory) or remotely (e.g., on a remote database). Additional information that may be displayed on display screen 425 may include whether or not a user has purchased such a game, the amount of time left in a rental period for a game, the size of the game (e.g., 1MB), and information about the gaming device (e.g., 100 MBs of memory available). Any other type of information may be included on any display screen described herein.

[0066] Display screen 450 is one example of the information that may be presented when a location-based game is chosen. Display screen 450 may also contain a static (e.g., transparent) origin functionality such that when a user acknowledges reading the instructions, the system will autonomously record an origin location. As stated above, an origin does not have to be set for a location-based game to be played where movement on a physical playfield correlates to a video game character's movement on a virtual video game playfield.

[0067] Display screen 475 is one example of a multiplayer initialization screen and accompanying functionality. More particularly, display screen 475 may include additional information such as how to, for example, initiate a multiplayer game. In one multiplayer embodiment, the gaming device may generate

a gaming code unique to that device. Such a code may, for example, include information about the location device and the game being requested. For example, ID#PAC52312, as illustrated, may include PAC to correspond to a particular game (e.g., PACMAN) and 52312 to correspond to the ID of a particular device (e.g., a telephone number) or a particular user that is logged into a device (e.g., user 52312). As in another multiplayer embodiment, a gaming device may include a communications receiver/transmitter to locate if one or more other devices are within range. Such a multiplayer signal may be signaled upon request of a particular multiplayer game. For example, display screen 465 may be initiated if "PACMAN (MULTIPLAYER)" is chosen from a list of games.

[0068] FIG. 5 shows display screens 525, 550, and 575.

[0069] Display screen 525 is a screen that allows a user to chose from a variety of characters for gameplay. In this manner, display screen 525 may be utilized in a multiplayer game such that each player may chose a different character or in a single player game. These characters may have different modes of operation (e.g., different goals, gaming constraints, and characteristics). For example, in PACMAN the goal of PACMAN is to eat pellets and run away, at times, from four ghosts. The ghosts, however, have a goal of killing PACMAN. Each ghost may, however, have different speeds (e.g., different characteristics). Player characteristics may include for example character speed, weapons, fighting styles, ability to do particular actions, or any other characteristic.

[0070] Display screen 550 may provide the user with a rule-set for the player that is chosen from display screen 525. A location-based game where a user's actual physical location on a physical playfield correlates to a video game character's location on a virtual video game playfield may require that the operational rules of current game be changed. Using PACMAN as an example, in the classic PACMAN, PACMAN is not operable to stray close to maze walls. In an actuality PACMAN game, however, a player may stray close to maze walls and even come into contact with maze walls. Hitting a maze wall may be similar to a user contacting, or passing through, a perimeter of the video game playfield. In this manner, functionality is provided for this scenario. For example, a user may be deducted a particular number of points if that user contacts a maze wall, a game's perimeter/boundary, or an object that a video game character cannot pass through and/or cannot use. For the purposes of this application, such objects will be referred to as impenetrable objects. One alternative to reducing points is to stun the character for a period of time (e.g., not allowing the video game character to move for a period of time), reduce the number of lives of that character (e.g., reduce the number of character lives left by 1), or end the game (e.g., display "GAME OVER" to the user).

[0071] As per another example, the gaming system may be configured to stop the movement of a video game character when a user travels through the location on a physical playfield that correlates to an impenetrable object on a virtual playfield. Thus if a user travels to through a wall, PACMAN may be left behind on the

side of the wall that the user penetrated. The game may be configured such that the user may regain control of the video game character by returning to, or near, the location where the video game character was left behind.

[0072] Display screen 575 includes one embodiment of a screen shot from a location-based game, particularly an actuality game PACMAN game. Virtual character 576 is first displayed to a user at the virtual character's origin. As a player moves around a physical playfield, the player's actual location may be translated into a virtual location for virtual character 576. As mentioned above, one of the many ways in determining virtual character movement may be by determining the difference and direction between the user's current location and his/her origin location. Such information may be stored, retrieved, and/or processed as a vector. Thus, as a user runs through a playground, character 26 may through the virtual environment of display screen 575. If vectors are used as control signals, these vectors may be communicated to other players such that a multiplayer game is realized. Such vector sharing may be desirable in order to keep the actual location of a user private from opponent users. A user may, however, give an opponent permission (e.g., access to) his/her location such that, for example, the opponent can travel to the same physical playfield as the user.

[0073] Character 577 may be a second character controlled either by a program or by a second player. Character 577 may have a different origin on display screen 575. In this manner, a user may be physically directed to an origin after the first player sets his/her origin so that they are both properly aligned

on the physical playfield. At any time, a display screen, or a portion of a display screen, may include an outline of a playfield and the user's location on that playfield. If a player has to go to a particular area of the playfield (e.g., to a particular origin position such as area 580) then this display screen may aid a user in setting up a game. One a player is on the origin, or in an origin area, then the player may be requested to begin gameplay or gameplay may autonomously begin.

[0074] Virtual interactive objects 585 may be provided in an actuality, or location-based game. Such virtual interactive objects may be activated when, for example, a virtual character's location on a virtual playfield nears, contacts, and/or resides in the virtual location of the virtual interactive object on the virtual playfield. Activating an object may cause, for example, the rules of the game to change (e.g., PACMAN can eat a ghost) or the characteristics of a player to change (e.g., the player obtains a particular weapon) for a period of time or until the game, or game-level, ends. In some embodiments, virtual objects may be PICKED UP by a virtual game character (e.g., by a user physically pressing an ACTION button on a controller such as an instruction glove or control buttons on a gaming device). Accordingly, a virtual object may then be PUT DOWN by a virtual game character.

[0075] Alternatively, both user's can have any actual origin (this allows for gameplay between two remote users). As described above, multiple embodiments may be provided that configure each user's gaming system, or the control signals provided to each

user's gaming system, such that two remote users may play on the same virtual playfield. When playing of the same virtual playfield, the information sent to a user's gaming device of an opponents location may be utilized to generate a virtual character for that opponent on the user's gaming device. In this manner, a user may play an actuality game, or any location-based game, against his/her opponents.

[0076] FIG. 6. shows environment 600 that includes gaming devices 620 and 630. Remote hardware 610 (e.g., a base station and/or remote processing circuitry) may also included to assist with single player or multiplayer gameplay.

[0077] Remote hardware 610 may be, for example, a remote memory (e.g., a remote database) that wirelessly communicates with one, or both, of devices 620 and 630. Remote hardware 610 may be positioned around the playfield and, for example. emit a local location signal. Devices 620 and 630 may then determine a location based on one or more signals from remote hardware 610. Additional remote hardware 610 may be utilized so that devices 620 and 630 can more accurately obtain their physical positions. For example, three instances of remote hardware 610 may be provided around the playfield such that devices 620 and 630 and utilize the time it takes for these signals (e.g., the difference in time it took to transmit/receive each signal) to triangulate the location of devices 610 and/or 620.

[0078] Remote hardware 610 may include the functionality of a gaming base station such that the location of each of devices 620 and 630, or control signals indicative of the location of the devices on a

playfield, is stored/retrieved by devices 620 and/or devices 630 on one or more instances of remote hardware 630. Persons skilled in the art will appreciate that remote hardware 610 is not necessary. Instead, devices 620 and 630 may communicate with each other and determine their relation to one another. This may be cost-efficient for simple multiplayer games such as, for example, the classic game of pong where the location devices represent paddles on the virtual video game playfield. In this manner, a "perimeterless" game of pong may be played such that a user may move 1,000 feet to the left to block an incoming pong-ball from passing while, the whole time, the other user moves 1,000 feet to follow the opponent player. Such a perimterless game, or any location-based game, may provide great a large amount of exercise to a user.

[0079] Device 620 may include one or more displays 621. Such displays may be, for example, visible or semi-visible environment displays such that a user can see the environment around him/her. Images can then be selectively displayed on displays 621 and 622 such that a user can be displayed gaming indicia (e.g., virtual game characters, virtual interactive objects, and virtual impenetrable objects). Virtual game character 622 may be provided to device 620 to represent the character that the user of device 620 is controlling. In this manner, the location of a user on an physical playfield may not correlate exactly to the position of the virtual game character on the virtual game playfield. Instead, a "lagging" perspective may be provide such that the character controlled by a user appears at a distance in front of the user (e.g., 5 feet). In this manner, a user may be able to gain

additional information about the video game (e.g., if another virtual character is chasing him/her). A control may be provided to switch the perspectives of the video game. For example, a control button may be provided to change such a "lagging" perspective to a first-person perspective.

[0080] Furthermore, because the location of device 630 is known, device 620 (or remote hardware 610) may provide an image of the virtual character of device as virtual character 623. Accordingly, virtual character 623 may be generated at the position where device 630 is located on the virtual playfield to represent the user of device 630. In this manner, if the user of device 630 picked PACMAN than virtual character 621 may be PACMAN. For displays that can provide images that completely block-out the environment in front of the user then he/she may not see the user of device 630 (if both users are playing on the same physical playfield) but the virtual character of the opponent. Generation of a user's virtual character, at the virtual character's location on a virtual playfield, on another user's display allows, for example, two users to play the same game on remote physical playfields.

[0081] Any instance of display 621 may be non-visible environment display such that a user is not able to see his/her world - only the virtual playfield. One benefit with a visible or a semi-visible environment device is that a user may move very quickly without the worry of tripping over the physical playfield (e.g., tripping over a rock). As a result, a user may be operable to use a visible, or semi-visible, environment device in more areas (e.g., a rocky field)

than a non-visible environment configuration that is limited to a smooth surface (e.g., a basketball court).

[0082] Display 631 of device 630 shows a visor-type embodiment that does not overlay virtual characters over the positions of physical players on the same physical playfield. Display 631 of device 630 may display other virtual environment indicia 633 (e.g., interactive objects, impenetrable objects, and other virtual characters). Persons skilled in the art will appreciate that virtual environment indicia 633 may include software-controlled gaming characters (e.g., video game characters with artificial intelligence).

[0083] Circuitry 624 and 632 may include, for example, communications devices, processing circuitry, memory, speakers, additional locating devices, and locating receivers/transmitters. Additional locating data may be utilized. For example, the direction that a visor, or a gaming device with a game display, is pointing in may be determined by any number of location devices. For example, four location devices may be provided to determine not only the direction that visor 632 is pointing but also the pitch at which visor 632 is pointed in. Such information may be utilized to determine the user's perspective of the physical environment such that a corresponding perspective may be generated and subsequently displayed to the user. For example, four LPS devices may be provided. Two at the front of the visor at two different heights and two at the back of the visor at two different heights. If a user points his/her head down then the two LPS devices on both sides may record a difference in location and such a difference may be translated into a the pitch of the helmet. The direction that the visor

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is pointing in may be determined by the position of, for example, the average location of the front LPS devices and the average location of the rear LPS devices. Any methods of determining the pitch and/or direction that a device is pointing in may be utilized.

[0084] Persons skilled in the art will appreciate that a base station may be provided that determines images to be displayed to a user and transmits these images to a user at a rate (e.g., 32 frames per second). As a result, the weight of visor 630 may be decreased.

[0085] Turning now to FIG. 7, a compact and inexpensive actuality gaming system is provided as gaming system 700. Gaming system 700 of FIG. 7 may include no physical input devices other than optional ON/OFF switch 710. Alternatively, however, any number of buttons 720 may be provided (e.g., one or more FIRE WEAPON or ACTION buttons). If not additional input controls are provided then, for example, the size of display screen 702 may be maximized. Gaming system 700 may include chain 704 and clip 703 and may be small enough to fit inside a user's pocket. A user may interacts with game character 725 through his/her physical location. This location may be determined by any number, or types, of locating devices 701 (e.g., a GPS receiver or an accelerometer). Such a system may set an origin reference autonomously when the game is turned ON or right before the game starts. For example, a game may display that the game will start in a period of time (e.g., 3 seconds). Right before the game starts, an origin position may be read from locating device 701 and stored in a portion of memory that corresponds to an origin). Accordingly, the game

may call a particularly, pre-defined portion of memory anytime that the origin is needed for gameplay.

[0086] As illustrated, the game of FROGGER is provided on display 702. In such an example, a user may turn ON his/her FROGGER Actuality game and the user's origin may be stored. For embodiments where the origin is stored, the user's location with respect to that position may, for example, be utilized to move FROGGER along a virtual playfield. For embodiments where the origin is not stored, the user's movement may, for example, be utilized to move FROGGER (e.g., an accelerometer may be used. Alternatively, a user's change in location may be utilized. Therefore, if a user's location (e.g., GPS location) changes by five feet than FROGGER's location change by 10 pixels.

[0087] Multiple types of impenetrable (or interactive) objects may be provided in a single game. For example, in FROGGER cars may be impenetrable objects that cause FROGGER to die (e.g., lose a life). Alternatively, the perimeter of the playfield may be an invisible impenetrable object such that when a user leaves a portion of the actual playfield that corresponds to a location of the virtual playfield outside of the perimeter, FROGGER is left behind at the perimeter. FROGGER can then be picked back up again by the user having his/her location correlate to FROGGER's location on the playfield. An additional icon may be provided when such a user goes out of bounds that shows the user where out of bounds the user is located. Such an additional icon may be beneficial to allow a user to more easily find the left-behind game character's position.

[0088] At the end of each level, for example, a new origin may be autonomously set, the user may be requested to return to the original origin (which may be shown on display 702 along with the user's current position), and/or the user may be prompted to select a new origin. In FROGGER, for example, the origin may be near the boundary of the virtual playfield. Accordingly, the user may be prompted to select a direction for gameplay. Such a direction may be determined by the device prompting the user to point the device in a particular direction (where the direction the device is pointed in may be displayed to the user) and recording this direction. The origin and/or the direction the user is pointing in may be utilized to calibrate system 700. Such directional information may also be utilized to calibrate an opponents gaming system, or signals sent to an opponents gaming system representative of a user's location on a virtual playfield.

[0089] Persons skilled in the art will appreciate that a gaming systems may take a long period of time (e.g., 30 seconds) to determine a user's location. This may be the result of, for example, a slow processor or a locating device that takes an amount of time to gather a location. A number of games may take advantage of this delay and to provide a unique actuality gaming experience. For example, suppose that a locating device takes 30 seconds to obtain location information. Display 702 may be a grid and a random box in the grid may highlight a particular period of time (e.g., 2 minutes). A count-down timer may be provided to display this, or a different period of time. For example, the count-down timer may display 2

minutes (time period minus time to determine a location). During the 90 seconds that the timer counts down, the user may be required to run to the next highlighted box. At the end of 90 seconds the user may be prompted to stop and take a 30 second break to catch his/her breath. During this time, a new location may be gathered and a new box on the grid highlighted. Such an example exhibits the functionality that even a simplistic device may provide. In this embodiment, an exercise device may be provided that increases a user's stamina by requesting that the user provide short bursts of movement. The selection of the next grid to be highlighted may result from an algorithm implemented to maximize the amount of calories that a particular user (e.g., a user having a particular weight) burns.

[0090] FIG. 8 shows a number of components that may be included into gaming system 800. Persons skilled in the art will appreciate that components of gaming system 800 may also be utilized in, for example, a gaming base station. Gaming system 800 may include one or more power sources 820, output devices 825, memory devices 830, connection terminals 835, location devices 845, manual input controls 850, wireless transmitters/receivers 855, additional communication transmitters/receivers 860, and additional components 840.

[0091] FIG. 9 shows a few of the many types of location-based gaming systems operable to be constructed in accordance with the principles of the present invention. Particularly, FIG. 9 shows gaming systems 910, 930, and 960.

[0092] System 910 includes gaming system 911. Gaming system 911 may operate as follows. Step 921

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waits until the system is turned ON. When the system is turned ON, a location-based game is initiated (e.g., step 922). The game continues playing until the game is over (determined by step 923). After the game is over, the results (e.g., a score, "GAME OVER," or "GAME WON" may displayed) be displayed in step 924.

[0093] System 930 includes gaming system 931 that is operable to be separated into two game systems. When the two game systems are connected together, a single game-system may be provided so that, for example, a larger display screen may be viewed by a user. When a two-player game is selected, the two gaming systems may be separated and information may be transmitted between the two gaming systems (e.g., location information or other opponent control signals).

[0094] Persons skilled in the art will appreciate that game cartridges may be utilized so that a system is operable to play any number of games. System 932 may, for example, include a single cartridge port, but may contain two separate memories (one for each of the two individual systems). Alternatively, the system may include one memory device in the system that does not include the game cartridge such that that system (or both systems) may have the entire game, or a portion of the game, written to memory. In this manner, one cartridge may be utilized to supply a game to both systems. In one embodiment, one system may run the game off the cartridge while the other system may run the game off a stored copy of the game that was written to memory on the other system before the two systems were separated. Each system may include, for example, their own power supplies and processors.

[0095] System 931 may operate as follows. When the system is turned ON at step 941, step 942 may initiate to receive location information (and other additional information) from an opponent and transmit location information (and other additional information) to an opponent. When the same location that is transmitted is received at step 943, step 944 may initiate and display the results of the game. Such a game may provide, for example, a global "tag your it" location-based game. The precision of the location may be chosen to change the way such a game is played. For example, the location may represent an area code. Therefore a "tag" occurs only when both players are in the same area code. The less amount of time it takes for a user to make a "tag" may associate to a higher score for that "tag."

[0096] System 960 includes two commercial devices 961 and 962 programmed to play a location-based game. System 960 may operate as follows. While a game in ON, location information is periodically transmitted and received by commercial devices 961 and 962. The games on commercial devices 961 and 962 may then be updated according to the received information. Game, or level, results may be displayed in step 974. Identical results, or customized results, may be displayed to both devices 961 or 962.

[0097] Persons skilled in the art will appreciate that received information is not limited to an opponents location information. For example, if an opponent performs an action (e.g, shoots a gun) that action may be transmitted, in some for, to the user's device such that the display of the user's device shows that action being performed by the opponent. In such a

manner, a user's device may manipulate gameplay depending on, for example, an opponent's location and an opponent's actions.

[0098] FIG. 10 shows one embodiment of location-based game 1000. Location based game 1000 may include housing 1001, display 1030, controls 1020 (e.g., a keyboard), and handles 1040.

[0099] A grid may be included, among other things, on display 1030 that is associated to different location areas that a user may travel in. Character 1091 may be included to represent the grid location on the virtual playfield that the user's actual location on a physical playfield corresponds too. One game functionality may hide unexplored areas of the grid (e.g., grid area 1092). Once the virtual character reaches such a grid area, however, grid 1092 may be uncovered to show what the grid contains (if anything). Past "findings" may be displayed. For example, clue 1093 may be uncovered and permanently displayed (or displayed until a game event occurs).

[0100] In one game embodiment, a user may have a fixed time to find a treasure on a playfield. Each block that the user uncovers (e.g., travels to), may require the user to win a mini-game. Such a mini-game may include, for example, defeating an enemy. In such an embodiment controls 1020 may be utilized to fight the enemy and display screen 1030 may, for the duration of the fight, replace the grid, or a portion of the grid, with a display screen showing an up-close perspective of the user's character and the enemy. The user may be given a time period to complete each mini-game. Other mini-games may be, for example, puzzles or other types of games. Such games may be location-based

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games in which movement of system 1000 moves the character in the mini-game. Some of the defeated enemies may not be removed from the game so that a return to the grid coordinate where the defeated enemy resides may result in a new fight with the enemy. Enemies (or other characters) may be inserted into grid coordinates at any time by the game and may move between such grid coordinates. In this manner, a location-based version of the classic game of Zelda maybe realized. Since such a game may be larger than an actual playfield (e.g., a soccer field), an origin may be manually reset at any time where the origin may be representative of a mid-game starting position. For example, if a user reaches the end of his/her physical playfield at the position of the grid that character 1091 resides then the user may reset that location to the origin, turn around, and set that direction and the reference direction. Before this occurred, if the user walked backward, that user may have moved into a grid position down-from the location of character 1091. Now, the user may walk in that same direction, but may move forward into the grid location above character 1091.

[0101] FIG. 11 shows system 1100 in which non-location based game enabled device 1110 is enable to play location-based games with any one of peripherals 1121, 1122, and 1123. Peripheral may include a location system (e.g., a GPS device) and a unique ID that may be utilized for multiplayer use. Alternatively, just a locating device (e.g., a GPS device or an accelerometer) may be provided on peripheral 1121 and software may be utilized in device 1110 to provide an ID for that device (if needed to

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play a particular multiplayer game). Alternatively, peripheral 1122 may be utilized. Peripheral 1122 may include a location system and one or more particular location based games. Alternatively still, peripheral 1123 may be provided and may include one or more locating systems, one or more particular location-based games (e.g., actuality games), and a ID (or an ID for each game). Persons skilled in the art will appreciate that like the peripherals of system 1100, a game cartridge may also include a locating device (e.g., an accelerometer or GPS device) and/or an ID for multiplayer use.

[0102] FIG. 12 shows stationary device 1210 and network topology 1250. As mentioned above, stationary devices may also be utilized to control a virtual game character in a location-based game (e.g., an actuality game). As in one PACMAN embodiment, a stationary personal computer may be utilized to play a ghost on a virtual playfield against a person whose physical position on an physical playfield controls PACMAN on that same virtual playfield. The functionality that this, and other embodiments, of the present invention may provide may provide numerous benefits. For example, a father who is a soldier overseas fighting a war may go to a computer and play with his child who is at home playing an actuality game in a school playground. Such a father could also put on, for example, a visor-enabled actuality system or hold a portable visible environment gaming system (e.g., system 700 of FIG. 7) and go outside of a barracks and physically play a game with, and interact with, his child. As discussed above, such functionality may be obtained without sending a signal representative of

either user's location (e.g., the distance and direction from a pre-defined origin may be transmitted, not the location itself).

[0103] Topology 1250 shows a gaming network. Such a gaming network may include any type of communications 1251 (e.g., wire-based or wireless communications). Any number of portable devices 1260 may be connected to the network. Portable devices 1260 may utilize the internet to provide information (e.g., portable devices 1260 may submit information through the internet or publish information to a webpage accessible by other components of topology 1250). Similarly, stationary devices 1270 may be included in and may transmit/receive information via the internet or other methods (e.g., wireless through a wireless telephone). One or more remote facilities 1280, or third-party content providers, may be coupled to any component of network topology 1250. Such facilities, or third-party content providers, may, for example, store gameplay information (e.g., a players location information or action information). Such facilities, or third-party content providers, may, for example, provide games for portable devices 1260 and stationary devices 1270 to download.

[0104] Turning now to FIG. 13, system 1300 is shown that includes user 1301 using gaming device 1360 and controller 1350. Gaming device 1360 and controller 1350 may communicate to each other, and other devices, either wirelessly or through a wire-based connection. Controller 1351 and Gaming device 1390 may include any components included in, for example, system 800 of FIG. 8.

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[0105] For example, controller 1351 may include manual controls 1352 and anonymous controls 1353. Manual controls 1352 may take the form of manual buttons, such as a trigger. As such, controller 1351 may take the form of a gun. Autonomous controls 1353 may include a directional device that determines the direction that the gun is pointed in and/or the pitch that the gun is pointed in. Autonomous controls 1352 may also include any number of locating devices such that the location of controller 1351 may be determined. Accordingly, the location of controller 1351 may be determined on a pre-defined, or user-defined, playfield or in the world. Controller 1351 may take any shape. For example, controller 1351 may take the shape of a steering wheel, baseball bat, golf-club, sword, glove, or any other shape a user can interact with.

[0106] Physical interactive objects may also be included with any of the components of controller 1351 that multiple users may physically interact with. Such physical interactive objects may include, for example, a soccer ball, baseball, football. A user's sword may also be an interactive object because an opponents sword may physically interact with that user's sword. Such interaction may provide additional controls signals to a game. For example, the swords may have touch sensors to determine when they are in contact with one another (or if something is in contact with the sword).

[0107] Gaming device 1390 may include a display in which, for example, the virtual playfield and virtual objects (e.g., virtual characters, impenetrable objects, and interactive objects) may be displayed. Gaming device 1390 may also include any number of

location devices 1362. In this manner, a user may walk through a virtual playfield by using gaming device 1360 and interact with the environment using controller 1351. Accordingly, gaming device 1360 may be, for example, a visor-based device.

[0108] Persons skilled in the art will appreciate that manual buttons may be provided as manual controls on a gaming device or a controller. For example, a SPEED BOOST button may be provided that may propel a user a particular distance forward through a virtual playfield. Alternatively, such a SPEED BOOST button may change the scaling of the player's physical movement to the virtual character's movement such that the speed of the virtual character is increased. Such a SPEED BOOST may last for a period of time or as long as the SPEED BOOST button is pressed. If the SPEED BOOST is used to display a user's location then a new origin may, for example, be determined such that a user's movement on the physical playfield does not cause the virtual character to return to the location on the virtual playfield that virtual character was before the SPEED BOOST was initiated. In this manner, an origin may periodically, or manually, be updated. Generally, an origin is a location reference that the gaming system utilizes to map a virtual playfield to a physical playfield.

[0109] Generally, a game is goal-oriented in nature. The goal may be, for example, to kill a particular character, solve a puzzle, reach a particular destination, or perform a particular action. Generally, such goals are not able to be obtained on a particular physical playfield, but, for example, with

video game control signals provided by a user's interaction with that physical playfield.

[0110] Looking at FIG. 14, flow chart 1400 is provided that illustrates one embodiment of a multiplayer game where location information may be scaled and shared to multiple users. Flow chart 1440 may start at step 1401 and continue to step 1405 where a first location (e.g., an origin location) is determined.

[0111] Such a location may be determined by retrieving a location reading from a location device or accessing a portion of memory dedicated to storing the most recently determined location by a location device. In this manner a location device may be provided that writes to this dedicated portion of memory every time a new location is determined. Such a dedicated memory may include space to store more than just one location (or information representative of one location). For example, a dedicated memory may store any number of locations (e.g., the last 100 locations). When writing a new location to memory, that location information may overwrite the oldest location stored in such memory. Alternatively, an different user's origin may be obtained in step 1405 by receiving location information from a different user.

[0112] After step 1405 occurs, step 1410 may occur. In step 1410 the next, or a current, location may be utilized (e.g., by a processor). Alternatively, this origin location (and/or information about a user's playfield perimeter) may be transmitted to a different user after step 1405 occurs. Persons skilled in the art will appreciate that numerous steps may be included at any portion of flow chart 1400. For example, once

an original location is obtained, a virtual game character may be displayed on a virtual playfield at the origin of that virtual playfield (e.g., PACMAN or FROGGER's origin position).

[0113] Step 1420 may occur after step 1410. As shown above in multiple embodiments multiple ways of scaling a location control input may be utilized. Scaling a location control input may similarly be utilized in many ways. For example, scaling an input may cause a virtual game character to move at a different speed while a particular scaling is being used. Alternatively, multiple devices may have control information that is scaled so that each user may play the same game from remote locations (e.g., "location-synching" two devices) yet even location synching here is optional. For example, no "location-synching" may be included in a game system where no origin is needed at the start of the game, a playfield does not have a perimeter, and only the distance/magnitude moved between two locations is used as a control signal).

[0114] As shown, step 1420 may determine the magnitude between the origin location and the current location in step 1421. Additionally, step 1420 may determine the direction, or angle, between the origin location and the current location in step 1422. Such angle and magnitude information may be stored, for example, as a vector. To determine the angle of the new location, for example, an angle reference vector may be generated based on the origin location and utilized to determine angle offset of new locations based on this angle reference vector. Persons skilled in the art will appreciate that a location reading may take many forms. In some embodiments, a location

reading may be a latitude and longitude (either on the world or on a local playfield). In other embodiments, a location reading may be a a direction and/or magnitude change or a movement vector. In even other embodiments, a location reading may be a rate of acceleration.

[0115] To illustrate yet another scaling embodiment, suppose step 1420 determines a direction and magnitude change. If in a multiplayer mode (e.g., step 1430) then this information may be transmitted to an opponents gaming system in step 1435. The opponent's gaming system may have past transmitted location information and may utilize the current transmitted information to determine where the user's virtual character has moved to on the virtual playfield. If the user and the opponent are on physical playfields of different sizes, then the control information may have to be scaled. Such scaling may occur before the information is transmitted such that the opponents system may not have to have knowledge of the user's physical playfield. The transmitted information may be scaled (e.g., in step 1422) to a default playfield size (e.g., the system scales to a 100 ft x 100 ft default playfield size). Similarly, the opponents device may scale its own location information to this third, default playfield size (e.g., the system scales to a 100 ft x 100 ft default playfield size). Suppose the user of process 1400 is on a 10 ft. x 10 ft. defined physical playfield. Step 1400 may, for example, multiple each magnitude by 10 such that a location that is on the 10 ft. physical perimeter is associated to the default 100 ft. perimeter. Such 100 ft. information may then be transmitted to an opponent and

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used directly by that opponents system without the need to scale. Suppose the opponent's physical playfield is 200 ft. x 200 ft. Then the opponent's location data may be scaled, for example, by 0.5 and transmitted to the user of process 1400 such that process 1400 does not have to scale incoming data (instead process 1400 may assume data is already scaled). Alternatively, process 1400 may scale incoming data (and may be provided information as to how the incoming data should be scaled). Alternatively, location information may be transmitted and utilized as a percentage to the perimeter and the angle from the origin (such that the perimeter information may not be transmitted). Alternatively, location information may be scaled to, for example, a particular user's playfield (and such information may be shared by the devices). In this manner, two physical playfields may be normalized onto one virtual playfield (even though each system may technically have its own generated virtual playfield).

[0116] Step 1400 may process the impact of location information on the video game. Particularly, one or more locations may be translated into control signals to the video game and the outcome of such control signals may be determined and utilized to display an updated game to a user. Step 1445 may display a new frame or a sequence of frames to a display to update a game. For example, if an opponent's game system takes an amount of time for location information to be obtained (e.g., 5 seconds), step 1445 may display a sequence of frames, over a period of time, such that the opponent's virtual character's location does not appear to dramatically skip between locations. As per another example, if a particular user performs a

particular action, a pre-stored animation may play. Such an animation may be displayed as a sequence of frames in step 1445.

[0117] Step 1450 may determine if the games over. In this manner, step 1450 may occur after step 1440. If the game is not over, step 1410 may be repeated. Else, step 1455 may be initiated such that a game ending program is executed (e.g., the game is restarted) or a GAME OVER screen is displayed. After step 1445, the process may end at step 1499.

[0118] Systems and methods for delivering content to a wireless telephone are also provided. For example, data interchange between wireless telephones and the internet, or an intranet, using a minimal number of steps for at least first time users is provided.

[0119] Confirmation that a user is in possession of a wireless telephone may be provided, for example, by having the user respond to a text message from the wireless telephone. Multiple types of content may be downloaded to a user either by themselves or in groups with a single download or email. Multiple links may be included, for example, in a text message to a wireless telephone such that multiple types of content may be downloaded with a single message.

[0120] If the content (e.g., the location-based game) is free-of-charge then a payment confirmation step my be removed from a download process. Types of content may include, for example, phone numbers, applications, location-based games, ringers, and pictures.

[0121] A data interchange is provided. Users may upload content from a wireless telephone and allow different people, or a select set of people (e.g.,

people that the user has given permission to), to download content to the downloading user's wireless devices (e.g., a wireless Personal Electronic Device). For example, phone numbers may be uploaded and stored on a webpage for a particular user. Thus, a user has a backup of his or her wireless telephone numbers that can then be downloaded to a different wireless telephone. As per another example, the location of a user may be uploaded to a remote server and accessed by people that the user has given permission to.

[0122] Interactive games are provided to wireless telephones by, for example, including a database that can store the game's progress. As in one embodiment, to provide a simple wireless chess game, a user may upload his "next" move onto a remote database. In this manner, a second user may then download this "next" move from the remote database either himself, automatically, or the user may be prompted to do so. In this manner, a user's location may be uploaded to a user database and downloaded to a subsequent user database.

[0123] An automatic update may be provided to a wireless telephone user. In this manner, a user may sign up for a particular service (e.g., daily wallpaper) and, every morning, that user may be provided a different background (e.g., a January 15th Calendar page exhibiting a comic personality) every day or period of time. This feature may be extended to games such that, every morning, a new game level, or a new game, is sent to a user.

[0124] A wireless telephone is provided that is operable to have non-service provider automatic updates without the consent of the wireless telephones user

every time data is downloaded. For example, a program may be provided to the wireless telephone that allows a user to accept and begin downloading any type of content from a particular entity. This program utilizes the "content provider" descriptor to determine if the content is allowable for download. Thus, a user only has to approve content from the "content provider" once and then all subsequent downloads from that content provider are automatically approved by the program. In order to protect from people falsifying the "content provider field," a wireless telephone may be configured to send a "file receipt message" to a source location (e.g., a wireless telephone may be configured to receive a "source location" description field). If the acknowledgement does not match a shipment by the source location then the wireless telephone may be notified of a falsified transmission and the downloaded material deleted. A service provider (e.g., Sprint PCS) may keep a list of all content origins and may serve as an intermediary to confirm that the file was sent by the third-party content provider acknowledged in the "source location" field.

[0125] A wireless telephone is also provided that is operable to download a file directly without a .GCD, or similar, file. This wireless telephone preferably contains a large amount of memory (e.g., 128MB or 1GB) such that the download of a file of an unrecognizable file type does not result in a user having to delete already downloaded content in order to make room for the new file. The wireless telephone can be configured to provide a message to a user if the downloaded file is of an unrecognizable type. The wireless telephone

can also connect to a remote database to obtain a list of file types and associated programs and, if a program is associated to a file type, automatically download the program to run the previously unrecognized file type.

[0126] Person skilled in the art will appreciate that when playing in a multiplayer mode, or playing a location-based game, other functions of a device may be utilized. For example, a user may be provided the ability to talk to an opponent through that user's gaming system while that user is playing a multiplayer actuality game against the opponent. Such a capability may be provided, for example, by forming a wireless communications message by interspersing frames of data with frames of audio.

[0127] From the foregoing description, persons skilled in the art will recognize that this invention generally relates to providing a control signal to a game that is representative of the physical location of a person in an actual environment and for improving data sharing and exchange in wireless devices such as wireless telephones. Persons skilled in the art will appreciate that the various configurations described herein may be combined without departing from the present invention. It will also be recognized that the invention may take many forms other than those disclosed in this specification. Accordingly, it is emphasized that the invention is not limited to the disclosed assemblies and methods, but is intended to include variations to and modifications therefrom which are within the spirit of the following claims.

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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	JDM/005 CON2
	Application Number	
Title of Invention	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES	

The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76.
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Secrecy Order 37 CFR 5.2

☐ Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)

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Applicant 1 Remove

Applicant Authority ◉ Inventor ○ Legal Representative under 35 U.S.C. 117 ○ Party of Interest under 35 U.S.C. 118

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Residence Information (Select One) ◉ US Residency ○ Non US Residency ○ Active US Military Service

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Application Information:

Title of the Invention	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES		
Attorney Docket Number	JDM/005 CON2	Small Entity Status Claimed	☑
Application Type	Nonprovisional		
Subject Matter	Utility		
Suggested Class (if any)		Sub Class (if any)	
Suggested Technology Center (if any)			
Total Number of Drawing Sheets (if any)	14	Suggested Figure for Publication (if any)	

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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	JDM/005 CON2
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Title of Invention	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES	

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This section allows for the applicant to claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78(a)(2) or CFR 1.78(a)(4), and need not otherwise be made part of the specification.

Prior Application Status	Pending		Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)
	Continuation of	10/932536	2004-09-01
Prior Application Status			Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)
10/932536	non provisional of	60/499810	2003-09-02
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Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)
10/932536	non provisional of	60/603481	2004-08-20

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Application Number	Country [i]	Parent Filing Date (YYYY-MM-DD)	Priority Claimed
			○ Yes ◉ No

PTO/SB/14 (08-05)
Approved for use through 07/31/2006. OMB 0651-0032
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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	JDM/005 CON2
	Application Number	
Title of Invention	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES	

Additional Foreign Priority Data may be generated within this form by selecting the **Add** button. Add

Assignee Information:

Providing this information in the application data sheet does not substitute for compliance with any requirement of part 3 of Title 37 of the CFR to have an assignment recorded in the Office.

Assignee 1 Remove

If the Assignee is an Organization check here. ☐

Prefix	**Given Name**	Middle Name	**Family Name**	Suffix

Mailing Address Information:

Address 1			
Address 2			
City		**State/Province**	
Country [i]		Postal Code	
Phone Number		Fax Number	
Email Address			

Additional Assignee Data may be generated within this form by selecting the **Add** button. Add

Signature:

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.

Signature	/Jeffrey D. Mullen/			Date (YYYY-MM-DD)	2006-08-01
First Name	Jeffrey D.	Last Name	Mullen	Registration Number	52056

This collection of information is required by 37 CFR 1.76. 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 23 minutes to complete, including gathering, preparing, and submitting the completed application data sheet 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.**

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 the Freedom of Information Act requires disclosure of these records.

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 inspections 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.

SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

Abstract of the Disclosure

A location-based game system is provided. Such a system may take the form of any device (e.g., a wireless telephone) that includes a locating device (e.g., a GPS system).

One such location-based game may operate such that the actual, physical location of a user on a physical playfield corresponds to the location of a virtual character on a virtual playfield. Such location based games are referred to herein as actuality games.

In one multiplayer actuality embodiment, two game devices may communicate location, and other, information to a remote database such that the two user's may interact on different physical playfields, but play on the same virtual playfield.

A number of wireless communications protocols, self-configuration, and auto-download software applications are also provided to optimize integration with, for example, a wireless telephone.

Express Mail No.
EV371754078US

REMARKS/ARGUMENTS

Summary of Applicant's Amendments

Applicant has cancelled claims 1-18 without prejudice. Applicant reserves the right to claim the subject matter lost in the cancellation of claims 1-18 in a continuation or divisional application.

Applicant has added claims 19-22 in order to more particularly point out and distinctly claim the subject matter that applicant regards as the invention.

Conclusion

Applicant respectfully submits that this application, including claims 19-22, is in condition for allowance.

Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully Submitted,

Jeffrey D. Mullen
Applicant (Reg. No. 52,056)
Customer No. 32733
350 West 43rd Street, Apt. 5H
New York, NY 10036
Tel.: (914) 837-7741

Electronic Acknowledgement Receipt

EFS ID:	1137037
Application Number:	11461761
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	01-AUG-2006
Filing Date:	
Time Stamp:	21:12:09
Application Type:	Utility
International Application Number:	

Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	$425
RAM confirmation Number	613
Deposit Account	503855
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 and 1.17	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part	Pages
1	Specification	JDM-005CON2-Spec.pdf	2200577	no	52
Warnings:					
Information:					
2	Drawings	JDM-005CON2-Drawings.pdf	368361	no	14
Warnings:					
Information:					
3	Claims	JDM-005CON2-Claims.pdf	101291	no	4
Warnings:					
Information:					
4	Abstract	JDM-005CON2-Abstract.pdf	27619	no	1
Warnings:					
Information:					
5	Oath or Declaration filed	JDM-005CON2-Oath.pdf	85348	no	3
Warnings:					
Information:					
6	Application Data Sheet	JDM-005CON2-ADS.pdf	2173176	no	4
Warnings:					
Information:					
7		JDM-005CON2-Preliminary.PDF	324576	yes	5

Multipart Description

Doc Desc	Start	End
Preliminary Amendment	1	1
Specification	2	2
Claims	3	4
Applicant Arguments/Remarks Made in an Amendment	5	5

Warnings:					
Information:					
8	Fee Worksheet (PTO-875)	fee-info.pdf	8388	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	5289336	

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.

JDM/005 CON2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	Not Yet Assigned
Confirmation No.	:	Not Yet Assigned
Filed	:	Herewith
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	Not Yet Assigned
Examiner	:	Not Yet Assigned

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

New York, NY 10036
August 1, 2006

PRELIMINARY AMENDMENT

Sir:

Before examination of the application, please amend the application as follows:

Amendments to the Specification are reflected on page 2.

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks/Arguments begin on page 5 of this paper.

What is Claimed is:

1. A system comprising:

a display;

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

a processor coupled to said display and said locating device, wherein said processor is operable to provide a video game comprising a virtual character with a virtual location on a virtual playfield, wherein said virtual location on said virtual playfield corresponds to said physical location on said physical playfield.

2. The system of claim 1, wherein said locating device is a global positioning system receiver.

3. The system of claim 1, wherein said physical playfield comprises a default perimeter.

4. The system of claim 1, wherein said physical playfield comprises a perimeter selected by user-inputs.

5. The system of claim 1, wherein said locating device is a local positioning system receiver.

6. The system of claim 1, further comprising:

a memory coupled to said processor, wherein said video game is stored in said memory.

7. The system of claim 6, wherein location information based on said physical location, and

obtained from said locating device, is stored in said memory.

8. The system of claim 7, wherein said location information comprises a set of coordinates.

9. The system of claim 7, wherein said location information comprises a vector having a magnitude component and a directional component.

10. The system of claim 1, further comprising:

a transmitter, wherein said processor determines an origin location at a point in time in said video game and transmits origin information based on said origin location.

11. The system of claim 1, further comprising:

a directional device, wherein said directional device is operable to determine the physical direction of said directional device on said physical playfield.

12. The system of claim 11, wherein said virtual character is operable to point in a virtual direction on said virtual playfield and said virtual direction on said virtual playfield corresponds to said physical direction on said physical playfield.

13. The system of claim 1, further comprising:

manual controls for controlling non-located based aspects of said virtual character.

14. The system of claim 1, further comprising:

a receiver for obtaining remote origin information based on a remote origin location, wherein said processor configures the operation of said video game based on said remote origin information.

15. The system of claim 1, further comprising:

a remote memory, wherein physical location information is operable to be stored in said remote memory when said physical location is determined and said physical location information is based on said determined physical location.

16. The system of claim 1, wherein said locating device is housed in a wireless telephone.

17. A method for controlling a character in a location-based video game comprising:

determining a first physical location of a locating device on a physical playfield;

mapping a video game environment around said first physical location; and

placing said character in said video game environment based on said first physical location.

18. A method for providing a remote multiplayer location-based video game:

obtaining a first physical location of a first locating device on a first physical playfield;

obtaining a second physical location of a second locating device on a second physical

playfield, wherein said first physical playfield is remote from said second physical playfield; and

operating a video game such that first locating information from said first locating device represents a first virtual character on a virtual playfield and second locating information from said second locating device represents a second virtual character on said virtual playfield.

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2

CONFIRMATION NO. 4152

32733
JEFFREY D. MULLEN
350 WEST 43RD ST., APT. 5H
NEW YORK, NY10036

Title: SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

Publication No. US-2006-0287026-A1
Publication Date: 12/21/2006

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 703-305-3028.

Pre-Grant Publication Division, 703-605-4283

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3714

SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	9/29/2009	AK

SEARCH NOTES		
Search Notes	Date	Examiner
See attached search results.	9/29/2009	AK

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 10/01/2009

JEFFREY D. MULLEN
731 SOUTH NEGLEY
APT. 2
PITTSBURGH, PA 15232

EXAMINER	
KIM, ANDREW	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
10/01/2009	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.	Applicant(s)	
	11/461,761	MULLEN, JEFFREY D	
	Examiner	Art Unit	
	ANDREW KIM	3714	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 August 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

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

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki (US 6,520,853).

Claim 19. Suzuki discloses a system comprising:

a wireless telephone having a locating device, wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said video game, and said control signals are provided by said locating device (Abstract, fig. 1, 3:40-4:40).

Claim 20. The system of claim 19, wherein said locating device is a positioning device (Abstract, 4:40-67, location is determined).

Claim 21. The system of claim 19, wherein said locating device is a movement measurement device (Abstract, 4:40-5:15, distance is measured).

Claim 22. Suzuki discloses a system comprising: a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, and said first control signals are provided by said first locating device; and a second a wireless telephone having a second locating device, wherein second control signals are utilized to control a second video game character in said video game and said second control signals are provided by said second locating device (Abstract, fig. 1, 3:40-4:40, fig. 10, 10:7-67).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. 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.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3714

10/1/2009 /A. K./
Examiner, Art Unit 3714

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BIB DATA SHEET

CONFIRMATION NO. 4152

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/461,761	08/01/2006	345	3714	JDM/005 CON2

APPLICANTS
Jeffrey D Mullen, New York, NY;

**** CONTINUING DATA ***************************
This application is a CON of 10/932,536 09/01/2004
which claims benefit of 60/499,810 09/02/2003
and claims benefit of 60/603,481 08/20/2004

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **
08/15/2006

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /ANDREW KIM/ Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
		NY	14	4	2

ADDRESS

JEFFREY D. MULLEN
731 SOUTH NEGLEY
APT. 2
PITTSBURGH, PA 15232
UNITED STATES

TITLE

SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

FILING FEE RECEIVED		
425	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

BIB (Rev. 05/07).

Notice of References Cited	Application/Control No. 11/461,761	Applicant(s)/Patent Under Reexamination MULLEN, JEFFREY D	
	Examiner ANDREW KIM	Art Unit 3714	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,520,853	02-2003	Suzuki, Makoto	463/7
	B	US-			
	C	US-			
	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.

Meta Exhibit 1004
Meta v. Mullen - Page 0097

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3714

✓	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	09/29/2009								
	1	-								
	2	-								
	3	-								
	4	-								
	5	-								
	6	-								
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	17	-								
	18	-								
	19	✓								
	20	✓								
	21	✓								
	22	✓								

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	1907	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/29 11:24
S1	3	"461761".ap.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S2	65	mullen.in. location. ti.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S3	2174	gps same (telephon $3 or phon$3) same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S4	22	"6287200"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06

9/29/2009 12:21:54 PM
C:\Documents and Settings\akim1\My Documents\EAST\Workspaces\11461761_Mullen_GPSPhoneGame.wsp

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
11/461,761	08/01/2006	

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☒		OR	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			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			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 $250 ($125 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			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT 03/31/2010	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 14	Minus	** 18	= 0	X $26 =	0	OR	X $ =	
Independent (37 CFR 1.16(h))	* 3	Minus	***3	= 0	X $110 =	0	OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

AMENDMENT	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ 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 number found in the appropriate box in column 1.

Legal Instrument Examiner:
/MINNIE JACKSON/

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.

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-22 are pending in the application.

The Examiner rejected claims 19-22 under 35 U.S.C. 102(e) as being anticipated by Suzuki U.S. Patent No. 6,520,853 (hereinafter “Suzuki”).

Summary of Applicant's Amendments

Applicant has amended claims 19 and 22 without prejudice and solely in order to expedite prosecution.

Applicant has added new claims 23-32 to more particularly point out and distinctly claim the subject matter that applicant regards as the invention.

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the Rejections Under 35 U.S.C. § 102(e) in view of Suzuki

Claims 19-22 was rejected under 35 U.S.C. § 102(e) as being unpatentable over Suzuki.

Suzuki alleges a flag device (with GPS), a radio device (without GPS), a referee machine (without GPS), and a parent machine (without GPS). Positional information of flag machines is allegedly only displayed on parent machines. Teams allegedly carry a flag device around in an attempt to create triangles.

Claim 19

Applicant's invention of claim 19 includes a device with a display and control signals, provided by a locating device, that are utilized to control a displayed video game character and another character is also displayed.

Suzuki does not show or suggest applicant's invention of claim 19 of a wireless telephone that includes a display and control signals, provided by a locating device, that are utilized to control a displayed video game character and another character is also displayed.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19.

For example, Suzuki does not show or suggest applicant's invention of claim 22 of a wireless telephone that includes a display and control signals, provided by a locating device, that are utilized to control a displayed video game character and another character is also displayed.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

New Claims 23-32

As shown above, new claims 19 and 22 are patentable. New claims 23-32 either depend from claim 19

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or 22. Accordingly, applicant respectfully submits that claims 23-32 are patentable for depending from either patentable base claim 19 or 22.

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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

Jeffrey D. Mullen
Applicant (Reg. No. 52,056)
Customer No. 32733
731 South Negley, Apt. 2
Pittsburgh, PA 15232
Mobile: (914) 837-7741

Electronic Acknowledgement Receipt

EFS ID:	7331177
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	01-APR-2010
Filing Date:	01-AUG-2006
Time Stamp:	00:40:55
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$555
RAM confirmation Number	8243
Deposit Account	503855
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		JDM-005C2--Reply.pdf	12414 a74f1cf6b26220eabaeddecfa5049abc98cd0cd4	yes	7

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	7

Warnings:

Information:

2	Fee Worksheet (PTO-875)	fee-info.pdf	30309 ed9ec0a11cc4e49b5107d3cab090a4be4689fbfa	no	2

Warnings:

Information:

Total Files Size (in bytes):	42723

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.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (currently amended) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said video game, said video game character is displayed on said display, a second video game character that is computer controlled is displayed on said display, and said control signals are provided by said locating device.

20. (previously presented) The system of claim 19, wherein said locating device is a positioning device.

21. (previously presented) The system of claim 19, wherein said locating device is a movement measurement device.

22. (currently amended) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said

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video game, and said first control signals are provided by said first locating device; and

a second ~~a~~ wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, and said second control signals are provided by said second locating device.

23. (new) The system of claim 22, wherein said first locating device is a positioning device.

24. (new) The system of claim 22, wherein said first locating device is a movement measurement device.

25. (new) The system of claim 22, further comprising a third video game character, wherein said third video game character is computer controlled.

26. (new) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (new) The system of claim 22, wherein said first wireless telephone includes a manual input control.

28. (new) The system of claim 22, wherein said video game is selected from a list of video games.

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29. (new) The system of claim 19, further comprising a third video game character.

30. (new) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (new) The system of claim 19, wherein said wireless telephone includes a manual input control.

32. (new) The system of claim 19, wherein said video game is selected from a list of video games.

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Meta v. Mullen - Page 00108

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

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:				
Extension - 3 months with $0 paid	2253	1	555	555

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
			Total in USD ($)	**555**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15232
April 1, 2010

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated October 1, 2009. A three-month extension of time is applicable hereto and is being submitted herewith. In response to the Office Action dated October 1, 2009, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Notice of References Cited	Application/Control No. 11/461,761	Applicant(s)/Patent Under Reexamination MULLEN, JEFFREY D	
	Examiner ANDREW KIM	Art Unit 3714	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,287,200	09-2001	Sharma, Dipanshu	463/40
*	B	US-2004/0046655	03-2004	Benes et al.	340/539.1
	C	US-			
	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.

Meta Exhibit 1004
Meta v. Mullen - Page 00112

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L3	1	("20030062675").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 15:38
L4	31	("5434904" | "5738583" | "5797085" | "6111541"). PN. OR ("6287200"). URPN.	US-PGPUB; USPAT; USOCR	AND	ON	2010/06/18 17:02
L5	2	(("20090029717") or ("20020115453")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:03
L6	1	("6885874").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:04
L7	453	character with list same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
L8	218	character with list same game same select$3	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
L9	2117	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 22:22
L10	134	9 (telephone) location game character list	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 22:23
S1	3	"461761".ap.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S2	65	mullen.in. location.ti.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S3	2174	gps same (telephon$3 or phon$3) same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S4	22	"6287200"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S5	1907	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/29 11:24

6/18/2010 10:23:24 PM
C:\Documents and Settings\akim1\My Documents\EAST\Workspaces\11461761_Mullen_GPSPhoneGame.wsp

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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 06/24/2010

JEFFREY D. MULLEN
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APT. 2
PITTSBURGH, PA 15232

EXAMINER	
KIM, ANDREW	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
06/24/2010	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.	Applicant(s)	
	11/461,761	MULLEN, JEFFREY D	
	Examiner	Art Unit	
	ANDREW KIM	3714	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 April 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 August 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. In response to the Amendment filed April 1, 2010 in which claims 19-32 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 19-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma (US Pat. No. 6,287,200 B1) in view of Benes et al. (US Pub. No. 2004/0046655 A1).

Claim 19. Sharma in view of Benes discloses a system comprising:

a wireless telephone (Benes) having a locating device (Sharma: col. 1, lines 5-16, col. 2, line 40 and col. 3, line 45 - col. 4, line 8) and a display (Sharma, fig. 4), wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said video game (Sharma, col. 3, lines 45-61), said video game character is displayed on said display,

a second video game character that is computer controlled is displayed on said display, and said control signals are provided by said locating device (Abstract, fig. 1 and 2, col. 3: line 40- col. 4: line 40).

Sharma substantially discloses the invention as claimed but fails to explicitly teach a wireless telephone device. Instead, Sharma discloses mobile devices with displays that may communicate via RF, WAP, Bluetooth etc. without expressly disclosing a wireless telephone device. However, in an analogous reference, Benes discloses a wireless telephone device to play a location-based game. One of ordinary skill in the art would have seen the benefit of modifying Sharma with a wireless telephone device to optimize the resources available to subscribers, alter the game by defining an area of play and activate game features without direct communication between the players and the providers (Benes, para. 1 and 2). Furthermore, an artisan would have found it obvious to adapt the invention, when possible, to operate on other wireless devices (Benes, para. 10) to increase the user base by allowing users who already own one similar device but do not want to purchase another device to play the game. In addition, it would have been an obvious design choice to one of ordinary skill in the art to substitute a wireless telephone for any device that includes a locating device as shown in the applicant's abstract. Therefore, it would have been obvious to one or ordinary skill in the art at the time of the instant invention to modify Sharma with a wireless telephone device to optimize resources and increase the user base which would also increase profits.

Claims 20 and 23. Sharma discloses wherein said locating device is a positioning device (col. 1, line 8-22).

Claims 21 and 24. Sharma discloses wherein said locating device is a movement measurement device (Sharma, col. 3, lines 45-61).

Claim 22. Sharma in view of Benes discloses a system comprising:

a first wireless telephone (Benes) having a first locating device (Sharma: col. 1, lines 5-16, col. 2, line 40 and col. 3, line 45 - col. 4, line 8), wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game (Sharma, col. 3, lines 45-61), and said first control signals are provided by said first locating device (Sharma, col. 3, lines 45-61); and a second wireless telephone having a second locating device and a display (Sharma: col. 1, lines 5-16, col. 2, line 40 and col. 3, line 45 - col. 4, line 8), wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display and said second control signals are provided by said second locating device (Abstract, fig. 1 and 2, col. 3: line 40- col. 4: line 40, fig. 10, col. 10: lines 7-67).

Claims 25 and 29. Sharma discloses a third video game character, wherein said third video game character is computer controlled (fig. 2, Items A-D, the character on the display is controlled by the computer which interprets the players' movements).

Claims 26 and 30. Sharma discloses wherein said first video game character is selected from a list of characters (col. 3, lines 30-38, team character).

Claims 27 and 31. Sharma discloses wherein said first wireless telephone includes a manual input control (fig. 5, col. 3, lines 45-61).

Claims 28 and 32. Sharma discloses wherein said video game is selected from a list of video games (col. 3, lines 31-38, inherently, if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

Response to Arguments

5. Applicant's arguments with respect to claims 19-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). 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 date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. 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.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3714

6/24/2010 /A. K./
Examiner, Art Unit 3714

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3714

✓	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	09/29/2009	06/18/2010							
	1	-	-							
	2	-	-							
	3	-	-							
	4	-	-							
	5	-	-							
	6	-	-							
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	14	-	-							
	15	-	-							
	16	-	-							
	17	-	-							
	18	-	-							
	19	✓	✓							
	20	✓	✓							
	21	✓	✓							
	22	✓	✓							
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	24		✓							
	25		✓							
	26		✓							
	27		✓							
	28		✓							
	29		✓							
	30		✓							
	31		✓							
	32		✓							

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3714

SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	6/18/2010	AK

SEARCH NOTES		
Search Notes	Date	Examiner
See attached search results.	9/29/2009	AK
East Text Search. See updated search results.	6/18/2010	AK

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15232
December 27, 2010

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated June 24, 2009. A three-month extension of time and Request for Consideration is applicable hereto and is being submitted herewith. In response to the Office Action dated June 24, 2009, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Electronic Acknowledgement Receipt

EFS ID:	9115215
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	27-DEC-2010
Filing Date:	01-AUG-2006
Time Stamp:	10:47:14
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$960
RAM confirmation Number	10060
Deposit Account	503855
Authorized User	MULLEN,JEFFREY D.

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)	JDM-005C2--RCE.pdf	697276 dd5423798cac4bfa626f6971f8b6881a6f71519c	no	3
Warnings:					
Information:					
2		JDM-005C2--Reply.pdf	16786 ee1f90fc9e50ee0f122aded03eb5730fb9b493f7	yes	9

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment Submitted/Entered with Filing of CPA/RCE	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	9

Warnings:					
Information:					
3	Fee Worksheet (PTO-875)	fee-info.pdf	32507 fa7f06730f0548c2058cacbf70297ded2739dad7	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	746569	

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.

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-32 under 35 U.S.C. 102(e) as being anticipated by Sharma U.S. Patent No. 6,287,200 in view of Benes et al. U.S. Publication No. 2004/0046655 (hereinafter “Benes”).

Summary of Applicant's Amendments

Applicant has amended claims 22 and 25 without prejudice and solely in order to expedite prosecution.

Applicant has added new claims 33 and 34 in order to more particularly point out and distinctly claim the subject matter that applicant regards as the invention.

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the
Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19-32 under 35 U.S.C. 102(e) as being anticipated by Sharma in view of Benes.

Sharma alleges devices that allow for users to hit a volley ball.

Benes merely alleges a system where questions are provided based on location. A user then allegedly answers those questions to receive points.

Claim 19

The Examiner stated that Sharma discusses:

> "a second video game character that is computer controlled and displayed on said display." (Office Action, page 3).

Sharma, however, does not show or suggest a computer controlled character. Benes does not correct for this deficiency. Benes also does not show or suggest a computer controlled character.

Accordingly, neither Sharma, nor Benes, used either alone or in combination shows or suggests applicant's invention of claim 19 of a wireless telephone that includes a display and a computer-controller character that is displayed.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Furthermore, Benes merely alleges asking questions based on location. Benes does not even discuss a display and a displayed character – regardless of whether that character is computer controlled or not. Accordingly, Sharma and Benes directly teach away from one another. Any combination would eviscerate the spirit of both the Benes and Sharma device.

Moreover, the Examiner stated that:

> "Sharma … fails to explicitly teach a wireless telephone device … Benes discloses a wireless telephone device." (Office Action, page 3)

Sharma, however, directly teaches away from including a wireless telephone. Particularly, Sharma discusses communicating information without the use of a wireless telephone. Accordingly, mutilating Sharma to

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include a wireless telephone would eviscerate the spirit of the Sharma device. Moreover, Sharma and Benes are precision systems. The Examiner cannot, in hindsight, pick and chose unrelated elements of unrelated devices and stitch them together in a new way in order to form a new device. In doing so, the Examiner merely eviscerates the spirit of the individual devices and creates an inoperable device.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19.

For example, neither Sharma nor Benes, used either alone or in combination, show or suggest a computer controlled game character that is displayed.

As per another example, neither Sharma nor Benes, used either alone or in combination, shows or suggests applicant's invention of claim 22 of a wireless telephone that includes a display and control signals, provided by a locating device, that are utilized to control a displayed video game character and another character is also displayed.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

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As shown above, claims 19 and 22 are patentable. Claims 20, 21, and 23-32 depend from either claim 19 or 22. Accordingly, claims 20, 21, and 23-32 are patentable for depending from a patentable base claim.

Response To Official Notice Rejections

The Examiner appears to reject at least some dependent claims based off Official Notice. For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of instant and unquestionable demonstration as being well known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant's claims, then applicant's claims are patentable.

In light of the foregoing, applicant respectfully requests that the Examiner's single reference 103(a) 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.

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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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

Jeffrey D. Mullen
Applicant (Reg. No. 52,056)
Customer No. 32733
731 South Negley, Apt. 2
Pittsburgh, PA 15232
Mobile: (914) 837-7741

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

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:				
Extension - 3 months with $0 paid	2253	1	555	555

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Request for continued examination	2801	1	405	405
		Total in USD ($)		**960**

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (previously presented) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said video game, said video game character is displayed on said display, a second video game character that is computer controlled is displayed on said display, and said control signals are provided by said locating device.

20. (previously presented) The system of claim 19, wherein said locating device is a positioning device.

21. (previously presented) The system of claim 19, wherein said locating device is a movement measurement device.

22. (currently amended) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said

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video game, and said first control signals are provided by said first locating device; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, ~~and~~ said second control signals are provided by said second locating device, and a third game character displayed on said display that is computer-controlled.

23. (previously presented) The system of claim 22, wherein said first locating device is a positioning device.

24. (previously presented) The system of claim 22, wherein said first locating device is a movement measurement device.

25. (currently amended) The system of claim 22, further comprising a ~~third~~ fourth video game character, wherein said third video game character is computer controlled.

26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a manual input control.

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28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (new) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

34. (new) The system of claim 22, wherein said first wireless telephone includes plurality of manual input controls.

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Electronic Acknowledgement Receipt

EFS ID:	9115215
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	27-DEC-2010
Filing Date:	01-AUG-2006
Time Stamp:	10:47:14
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$960
RAM confirmation Number	10060
Deposit Account	503855
Authorized User	MULLEN,JEFFREY D.

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)	JDM-005C2--RCE.pdf	697276 dd5423798cac4bfa626f6971f8b6881a6f71519c	no	3
Warnings:					
Information:					
2		JDM-005C2--Reply.pdf	16786 ee1f90fc9e50ee0f122aded03eb5730fb9b493f7	yes	9

Multipart Description/PDF files in .zip description

Document Description	Start	End
Amendment Submitted/Entered with Filing of CPA/RCE	1	1
Claims	2	4
Applicant Arguments/Remarks Made in an Amendment	5	9

Warnings:					
Information:					
3	Fee Worksheet (PTO-875)	fee-info.pdf	32507 fa7f06730f0548c2058cacbf70297ded2739dad7	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	746569		

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.

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

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

Application Number	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☐ Patent Practitioner Signature

☒ Applicant Signature

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2010-12-27
Name	Jeffrey D. Mullen		
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 t 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 estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Tim will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo 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.

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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
11/461,761	08/01/2006	

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☒		OR	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			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			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 $250 ($125 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			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT	12/27/2010	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $26 =	0	OR	X $ =	
	Independent (37 CFR 1.16(h))	* 2	Minus	***3	= 0	X $110 =	0	OR	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

AMENDMENT		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ 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 number found in the appropriate box in column 1.

Legal Instrument Examiner:
/LINDA A. WASHINGTON/

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.

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L4	0	(2004/0046655).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
L5	1	("20040046655").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
L9	2411	location with game same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
L10	2411	(location with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
L11	261	(location with based with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
L12	2343	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:34
S1	3	"461761".ap.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S2	65	mullen.in. location.ti.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S3	2174	gps same (telephon$3 or phon$3) same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S4	22	"6287200"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S5	1907	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/29 11:24
S6	1	("20030062675").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 15:38
S7	31	("5434904" | "5738583" | "5797085" | "6111541").PN. OR ("6287200").URPN.	US-PGPUB; USPAT; USOCR	AND	ON	2010/06/18 17:02

S8	2	(("20090029717") or ("20020115453")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:03
S9	1	("6885874").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:04
S10	453	character with list same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
S11	218	character with list same game same select$3	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
S12	2117	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 22:22
S13	134	S12 (telephone) location game character list	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 22:23

3/25/2011 3:35:11 AM
C:\Documents and Settings\akim1\My Documents\EAST\Workspaces\11461761_Mullen_GPSPhoneGame.wsp

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	3/25/2011	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	3/25/2011	AK

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3714

✓	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	09/29/2009	06/18/2010	03/25/2011						
	1	-	-	-						
	2	-	-	-						
	3	-	-	-						
	4	-	-	-						
	5	-	-	-						
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	7	-	-	-						
	8	-	-	-						
	9	-	-	-						
	10	-	-	-						
	11	-	-	-						
	12	-	-	-						
	13	-	-	-						
	14	-	-	-						
	15	-	-	-						
	16	-	-	-						
	17	-	-	-						
	18	-	-	-						
	19	✓	✓	✓						
	20	✓	✓	✓						
	21	✓	✓	✓						
	22	✓	✓	✓						
	23		✓	✓						
	24		✓	✓						
	25		✓	✓						
	26		✓	✓						
	27		✓	✓						
	28		✓	✓						
	29		✓	✓						
	30		✓	✓						
	31		✓	✓						
	32		✓	✓						
	33			✓						
	34			✓						

Meta Exhibit 1004
Meta v. Mullen - Page 00148

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 03/25/2011

JEFFREY D. MULLEN
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EXAMINER	
KIM, ANDREW	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
03/25/2011	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.	Applicant(s)	
	11/461,761	MULLEN, JEFFREY D	
	Examiner	Art Unit	
	ANDREW KIM	3716	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 December 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 August 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. In response to the Amendment filed 12/27/10 in which claims 19-34 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 19-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma (US Pat. No. 6,287,200 B1) in view of Benes et al. (US Pub. No. 2004/0046655 A1).

Claim 19. Sharma in view of Benes discloses a system comprising:

a wireless telephone (Benes) having a locating device (Sharma: col. 1, lines 5-16, col. 2, line 40 and col. 3, line 45 - col. 4, line 8) and a display (Sharma, fig. 4), wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said video game (Sharma, col. 3, lines 45-61), said video game character is displayed on said display,

a second video game character that is computer controlled is displayed on said display, and said control signals are provided by said locating device (Abstract, fig. 1 and 2, col. 3: line 40- col. 4: line 40, fig. 2, Items A-D, the character on the display is controlled at least in part by the computer which interprets the players' movements).

Sharma substantially discloses the invention as claimed but fails to explicitly teach a wireless telephone device. Instead, Sharma discloses mobile devices with displays that may communicate via RF, WAP, Bluetooth etc. without expressly disclosing a wireless telephone device. However, in an analogous reference, Benes discloses a wireless telephone device to play a location-based game. One of ordinary skill in the art would have seen the benefit of modifying Sharma with a wireless telephone device to optimize the resources available to subscribers, alter the game by defining an area of play and activate game features without direct communication between the players and the providers (Benes, para. 1 and 2). Furthermore, an artisan would have found it obvious to adapt the invention, when possible, to operate on other wireless devices (Benes, para. 10) to increase the user base by allowing users who already own one similar device but do not want to purchase another device to play the game. In addition, it would have been an obvious design choice to one of ordinary skill in the art to substitute a wireless telephone for any device that includes a locating device as shown in the applicant's abstract. Therefore, it would have been obvious to one or ordinary skill in the art at the time of the instant invention to modify Sharma with a wireless telephone device to optimize resources and increase the user base which would also increase profits.

Claims 20 and 23. Sharma discloses wherein said locating device is a positioning device (col. 1, line 8-22).

Claims 21 and 24. Sharma discloses wherein said locating device is a movement measurement device (Sharma, col. 3, lines 45-61).

Claim 22. Sharma in view of Benes discloses a system comprising:

a first wireless telephone (Benes) having a first locating device (Sharma: col. 1, lines 5-16, col. 2, line 40 and col. 3, line 45 - col. 4, line 8), wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game (Sharma, col. 3, lines 45-61), and said first control signals are provided by said first locating device (Sharma, col. 3, lines 45-61); and a second wireless telephone having a second locating device and a display (Sharma: col. 1, lines 5-16, col. 2, line 40 and col. 3, line 45 - col. 4, line 8), wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display and said second control signals are provided by said second locating device and a third game character displayed on said display that is computer-controlled (Abstract, fig. 1 and 2, col. 3: line 40- col. 4: line 40, fig. 10, col. 10: lines 7-67, fig. 2, Items A-D, the character on the display is controlled at least in part by the computer which interprets the players' movements).

Sharma substantially discloses the invention as claimed but fails to explicitly teach a wireless telephone device. Instead, Sharma discloses mobile devices with displays that may communicate

via RF, WAP, Bluetooth etc. without expressly disclosing a wireless telephone device. However, in an analogous reference, Benes discloses a wireless telephone device to play a location-based game. One of ordinary skill in the art would have seen the benefit of modifying Sharma with a wireless telephone device to optimize the resources available to subscribers, alter the game by defining an area of play and activate game features without direct communication between the players and the providers (Benes, para. 1 and 2). Furthermore, an artisan would have found it obvious to adapt the invention, when possible, to operate on other wireless devices (Benes, para. 10) to increase the user base by allowing users who already own one similar device but do not want to purchase another device to play the game. In addition, it would have been an obvious design choice to one of ordinary skill in the art to substitute a wireless telephone for any device that includes a locating device as shown in the applicant's abstract. Therefore, it would have been obvious to one or ordinary skill in the art at the time of the instant invention to modify Sharma with a wireless telephone device to optimize resources and increase the user base which would also increase profits.

Claims 25 and 29. Sharma discloses a fourth video game character, wherein said fourth video game character is computer controlled (fig. 2, Items A-D, the character on the display is controlled by the computer which interprets the players' movements).

Claims 26 and 30. Sharma discloses wherein said first video game character is selected from a list of characters (col. 3, lines 30-38, team character).

Claims 27 and 31. Sharma discloses wherein said first wireless telephone includes a manual input control (fig. 5, col. 3, lines 45-61).

Claims 28 and 32. Sharma discloses wherein said video game is selected from a list of video games (col. 3, lines 31-38, inherently, if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

Claims 33 and 34. Sharma in view of Benes substantially discloses the invention as claimed but fails to explicitly teach that said wireless telephone includes a plurality of manual input controls. Instead, Sharma in view of Benes discloses a wireless telephone utilized to play a location base game. However, it is notoriously well known in the art at the time of the invention that wireless telephones have a plurality of manual input controls to dial phone numbers. The Examiner takes Official Notice that wireless telephones have keys or buttons with which phone numbers are dialed and it would have been obvious to an artisan to have a plurality of manual input controls on a wireless telephone.

Response to Arguments

5. Applicant's arguments filed 12/27/10 have been fully considered but they are not persuasive. Regarding the computer controlled character, the ordinary plain meaning of computer is an electronic device designed to accept data, perform prescribed mathematical and logical operations at high speed, and display the results of these operations. The ordinary plan meaning of controlled is restrained. Thus, a character that is computer controlled has been

interpreted as a character that is restrained to include the use of an electronic device designed to accept data, perform high speed operations and display the results. Sharma discloses that the player's movements are translated to movement on the display and includes at least in part the use of an electronic device designed to accept data, perform high speed operation and display the results. If the language sought was an exclusively AI controlled character, the language should include the term artificial intelligence.

6. Regarding the remarks that Sharma teaches away from including a wireless telephone, the Office respectfully requests where Sharma teaches away from this embodiment. As best understood by the Office, Sharma does not disclose a wireless telephone; however, the mere absence of an embodiment or feature does not constitute "teaching away" or imply mutilation of a reference.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

8. Regarding the official notice remark, previously no official notice was taken.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. 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.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3716

3/25/2011 /A. K./
Examiner, Art Unit 3716

Electronic Acknowledgement Receipt

EFS ID:	11044322
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	25-SEP-2011
Filing Date:	01-AUG-2006
Time Stamp:	20:45:45
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$555
RAM confirmation Number	18271
Deposit Account	503855
Authorized User	MULLEN,JEFFREY D.

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		JDM-005C2--Reply.pdf	19112 bea13b788766553a00920c9a9cfff4f11e196c93	yes	10

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	10

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	30309 f124520ed2074ec8239df071b6a33c33f3a99f27	no	2

Warnings:

Information:

Total Files Size (in bytes):	49421

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.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (currently amended) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said video game, said video game character is displayed on said display, a second video game character that is ~~computer~~ controlled via artificial intelligence is displayed on said display, and said control signals are provided by said locating device.

20. (previously presented) The system of claim 19, wherein said locating device is a positioning device.

21. (previously presented) The system of claim 19, wherein said locating device is a movement measurement device.

22. (currently amended) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said

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video game, and said first control signals are provided by said first locating device; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence ~~computer-controlled~~.

23. (previously presented) The system of claim 22, wherein said first locating device is a positioning device.

24. (previously presented) The system of claim 22, wherein said first locating device is a movement measurement device.

25. (currently amended) The system of claim 22, further comprising a fourth video game character, wherein said ~~third~~ fourth video game character is ~~computer~~ controlled via artificial intelligence.

26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a manual input control.

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28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

34. (previously presented) The system of claim 22, wherein said first wireless telephone includes plurality of manual input controls.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15232
September 25, 2011

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated March 25, 2011. A three-month extension of time is applicable hereto and is being submitted herewith. In response to the Office Action dated March 25, 2011, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-34 under 35 U.S.C. 103(a) as being anticipated by Sharma U.S. Patent No. 6,287,200 in view of Benes et al. U.S. Publication No. 2004/0046655 (hereinafter "Benes").

Summary of Applicant's Amendments

Applicant has amended claims 19, 22, and 25 without prejudice and solely in order to expedite prosecution.

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19-34 under 35 U.S.C. 102(e) as being anticipated by Sharma in view of Benes.

Sharma alleges devices that allow for users to hit a volley ball.

Benes merely alleges a system where questions are provided based on location. A user then allegedly answers those questions to receive points.

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Claim 19

The Examiner stated that Sharma discusses:

> "a second video game character that is computer controlled and displayed on said display." (Office Action, page 3).

Sharma, however, does not show or suggest a character controlled via artificial intelligence. Benes does not correct for this deficiency. Benes also does not show or suggest a character controlled via artificial intelligence.

The Examiner stated:

> "The ordinary plain [*sic*] meaning of controlled is restrained … the language should include the term artificial intelligence." (Office Action, pages 6 and 7)

The Examiner has erred in using plain and ordinary meaning as applicant's specification is clear on meaning. In light of applicant's specification, the meaning of controlled is not "restrained." Nonetheless, applicant's specification includes artificial intelligence. Solely in order to expedite prosecution, applicant has amended applicant's invention of claim 19 to include artificial intelligence.

Accordingly, neither Sharma, nor Benes, used either alone or in combination shows or suggests applicant's invention of claim 19 of a wireless telephone that includes a display and a character controlled via artificial intelligence that is displayed.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Furthermore, Benes merely alleges asking questions based on location. Benes does not even discuss a display and a displayed character – regardless of whether that character is controlled via artificial intelligence or not. Accordingly, Sharma and Benes directly teach away from one another. Any combination would eviscerate the spirit of both the Benes and Sharma device.

Additionally, the Examiner stated that:

> "Sharma … fails to explicitly teach a wireless telephone device … Benes discloses a wireless telephone device." (Office Action, page 3)

Sharma, however, directly teaches away from including a wireless telephone. Particularly, Sharma discusses communicating information without the use of a wireless telephone. The Examiner stated:

> "Sharma does not disclose a wireless telephone; however, the absence of an embodiment or feature does not constitute 'teaching away' or imply mutilation of a reference."
> (Office Action, page 7)

The Examiner's agrees that Sharma does not include a wireless telephone. As Sharma is a precision device, changing a core operation of Sharma would eviscerate the precision nature of the Sharma device. However, Sharma teaches away from the use of a wireless telephone on multiple occasions.

For example, Sharma discusses communicating using WAP and a radio frequency protocol, but does not discuss a wireless telephone. Accordingly, the notion that Sharma does allege WAP and a radio frequency protocol, but does not discuss a wireless telephone means that Sharma directly teaches away from a wireless telephone. Furthermore, Sharma directly teaches away from a wireless telephone by

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including elements that directly teach away from a wireless telephone, such as handshaking between devices themselves and the inclusion of structures not found on wireless telephones.

Accordingly, mutilating Sharma to include a wireless telephone would eviscerate the spirit of the Sharma device. Moreover, Sharma and Benes are precision systems. The Examiner cannot, in hindsight, pick and chose unrelated elements of unrelated devices and stitch them together in a new way in order to form a new device. In doing so, the Examiner merely eviscerates the spirit of the individual devices and creates an inoperable device.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19.

For example, neither Sharma nor Benes, used either alone or in combination, show or suggest a computer controlled game character that is displayed.

As per another example, neither Sharma nor Benes, used either alone or in combination, shows or suggests applicant's invention of claim 22 of a wireless telephone that includes a display and control signals, provided by a locating device, that are utilized to control a displayed video game character and another character is also displayed.

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In light of the foregoing, applicant respectfully requests that the Examiner’s rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

As shown above, claims 19 and 22 are patentable. Claims 20, 21, and 23-34 depend from either claim 19 or 22. Accordingly, claims 20, 21, and 23-34 are patentable for depending from a patentable base claim.

Response To Official Notice Rejections

The Examiner appears to reject at least some dependent claims based off Official Notice. For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of instant and unquestionable demonstration as being well known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant’s claims, then applicant’s claims are patentable.

In light of the foregoing, applicant respectfully requests that the Examiner’s single reference 103(a) rejections be withdrawn.

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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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/
Jeffrey D. Mullen
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Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

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:				
Extension - 3 months with $0 paid	2253	1	555	555

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
			Total in USD ($)	**555**

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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	Filing Date	☐ To be Mailed
11/461,761	08/01/2006	

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY ☒ RATE ($)	SMALL ENTITY ☒ FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			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 $250 ($125 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			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT 09/25/2011	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $26 =	0	OR	X $ =	
Independent (37 CFR 1.16(h))	* 2	Minus	***3	= 0	X $110 =	0	OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

AMENDMENT	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)	OR	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ 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 number found in the appropriate box in column 1.

Legal Instrument Examiner:
/TERRY MALLOY/

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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 02/02/2012

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EXAMINER	
KIM, ANDREW	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
02/02/2012	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.	Applicant(s)	
	11/461,761	MULLEN, JEFFREY D	
	Examiner	Art Unit	
	ANDREW KIM	3716	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *9/25/11*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 August 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

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DETAILED ACTION

1. In response to the Amendment filed 9/25/11 in which claims 19-34 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 19-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma (US Pat. No. 6,287,200 B1) in view of Benes et al. (US Pub. No. 2004/0046655 A1) and further in view of Serafat (US Pub. No. 2006/0154710 A1).

Claim 19. Sharma in view of Benes discloses a system comprising:

a wireless telephone (Benes) having a locating device (Sharma: col. 1, lines 5-16, col. 2, line 40 and col. 3, line 45 - col. 4, line 8) and a display (Sharma, fig. 4), wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said

video game (Sharma, col. 3, lines 45-61), said video game character is displayed on said display, a second video game character that is controlled via artificial intelligence is displayed on said display (Serafat), and said control signals are provided by said locating device (Abstract, fig. 1 and 2, col. 3: line 40- col. 4: line 40, fig. 2, Items A-D).

Sharma substantially discloses the invention as claimed but fails to explicitly teach a wireless telephone device. Instead, Sharma discloses mobile devices with displays that may communicate via RF, WAP, Bluetooth etc. without expressly disclosing a wireless telephone device. However, in an analogous reference, Benes discloses a wireless telephone device to play a location-based game. One of ordinary skill in the art would have seen the benefit of modifying Sharma with a wireless telephone device to optimize the resources available to subscribers, alter the game by defining an area of play and activate game features without direct communication between the players and the providers (Benes, para. 1 and 2). Furthermore, an artisan would have found it obvious to adapt the invention, when possible, to operate on other wireless devices (Benes, para. 10) to increase the user base by allowing users who already own one similar device but do not want to purchase another device to play the game. In addition, it would have been an obvious design choice to one of ordinary skill in the art to substitute a wireless telephone for any device that includes a locating device as shown in the applicant's abstract. Therefore, it would have been obvious to one or ordinary skill in the art at the time of the instant invention to modify Sharma with a wireless telephone device to optimize resources and increase the user base which would also increase profits.

Sharma substantially discloses the invention as claimed but fails to explicitly teach that a second video game character is controlled via artificial intelligence. Instead, Sharma discloses mobile

gaming devices with displays that may communicate via RF, WAP, Bluetooth etc. However, in an analogous reference, Serafat teaches using artificial intelligence (Serafat: paragraph [0056]) in mobile gaming (Serafat: paragraph [0054]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sharma with AI for continuing a multi-player game in case of an absence of a player participating in the game comprises running a multi player game application receiving an indication that the player taking part in the multi-player game is absent, and continuing the game by simulating the participation of the player who is actually absent.

Claims 20 and 23. Sharma discloses wherein said locating device is a positioning device (col. 1, line 8-22).

Claims 21 and 24. Sharma discloses wherein said locating device is a movement measurement device (Sharma, col. 3, lines 45-61).

Claims 22 and 25. Sharma in view of Benes discloses a system comprising:

a first wireless telephone (Benes) having a first locating device (Sharma: col. 1, lines 5-16, col. 2, line 40 and col. 3, line 45 - col. 4, line 8), wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game (Sharma, col. 3, lines 45-61), and said first control signals are provided by said first locating device (Sharma, col. 3, lines 45-61); and a second wireless telephone having a second locating device and a display (Sharma: col. 1, lines 5-16, col. 2, line 40 and col. 3, line 45 - col.

4, line 8), wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display and said second control signals are provided by said second locating device and a third game character displayed on said display that is controlled via artificial intelligence (Serafat).

Sharma substantially discloses the invention as claimed but fails to explicitly teach a wireless telephone device. Instead, Sharma discloses mobile devices with displays that may communicate via RF, WAP, Bluetooth etc. without expressly disclosing a wireless telephone device. However, in an analogous reference, Benes discloses a wireless telephone device to play a location-based game. One of ordinary skill in the art would have seen the benefit of modifying Sharma with a wireless telephone device to optimize the resources available to subscribers, alter the game by defining an area of play and activate game features without direct communication between the players and the providers (Benes, para. 1 and 2). Furthermore, an artisan would have found it obvious to adapt the invention, when possible, to operate on other wireless devices (Benes, para. 10) to increase the user base by allowing users who already own one similar device but do not want to purchase another device to play the game. In addition, it would have been an obvious design choice to one of ordinary skill in the art to substitute a wireless telephone for any device that includes a locating device as shown in the applicant's abstract. Therefore, it would have been obvious to one or ordinary skill in the art at the time of the instant invention to modify Sharma with a wireless telephone device to optimize resources and increase the user base which would also increase profits.

Sharma substantially discloses the invention as claimed but fails to explicitly teach that a second or fourth (as per claim 25) video game character is controlled via artificial intelligence. Instead, Sharma discloses mobile gaming devices with displays that may communicate via RF, WAP, Bluetooth etc. However, in an analogous reference, Serafat teaches using artificial intelligence (Serafat: paragraph [0056]) in mobile gaming (Serafat: paragraph [0054]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sharma with AI for continuing a multi-player game in case of an absence of a player participating in the game comprises running a multi player game application receiving an indication that the player taking part in the multi-player game is absent, and continuing the game by simulating the participation of the player who is actually absent.

Claims 26 and 30. Sharma discloses wherein said first video game character is selected from a list of characters (col. 3, lines 30-38, team character).

Claims 27 and 31. Sharma discloses wherein said first wireless telephone includes a manual input control (fig. 5, col. 3, lines 45-61).

Claims 28 and 32. Sharma discloses wherein said video game is selected from a list of video games (col. 3, lines 31-38, inherently, if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

Claim 29. Sharma discloses a third video game character (fig. 2, Items A-D, col. 3, lines 9 - 25).

Claims 33 and 34. Sharma in view of Benes substantially discloses the invention as claimed but fails to explicitly teach that said wireless telephone includes a plurality of manual input controls. Instead, Sharma in view of Benes discloses a wireless telephone utilized to play a location base game. However, in an analogous reference, Serafat discloses manual input controls such as a joystick/joypad (Serafat: paragraph [0037]) and key inputs (Serafat: paragraph [0071) to analyze the input and determine the gaming characteristics of the players and simulating the game in accordance with the gaming characteristics (Serafat: paragraph [0021]). Therefore, it would have been obvious to one or ordinary skill in the art at the time of the instant invention to modify Sharma with manual input controls. it is notoriously well known in the art at the time of the invention that wireless telephones have a plurality of manual input controls to analyze the input and determine the gaming characteristics of the players and simulating the game in accordance with the gaming characteristics.

Response to Arguments

5. Applicant's arguments filed 9/25/11 have been fully considered but they are not persuasive. Regarding the computer controlled character, the Examiner maintains that the ordinary plain meaning of computer is an electronic device designed to accept data, perform prescribed mathematical and logical operations at high speed, and display the results of these

operations. The ordinary plan meaning of controlled is restrained. Thus, a character that is computer controlled has been interpreted as a character that is restrained to include the use of an electronic device designed to accept data, perform high speed operations and display the results. Sharma discloses that the player's movements are translated to movement on the display and includes at least in part the use of an electronic device designed to accept data, perform high speed operation and display the results. Regarding the claim language including artificial intelligence, refer to the new ground of rejection.

6. Regarding the remarks that Benes does not even discuss a display and a displayed character, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

7. Regarding the remarks that Sharma teaches away from including a wireless telephone, the Office respectfully requests where Sharma teaches away from this embodiment. As best understood by the Office, Sharma does not disclose a wireless telephone; however, the mere absence of an embodiment or feature does not constitute "teaching away" or imply mutilation of a reference.

8. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the

applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

9. Regarding the official notice remark, refer to the Serafat reference.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). 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 date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. 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.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3716

1/31/2012 /A. K./
Examiner, Art Unit 3716

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L2	2637	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/01/27 21:00
S1	3	"461761".ap.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S2	65	mullen.in. location.ti.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S3	2174	gps same (telephon$3 or phon$3) same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S4	22	"6287200"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S5	1907	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/29 11:24
S6	1	("20030062675").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 15:38
S7	31	("5434904" | "5738583" | "5797085" | "6111541"). PN. OR ("6287200"). URPN.	US-PGPUB; USPAT; USOCR	AND	ON	2010/06/18 17:02
S8	2	(("20090029717") or ("20020115453")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:03
S9	1	("6885874").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:04
S10	453	character with list same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
S11	218	character with list same game same select$3	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
S12	2117	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 22:22

S13	134	S12 (telephone) location game character list	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 22:23
S14	0	(2004/0046655).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
S15	1	("20040046655").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
S16	2411	location with game same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S17	2411	(location with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S18	261	(location with based with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S19	2343	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:34
S20	861	(artificial with intelligence) ((location or gps) with game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/26 18:47
S21	49	(artificial with intelligence) same ((location or gps) with game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/26 18:48
S22	1	("20040058732").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/01/27 10:31
S23	2650	location with based with games	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:32
S24	114	location adj based adj game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:33
S25	13	S24 artificial intelligence	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:33
S26	50	(artificial with intelligence) (mobile adj gaming)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:35

EAST Search History (Interference)

<This search history is empty>

1/27/2012 9:04:47 PM
C:\Documents and Settings\akim1\My Documents\EAST\Workspaces\11461761_Mullen_GPSPhoneGame.wsp

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	**Art Unit**
	ANDREW KIM	3716

✓	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	09/29/2009	06/18/2010	03/25/2011	01/27/2012					
	1	-	-	-	-					
	2	-	-	-	-					
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	19	✓	✓	✓	✓					
	20	✓	✓	✓	✓					
	21	✓	✓	✓	✓					
	22	✓	✓	✓	✓					
	23		✓	✓	✓					
	24		✓	✓	✓					
	25		✓	✓	✓					
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	28		✓	✓	✓					
	29		✓	✓	✓					
	30		✓	✓	✓					
	31		✓	✓	✓					
	32		✓	✓	✓					
	33			✓	✓					
	34			✓	✓					

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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	1/27/2012	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	1/27/2012	AK

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

Notice of References Cited	Application/Control No. 11/461,761	Applicant(s)/Patent Under Reexamination MULLEN, JEFFREY D	
	Examiner ANDREW KIM	Art Unit 3716	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2006/0154710	07-2006	Serafat, Reza	463/001
	B	US-			
	C	US-			
	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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Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

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:				
Extension - 3 months with $0 paid	2253	1	635	635

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Request for continued examination	2801	1	465	465
		Total in USD ($)		**1100**

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

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

Application Number	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☐ Patent Practitioner Signature

☒ Applicant Signature

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2012-08-01
Name	Jeffrey D. Mullen		
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 t 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 estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Tim will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo 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.

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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (currently amended) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said video game, said video game character is displayed on said display, a second video game character that is controlled via artificial intelligence, and is not controlled by manual-input, is displayed on said display, and said control signals are provided by said locating device.

20. (previously presented) The system of claim 19, wherein said locating device is a positioning device.

21. (previously presented) The system of claim 19, wherein said locating device is a movement measurement device.

22. (currently amended) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said

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video game, and said first control signals are provided by said first locating device; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input,.

23. (previously presented) The system of claim 22, wherein said first locating device is a positioning device.

24. (previously presented) The system of claim 22, wherein said first locating device is a movement measurement device.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a manual input control.

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28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

34. (previously presented) The system of claim 22, wherein said first wireless telephone includes plurality of manual input controls.

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REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-34 under 35 U.S.C. 103(a) as being anticipated by Sharma U.S. Patent No. 6,287,200 (hereinafter "Sharma") in view of Benes et al. U.S. Publication No. 2004/0046655 (hereinafter "Benes") and further in view of Serafat U.S. Patent Application Publication No. 2006/0154710 (hereinafter "Serafat.").

Summary of Applicant's Amendments

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19-34 under 35 U.S.C. 102(e) as being anticipated by Sharma in view of Benes.

Sharma alleges devices that allow for users to hit a volley ball.

Benes merely alleges a system where questions are provided based on location. A user then allegedly answers those questions to receive points.

Serafat merely alleges a game.

Claim 19

The Examiner stated that Sharma discusses:

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> "The ordinary plan meaning of controlled is restrained. Thus, a character that is computer controlled has been interpreted as a character that is restrained to include the use of an electronic device designed to accept data, perform high speed operations and display the results." (Office Action, page 8)

Applicant disagrees with the Examiner. However, solely to expedite prosecution, applicant has amended claim 19 to include the character is not controlled by manual input.

Sharma, however, does not show or suggest a character controlled via artificial intelligence and not controlled by manual input. Benes does not correct for this deficiency. Benes also does not show or suggest a character controlled via artificial intelligence. Sarafat does not correct for this deficiency.

Additionally, the Examiner stated that:

> "Sharma … fails to explicitly teach a wireless telephone device … Benes discloses a wireless telephone device." (Office Action, page 3)

Sharma, however, directly teaches away from including a wireless telephone. Sharma discusses a Bluetooth radio frequency protocol. Sharma discusses communicating information without the use of a wireless telephone. The Examiner stated:

> "the mere absence of an embodiment or feature does not constitute 'teaching away' or imply mutilation of a reference."
> (Office Action, page 8)

The Examiner's agrees that Sharma does not include a wireless telephone. As Sharma is a precision device, changing a core operation of Sharma would eviscerate the precision nature of the Sharma device.

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However, Sharma teaches away from the use of a wireless telephone on multiple occasions.

For example, Sharma discusses communicating using WAP and a radio frequency protocol, but does not discuss a wireless telephone. Accordingly, the notion that Sharma does allege WAP and a radio frequency protocol, but does not discuss a wireless telephone means that Sharma directly teaches away from a wireless telephone. Furthermore, Sharma directly teaches away from a wireless telephone by including elements that directly teach away from a wireless telephone, such as handshaking between devices themselves and the inclusion of structures not found on wireless telephones.

Accordingly, mutilating Sharma to include a wireless telephone would eviscerate the spirit of the Sharma device. Moreover, Sharma, Benes, and Serafat are precision systems. The Examiner cannot, in hindsight, pick and chose unrelated elements of unrelated devices and stitch them together in a new way in order to form a new device. In doing so, the Examiner merely eviscerates the spirit of the individual devices and creates an inoperable device.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19.

For example, neither Sharma nor Benes nor Serafat, used either alone or in combination, show or

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suggest a character that is controlled via artificial intelligence and not controlled via manual-input.

As per another example, neither Sharma, Benes, nor Serafat used either alone or in combination, shows or suggests applicant's invention of claim 22 of a wireless telephone that includes a display and control signals, provided by a locating device, that are utilized to control a displayed video game character and another character is also displayed.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

As shown above, claims 19 and 22 are patentable. Claims 20, 21, and 23-34 depend from either claim 19 or 22. Accordingly, claims 20, 21, and 23-34 are patentable for depending from a patentable base claim.

Response To Official Notice Rejections

The Examiner appears to reject at least some dependent claims based off Official Notice. For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of instant and unquestionable demonstration as being well known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet

Meta Exhibit 1004
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that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant's claims, then applicant's claims are patentable.

In light of the foregoing, applicant respectfully requests that the Examiner's single reference 103(a) 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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

Jeffrey D. Mullen
Applicant (Reg. No. 52,056)
Customer No. 32733
1310 Riverfront Drive
Pittsburgh, PA 15238
Mobile: (914) 837-7741

JDM/005 CON2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15238
August 2, 2012

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated February 2, 2012. A three-month extension of time and a Request for Continued Examination is applicable hereto and is being submitted herewith. In response to the Office Action dated February 2, 2012, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Electronic Acknowledgement Receipt

EFS ID:	13402498
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	02-AUG-2012
Filing Date:	01-AUG-2006
Time Stamp:	13:25:57
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$1100
RAM confirmation Number	11887
Deposit Account	503855
Authorized User	MULLEN,JEFFREY D.

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)	JDM-005CON2--RCE.pdf	697912 5d12c05096c1fa97e49d41ba245101567ccb2d4f	no	3
Warnings:					
Information:					
2		JDM-005C2--Reply.pdf	174715 4ddd7024a387a12b78c5fceabe42a82d5105ad0b	yes	9

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment Submitted/Entered with Filing of CPA/RCE	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	9

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	32271 1daf32538cb1525c729567e2ed3eafe8041e47d4	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	904898	

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.

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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	Filing Date	☐ To be Mailed
11/461,761	08/01/2006	

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY ☒ RATE ($)	SMALL ENTITY ☒ FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			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 $250 ($125 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			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT 08/02/2012	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $30 =	0	OR	X $ =	
Independent (37 CFR 1.16(h))	* 2	Minus	***3	= 0	X $125 =	0	OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

AMENDMENT	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)	OR	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ 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 number found in the appropriate box in column 1.

Legal Instrument Examiner:
/SHARON HARRIS/

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.

Notice of References Cited	Application/Control No. 11/461,761	Applicant(s)/Patent Under Reexamination MULLEN, JEFFREY D	
	Examiner ANDREW KIM	Art Unit 3716	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2003/0224855	12-2003	Cunningham, Robert	463/41
*	B	US-2002/0090985	07-2002	Tochner et al.	463/1
*	C	US-2002/0082082	06-2002	Stamper et al.	463/32
	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.

Meta Exhibit 1004
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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	8/23/2012	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	8/23/2012	AK

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 10/05/2012

JEFFREY D. MULLEN
731 SOUTH NEGLEY
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PITTSBURGH, PA 15232

EXAMINER	
KIM, ANDREW	
ART UNIT	PAPER NUMBER
3716	
MAIL DATE	DELIVERY MODE
10/05/2012	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.	Applicant(s)	
	11/461,761	MULLEN, JEFFREY D	
	Examiner	Art Unit	
	ANDREW KIM	3716	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 August 2012*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 August 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/2/12 has been entered.

Claim Rejections - 35 USC § 102

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

> A person shall be entitled to a patent unless –
>
> (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.

2. Claims 19-24, 27-29, and 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pub. No. 2002/0090985 A1 to Tochner et al.

Claim 19. Tochner discloses a system comprising:

a wireless telephone (paragraphs [0025, 0052]) having a locating device (paragraph [0051]) and a display (fig. 8, paragraph [0077]), wherein a video game is played on said wireless telephone (paragraphs [0051, 0052]), control signals are utilized to control a video game character in said video game (e.g. paragraphs [0052-0053], acquiring the beverage at a specific location is

communicated to the server corresponds to an antidote for the character), said video game character is displayed on said display (fig. 8, paragraph [0077]), a second video game character is controlled via artificial intelligence and is not controlled by manual-input (paragraph [0031, 0051, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence) and said control signals are provided by said locating device (paragraph [0052]).

Claim 20. Tochner discloses wherein said locating device is a positioning device (paragraph [0055]).

Claim 21. Tochner discloses wherein said locating device is a movement measurement device (paragraph [0055]).

Claim 22. Tochner discloses a first wireless telephone (paragraphs [0025, 0052]) having a first locating device (paragraph [0051]), wherein a video game is played on said first wireless telephone (paragraphs [0051, 0052]), first control signals are utilized to control a first video game character in said video game (paragraphs [0052, 0053], acquiring the beverage at a specific location is communicated to the server corresponds to an antidote for the character), and said first control signals are provided by said first locating device (paragraph [0052]); and

a second wireless device having a second locating device and a display (fig. 8, paragraph [0077]), wherein second control signals are utilized to control a second video game character in said video game (paragraph [0065]), said first video game character and said second video game character is displayed on said display (paragraphs [0031, 0077, 0079]) and said second control

signals are provided by said second locating device (paragraph [0052]), and a third video game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input (fig. 4b, paragraph [0051, 0067, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence).

Claim 23. Tochner discloses wherein said locating device is a positioning device (paragraph [0055]).

Claim 24. Tochner discloses wherein said locating device is a movement measurement device (paragraph [0055]).

Claim 27. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

Claim 28. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

Claim 29. Tochner discloses a third video game character (fig. 4b, paragraph [0067, 0068], dragon).

Claim 31. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

Claim 32. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

Claims 33 and 34. Tochner discloses wherein said wireless telephone includes a plurality of manual input controls (paragraphs [0055, 0065, 0084]).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0090985 A1 to Tochner et al.

Claim 25. Tochner substantially discloses the invention as claimed but fails to explicitly teach that a fourth video game character is controlled via artificial intelligence and is not controlled by manual-input. Instead, Tochner discloses mobile gaming devices with displays that may communicate via RF, WAP, Bluetooth and teaches a dragon that is computer controlled (fig. 1a, item 22, paragraph [0051]) but not a fourth video game character. However the Examiner takes Official Notice that it is well known in the art to include more than one game character that is controlled via artificial intelligence to increase difficulty, change the gaming environment so that game play is not stagnant, progress the storyline, and/or interact with the user to increase player appeal. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a fourth game character that is controlled via artificial intelligence to interact with the player and increase player appeal.

Claims 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0090985 A1 to Tochner et al. in view of US Pub. No. 2002/0082082 A1 to Stamper et al.

3. Claims 26 and 30. Tochner substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person'' face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]). One of

ordinary skill in the art at the time of the invention would have found it obvious to modify Tochner with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

1. Applicant's arguments with respect to claims 19-34 have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

2. Regarding the official notice remark, no official notice rejections were used in the previous action.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pub No. 2003/0224855 to Cunningham.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. 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.

10/2/2012 /A. K./
Examiner, Art Unit 3716

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3716

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L3	2849	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/08/23 11:59
S1	3	"461761".ap.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S2	65	mullen.in. location.ti.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S3	2174	gps same (telephon$3 or phon$3) same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S4	22	"6287200"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S5	1907	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/29 11:24
S6	1	("20030062675").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 15:38
S7	31	("5434904" | "5738583" | "5797085" | "6111541").PN. OR ("6287200").URPN.	US-PGPUB; USPAT; USOCR	AND	ON	2010/06/18 17:02
S8	2	(("20090029717") or ("20020115453")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:03
S9	1	("6885874").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:04
S10	453	character with list same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
S11	218	character with list same game same select$3	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
S12	2117	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 22:22
S13	134	S12 (telephone) location game character list	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 22:23
S14	0	(2004/0046655).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
S15	1	("20040046655").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
S16	2411	location with game same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S17	2411	(location with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19

S18	261	(location with based with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S19	2343	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:34
S20	861	(artificial with intelligence) ((location or gps) with game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/26 18:47
S21	49	(artificial with intelligence) same ((location or gps) with game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/26 18:48
S22	1	("20040058732").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/01/27 10:31
S23	2650	location with based with games	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:32
S24	114	location adj based adj game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:33
S25	13	S24 artificial intelligence	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:33
S26	50	(artificial with intelligence) (mobile adj gaming)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:35
S27	2637	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/01/27 21:00
S28	1	("20030224855").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/08/23 00:38

EAST Search History (Interference)

< This search history is empty>

8/ 23/ 2012 11:59:19 AM
C:\ Users\ akim1\ Documents\ EAST\ Workspaces\ 11461761_Mullen_GPSPhoneGame.wsp

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	**Art Unit**
	ANDREW KIM	3716

✓	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	09/29/2009	06/18/2010	03/25/2011	01/27/2012	08/23/2012				
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	30		✓	✓	✓	✓				
	31		✓	✓	✓	✓				
	32		✓	✓	✓	✓				
	33			✓	✓	✓				
	34			✓	✓	✓				

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 102(b) as being anticipated by Tochner U.S. Patent Publicaiton No. 2002/0090985 (hereinafter "Tochner").

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner.

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant has amended claims 19 and 22 without prejudice and solely in order to expedite prosecution.

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 102(b) as being anticipated by Tochner.

Claim 19

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Applicant has amended claim 19 without prejudice and solely in order to expedite prosecution. Applicant's invention of claim 19 includes an additional manual control that is operable to cause said video game character to perform an action. Tochner does not show or suggest such a feature.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. Particularly, Applicant's invention of claim 22 includes an additional manual control that is operable to cause said video game character to perform an action. Tochner does not show or suggest such a feature.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner.

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

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Response To Official Notice Rejections

The Examiner appears to reject at least some dependent claims based off Official Notice. For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of instant and unquestionable demonstration as being well known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant's claims, then applicant's claims are patentable.

In light of the foregoing, applicant respectfully requests that the Examiner's single reference 103(a) rejections be withdrawn.

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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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/
Jeffrey D. Mullen
Applicant (Reg. No. 52,056)
Customer No. 32733
1310 Riverfront Drive
Pittsburgh, PA 15238
Mobile: (914) 837-7741

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

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:				
Extension - 3 months with $0 paid	2253	1	700	700

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
			Total in USD ($)	**700**

Electronic Acknowledgement Receipt

EFS ID:	15440203
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	05-APR-2013
Filing Date:	01-AUG-2006
Time Stamp:	03:06:52
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$700
RAM confirmation Number	6874
Deposit Account	503855
Authorized User	MULLEN, JEFFREY D.

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		JDM-005C2.pdf	171899 cc0a45dbe01b28317d07ddfb35314c592650b684	yes	9

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	5
	Applicant Arguments/Remarks Made in an Amendment	6	9

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	30412 a9d06283051e4f86c0269655d601b90a81848415	no	2

Warnings:

Information:

Total Files Size (in bytes):	202311

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.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (currently amended) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, control signals are utilized to control a video game character in said video game, an additional manual control that is operable to cause said video game character to perform an action, said video game character is displayed on said display, a second video game character that is controlled via artificial intelligence, and is not controlled by manual-input, is displayed on said display, and said control signals are provided by said locating device.

20. (previously presented) The system of claim 19, wherein said locating device is a positioning device.

21. (previously presented) The system of claim 19, wherein said locating device is a movement measurement device.

22. (currently amended) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said

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first wireless telephone, first control signals are utilized to control a first video game character in said video game, an additional manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input ~~manual-input,~~.

23. (previously presented) The system of claim 22, wherein said first locating device is a positioning device.

24. (previously presented) The system of claim 22, wherein said first locating device is a movement measurement device.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes plurality of manual input controls.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15238
April 5, 2013

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated October 5, 2012. A three-month extension of time is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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

AMENDMENT **04/05/2013**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) 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
/BRENDA TURNER/

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.

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

✓	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	09/29/2009	06/18/2010	03/25/2011	01/27/2012	08/23/2012	04/25/2013			
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	29		✓	✓	✓	✓	✓			
	30		✓	✓	✓	✓	✓			
	31		✓	✓	✓	✓	✓			
	32		✓	✓	✓	✓	✓			
	33			✓	✓	✓	✓			
	34			✓	✓	✓	✓			

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	4/25/2013	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	4/25/2013	AK

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

Notice of References Cited	Application/Control No. 11/461,761	Applicant(s)/Patent Under Reexamination MULLEN, JEFFREY D	
	Examiner ANDREW KIM	Art Unit 3716	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,961,055	11-2005	Doak et al.	345/419
	B	US-			
	C	US-			
	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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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 05/08/2013

JEFFREY D. MULLEN
1310 Riverfront Drive
PITTSBURGH, PA 15238

EXAMINER	
KIM, ANDREW	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
05/08/2013	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.	Applicant(s)	
	11/461,761	MULLEN, JEFFREY D	
	Examiner	Art Unit	
	ANDREW KIM	3716	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 April 2013*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 August 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

In response to the amendment filed 4/5/13 in which claims 19-34 are pending.

Claim Rejections - 35 USC § 112

1) The following is a quotation of 35 U.S.C. 112(b):

(B) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2) Claims 19-34 are 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. Claims 19 and 22 recite the limitation "additional" in the wireless telephone. There is insufficient antecedent basis for this limitation in the claim. The claims do not cite an "original" or a “first” manual control and therefore the limitation "additional" has insufficient antecedent basis. Moreover, the order of the limitations is confusing and makes it difficult to ascertain the scope of the invention. For example, the claims recite control signals several lines prior to the object providing the control signals. Moreover, it is unclear whether the additional manual control refers to the control signals because the two limitations seem to perform the same function (control a video game character) but the control signals do not recite that the control is manual.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 19-24, 27-29, and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0090985 A1 to Tochner et al. in view of US Pub No. 2001/0048425 to Partridge.

Claim 19. Tochner discloses a system comprising:

a wireless telephone (paragraphs [0025, 0052]) having a locating device (paragraph [0051]) and a display (fig. 8, paragraph [0077]), wherein a video game is played on said wireless telephone (paragraphs [0051, 0052, 0077]), control signals are utilized to control a video game character in

said video game, when a real character plays out a scavenger hunt in the real world, it influences the movements of the game character wherein the manual control is using the mobile device with a different method of location tracking which controls the video game character to perform actions), said video game character is displayed on said display (fig. 8, paragraph [0077]), a second video game character is controlled via artificial intelligence and is not controlled by manual-input (paragraph [0031, 0051, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence) and said control signals are provided by said locating device (paragraph [0052]).

Tochner substantially discloses the invention as claimed but fails to explicitly teach an additional manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low.

Claim 20. Tochner discloses wherein said locating device is a positioning device (paragraph [0055]).

Claim 21. Tochner discloses wherein said locating device is a movement measurement device (paragraph [0055]).

Claim 22. Tochner discloses a first wireless telephone (paragraphs [0025, 0052]) having a first locating device (paragraph [0051]), wherein a video game is played on said first wireless telephone (paragraphs [0051, 0052]), first control signals are utilized to control a first video game character in said video game, and said first control signals are provided by said first locating device (paragraph [0052]); and

a second wireless device having a second locating device and a display (fig. 8, paragraph [0077]), wherein second control signals are utilized to control a second video game character in said video game (paragraph [0065]), said first video game character and said second video game character is displayed on said display (paragraphs [0031, 0077, 0079]) and said second control signals are provided by said second locating device (paragraph [0052]), and a third video game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input (fig. 4b, paragraph [0051, 0067, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence).

Tochner substantially discloses the invention as claimed but fails to explicitly teach an additional manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low.

Claim 23. Tochner discloses wherein said locating device is a positioning device (paragraph [0055]).

Claim 24. Tochner discloses wherein said locating device is a movement measurement device (paragraph [0055]).

Claim 27. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

Claim 28. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

Claim 29. Tochner discloses a third video game character (fig. 4b, paragraph [0067, 0068], dragon).

Claim 31. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

Claim 32. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

Claims 33 and 34. Tochner discloses wherein said wireless telephone includes a plurality of manual input controls (paragraphs [0055, 0065, 0084]).

Claims 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0090985 A1 to Tochner et al. in view of US Pub No. 2001/0048425 to Partridge and further in view of US Patent No. 6,961,055 B2 to Doak et al. This new grounds of rejection was necessitated by applicant's request for documentary proof of official notice.

Claim 25. Tochner substantially discloses the invention as claimed but fails to explicitly teach that a fourth video game character is controlled via artificial intelligence. Instead, Tochner discloses mobile gaming devices with displays that may communicate via RF, WAP, Bluetooth and teaches a dragon that is computer controlled (fig. 1a, item 22, paragraph [0051]) but not a fourth video game character. However in an analogous reference Doak teaches multiple NPC's or non-player characters to raise the difficulty of the game which increases player appeal (Doak, col. 12, lines 55-64). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a fourth game character that is controlled via artificial intelligence to interact with the player (increase difficulty) and increase player appeal. This new grounds of rejection was necessitated by applicant's request for documentary proof of official notice.

Claims 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0090985 A1 to Tochner et al. in view of US Pub No. 2001/0048425 to Partridge and further in view of US Pub. No. 2002/0082082 A1 to Stamper et al.

3. Claims 26 and 30. Tochner substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person'' face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]). One of ordinary skill in the art at the time of the invention would have found it obvious to modify Tochner with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

1. Applicant's arguments with respect to claims 19-34 have been considered but are not persuasive.

2. Regarding the argument that Tochner does not disclose an additional manual control, refer to the new grounds of rejection in view of Tochner and Partridge. Regarding the Official Notice remarks, refer to the new grounds of rejection above wherein Tochner in view of Doak (which teaches multiple NPCs) is used for claim 25.

Conclusion

3) **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 ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. 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.

5/7/2013 /A. K./
Examiner, Art Unit 3716

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3716

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	3141	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/04/25 14:40
S1	3	"461761".ap.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S2	65	mullen.in. location.ti.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S3	2174	gps same (telephon$3 or phon$3) same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S4	22	"6287200"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S5	1907	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/29 11:24
S6	1	("20030062675").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 15:38
S7	31	("5434904" | "5738583" | "5797085" | "6111541").PN. OR ("6287200").URPN.	US-PGPUB; USPAT; USOCR	AND	ON	2010/06/18 17:02
S8	2	(("20090029717") or ("20020115453")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:03
S9	1	("6885874").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:04
S10	453	character with list same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
S11	218	character with list same game same select$3	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30

S12	2117	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 22:22
S13	134	S12 (telephone) location game character list	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 22:23
S14	0	(2004/0046655).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
S15	1	("20040046655").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
S16	2411	location with game same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S17	2411	(location with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S18	261	(location with based with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S19	2343	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:34
S20	861	(artificial with intelligence) ((location or gps) with game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/26 18:47
S21	49	(artificial with intelligence) same ((location or gps) with game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/26 18:48
S22	1	("20040058732").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/01/27 10:31
S23	2650	location with based with games	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:32
S24	114	location adj based adj game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:33
S25	13	S24 artificial intelligence	US-PGPUB; USPAT; USOCR; EPO; JPO;	AND	ON	2012/01/27 10:33

			DERWENT			
S26	50	(artificial with intelligence) (mobile adj gaming)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:35
S27	2637	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/01/27 21:00
S28	1	("20030224855").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/08/23 00:38
S29	2849	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/08/23 11:59
S30	1	("20020090985").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/08/24 11:17
S31	92	(second or multiple) with npc "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/09/18 10:45
S32	82	game with character with artificial with intelligence "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/09/18 10:48
S33	4	game with character with artificial with intelligence "463".clas. characters with artificial same (difficulty or interact$4 or story) "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	OFF	2012/09/20 08:13
S34	29	characters with artificial same (difficulty or interact$4 or story) "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	OFF	2012/09/20 08:16
S35	281	characters same artificial same (difficulty or interact$4 or story)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	OFF	2012/09/20 08:16
S36	82	characters with artificial same (difficulty or interact$4 or story)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	OFF	2012/09/20 08:17
S37	281	characters same artificial same (difficulty or interact$4 or story)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	OFF	2012/09/20 08:35
S38	47	(select or choose) same character same male same female same3 game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/09/20 09:01
S39	5102	(select or choose) same male same	US-PGPUB;	AND	ON	2012/09/20

		female	USPAT; USOCR; EPO; JPO; DERWENT			09:07
S40	78	(select or choose) same male same female "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/09/20 09:07

4/ 25/ 2013 2:40:46 PM
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PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 11/461,761	Filing Date 08/01/2006	☐ 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	11/08/2013	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $40 =	0
	Independent (37 CFR 1.16(h))	* 2	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.

LIE
/LYNNELL JOHNSON/

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15238
November 8, 2013

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated October 5, 2012. A three-month extension of time is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

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:				
Extension - 3 months with $0 paid	2253	1	700	700

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
RCE - 2nd and Subsequent Request	2820	1	850	850
		Total in USD ($)		**1550**

Electronic Acknowledgement Receipt

EFS ID:	17346462
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	08-NOV-2013
Filing Date:	01-AUG-2006
Time Stamp:	01:20:58
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$1550
RAM confirmation Number	6861
Deposit Account	503855
Authorized User	MULLEN, JEFFREY D.

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)

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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		JDM-005C2--Reply.pdf	173960 6033c97ac3ccb102926acd297bb042712a8f48e5	yes	9

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment Submitted/Entered with Filing of CPA/RCE	1	1
	Claims	2	5
	Applicant Arguments/Remarks Made in an Amendment	6	9

Warnings:					
Information:					
2	Request for Continued Examination (RCE)	JDM-005C2--RCE.pdf	697795 ee27ce47b5990628765f079cbdaa5ee99402759a	no	3
Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	32309 03efc890bb6a526bd4d5526a743414fac2e86328	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	904064		

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.

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-34 under 35 U.S.C. 112(b) or 35 U.S.C. 112, second paragraph.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by Tochner U.S. Patent Publication No. 2002/0090985 (hereinafter "Tochner") in view of Partridge U.S. Publication No. 2001/0048425 (hereinafter "Partridge").

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and further in view of Doak U.S. Patent No. 6,961,055 (hereinafter "Doak").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant has amended claims 19, 22, 27, 31, and 34 without prejudice and solely in order to expedite prosecution.

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the
Rejections Under 35 U.S.C. 112(b) or 112, second paragraph

The Examiner rejected claims 19-34 under 35 U.S.C. 112(b) or 35 U.S.C. 112, second paragraph.

The inclusion of the word "additional" is not improper. However, solely to expedite prosecution, applicant has amended claim claims 19 and 22 to include "a manual control." The control signals of claims 19 and 22 are provided by a locating device. The manual control of claims 19 and 22 cause a video game character to perform an action.

In light of the foregoing, applicant respectfully requests that the rejections to claims 19-34 be withdrawn.

Applicant's Response to the
Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by Tochner in view of Partridge.

Claim 19

The Examiner stated:

> "Tochner fails to … teach an additional manual control that is operable to cause said video game character to perform an action…
> However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games because it would be easy to use, take up a small surface area, and keep costs low." (Office Action, page 4)

Tochner directly teaches away from Partridge. By not including a manual control in Tochner, Tochner is allegedly easier to use than Partridge, takes up a smaller surface area than Partridge, and keeps costs lower than Partridge." Accordingly, the Examiner's reasons for combining the two references only serves as reasons why the

two references cannot be combined, teach directly away from one another, and would eviscerate the spirit of the individual devices if combined.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge. The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

Response To Official Notice Rejections

The Examiner appears to reject at least some dependent claims based off Official Notice. For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of

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instant and unquestionable demonstration as being well known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant's claims, then applicant's claims are patentable.

In light of the foregoing, applicant respectfully requests that the Examiner's single reference 103(a) 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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

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Mobile: (914) 837-7741

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PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☐ Patent Practitioner Signature

☒ Applicant Signature

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
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Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2013-11-08
Name	Jeffrey D. Mullen		
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 t
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
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will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo
reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce,
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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (currently amended) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, first control signals are utilized, at least in part, to control a video game character in said video game, ~~an additional~~ a manual control ~~that is~~ operable to cause said video game character to perform an action, said video game character is displayed on said display, a second video game character that is controlled via artificial intelligence, and is not controlled by manual-input, is displayed on said display, and said first control signals are provided by said locating device.

20. (previously presented) The system of claim 19, wherein said locating device is a positioning device.

21. (previously presented) The system of claim 19, wherein said locating device is a movement measurement device.

22. (currently amended) A system comprising:

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a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, ~~an additional~~ a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, wherein said first locating device is a positioning device.

24. (previously presented) The system of claim 22, wherein said first locating device is a movement measurement device.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (currently amended) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (currently amended) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (currently amended) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 12/02/2013

JEFFREY D. MULLEN
1310 Riverfront Drive
PITTSBURGH, PA 15238

EXAMINER	
KIM, ANDREW	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
12/02/2013	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. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner ANDREW KIM	Art Unit 3716	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* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11/8/13*.

☐ 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) *19-34* 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) *19-34* 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 _____ 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/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

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DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/8/13 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 19-24, 27-29, and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0090985 A1 to Tochner et al. in view of US Pub No. 2001/0048425 to Partridge.

Claim 19. Tochner discloses a system comprising:

a wireless telephone (paragraphs [0025, 0052]) having a locating device (paragraph [0051]) and a display (fig. 8, paragraph [0077]),

wherein a video game is played on said wireless telephone (paragraphs [0051, 0052, 0077]), first control signals are utilized, at least in part, to control a video game character in said video game, (when a real character plays out a scavenger hunt in the real world, it influences the movements of the game character wherein the manual control is using the mobile device with a different method of location tracking which controls the video game character to perform actions),

said video game character is displayed on said display (fig. 8, paragraph [0077]), a second video game character is controlled via artificial intelligence and is not controlled by manual-input (paragraph [0031, 0051, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence) and said first control signals are provided by said locating device (paragraph [0052]).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low.

Claim 20. Tochner discloses wherein said locating device is a positioning device (paragraph [0055]).

Claim 21. Tochner discloses wherein said locating device is a movement measurement device (paragraph [0055]).

Claim 22. Tochner discloses a first wireless telephone (paragraphs [0025, 0052]) having a first locating device (paragraph [0051]), wherein a video game is played on said first wireless telephone (paragraphs [0051, 0052]), first control signals are utilized to control a first video game character in said video game, and said first control signals are provided by said first locating device (paragraph [0052]); and

a second wireless device having a second locating device and a display (fig. 8, paragraph [0077]), wherein second control signals are utilized to control a second video game character in said video game (paragraph [0065]), said first video game character and said second video game

character is displayed on said display (paragraphs [0031, 0077, 0079]) and said second control signals are provided by said second locating device (paragraph [0052]), and a third video game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input (fig. 4b, paragraph [0051, 0067, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low.

Claim 23. Tochner discloses wherein said locating device is a positioning device (paragraph [0055]).

Claim 24. Tochner discloses wherein said locating device is a movement measurement device (paragraph [0055]).

Claim 27. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

Claim 28. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

Claim 29. Tochner discloses a third video game character (fig. 4b, paragraph [0067, 0068], dragon).

Claim 31. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

Claim 32. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

Claims 33 and 34. Tochner discloses wherein said wireless telephone includes a plurality of manual input controls (paragraphs [0055, 0065, 0084]).

Claims 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0090985 A1 to Tochner et al. in view of US Pub No. 2001/0048425 to Partridge and further in view of US Patent No. 6,961,055 B2 to Doak et al.

Claim 25. Tochner substantially discloses the invention as claimed but fails to explicitly teach that a fourth video game character is controlled via artificial intelligence. Instead, Tochner discloses mobile gaming devices with displays that may communicate via RF, WAP, Bluetooth

and teaches a dragon that is computer controlled (fig. 1a, item 22, paragraph [0051]) but not a fourth video game character. However in an analogous reference Doak teaches multiple NPC's or non-player characters to raise the difficulty of the game which increases player appeal (Doak, col. 12, lines 55-64). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a fourth game character that is controlled via artificial intelligence to interact with the player (increase difficulty) and increase player appeal. This new grounds of rejection was necessitated by applicant's request for documentary proof of official notice.

Claims 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0090985 A1 to Tochner et al. in view of US Pub No. 2001/0048425 to Partridge and further in view of US Pub. No. 2002/0082082 A1 to Stamper et al.

3. Claims 26 and 30. Tochner substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person'' face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]). One of ordinary skill in the art at the time of the invention would have found it obvious to modify Tochner with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that

were selected and imported by the individual (Stamper, paragraph [0010]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

1. Applicant's arguments with respect to claims 19-34 have been considered but are not persuasive.

In response to applicant's argument that Tochner teaches away from Partridge, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Partridge suggests using a directional pad for mobile gaming while Tochner seems to remain silent as to the configuration of the mobile device. Therefore Partridge does not teach away from Tochner.

Regarding the official notice remarks, official notice is not used in the office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW KIM whose telephone number is (571)272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. 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.

11/29/2013 /A. K./
Examiner, Art Unit 3716

/DMITRY SUHOL/
Supervisory Patent Examiner, Art Unit 3716

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	AK

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

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	3382	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/11/27 11:40
L2	0	(A63F2300/8082).IPCR.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/11/27 11:40
L3	0	A63F 2300/8082	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2013/11/27 11:40
S1	3	"461761".ap.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S2	65	mullen.in. location.ti.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:04
S3	2174	gps same (telephon$3 or phon$3) same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S4	22	"6287200"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2009/09/29 03:06
S5	1907	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/29 11:24
S6	1	("20030062675").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 15:38
S7	31	("5434904" | "5738583" | "5797085" | "6111541").PN. OR ("6287200").URPN.	US-PGPUB; USPAT; USOCR	AND	ON	2010/06/18 17:02
S8	2	(("20090029717") or ("20020115453")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:03
S9	1	("6885874").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 17:04
S10	453	character with list same game	US-PGPUB; USPAT;	AND	ON	2010/06/18 19:30

			USOCR; EPO; JPO; DERWENT			
S11	218	character with list same game same select$3	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 19:30
S12	2117	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2010/06/18 22:22
S13	134	S12 (telephone) location game character list	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2010/06/18 22:23
S14	0	(2004/0046655).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
S15	1	("20040046655").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:10
S16	2411	location with game same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S17	2411	(location with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S18	261	(location with based with game) same (phone or telephone)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2011/03/25 03:19
S19	2343	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/03/25 03:34
S20	861	(artificial with intelligence) ((location or gps) with game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/26 18:47
S21	49	(artificial with intelligence) same ((location or gps) with game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/26 18:48
S22	1	("20040058732").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/01/27 10:31
S23	2650	location with based with games	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:32
S24	114	location adj based adj game	US-PGPUB;	AND	ON	2012/01/27

			USPAT; USOCR; EPO; JPO; DERWENT			10:33
S25	13	S24 artificial intelligence	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:33
S26	50	(artificial with intelligence) (mobile adj gaming)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/01/27 10:35
S27	2637	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/01/27 21:00
S28	1	("20030224855").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/08/23 00:38
S29	2849	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/08/23 11:59
S30	1	("20020090985").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/08/24 11:17
S31	92	(second or multiple) with npc "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/09/18 10:45
S32	82	game with character with artificial with intelligence "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/09/18 10:48
S33	4	game with character with artificial with intelligence "463".clas. characters with artificial same (difficulty or interact$4 or story) "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	OFF	2012/09/20 08:13
S34	29	characters with artificial same (difficulty or interact$4 or story) "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	OFF	2012/09/20 08:16
S35	281	characters same artificial same (difficulty or interact$4 or story)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	OFF	2012/09/20 08:16
S36	82	characters with artificial same (difficulty or interact$4 or story)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	OFF	2012/09/20 08:17
S37	281	characters same artificial same (difficulty or interact$4 or story)	US-PGPUB; USPAT; USOCR; EPO;	AND	OFF	2012/09/20 08:35

			JPO; DERWENT			
S38	47	(select or choose) same character same male same female same3 game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/09/20 09:01
S39	5102	(select or choose) same male same female	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/09/20 09:07
S40	78	(select or choose) same male same female "463".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2012/09/20 09:07
S41	3141	(463/1,7,40).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/04/25 14:40
S42	2950	keyboard same phone same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2013/04/26 11:39
S43	2969	keyboard same phone same game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2013/05/03 13:14
S44	1294	keyboard with phone with game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	AND	ON	2013/05/03 13:14
S45	1	("20010048425").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/05/03 13:34

11/27/2013 11:41:31 AM
C:\Users\akim1\Documents\EAST\Workspaces\11461761_Mullen_GPSPhoneGame.wsp

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15238
June 2, 2014

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated December 2, 2013. A three-month extension of time is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Electronic Acknowledgement Receipt

EFS ID:	19186226
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	02-JUN-2014
Filing Date:	01-AUG-2006
Time Stamp:	15:56:58
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$700
RAM confirmation Number	2489
Deposit Account	503855
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		JDM-005C2--Reply.pdf	174509 aec608c0ac6af7fe4d386eda962809e32df65d77	yes	9

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	5
	Applicant Arguments/Remarks Made in an Amendment	6	9

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	30412 f7bb49ec1659b95b7d0fc40b6df7ce567449f507	no	2

Warnings:

Information:

Total Files Size (in bytes):	204921

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.

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by Tochner U.S. Patent Publication No. 2002/0090985 (hereinafter "Tochner") in view of Partridge U.S. Publication No. 2001/0048425 (hereinafter "Partridge").

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and further in view of Doak U.S. Patent No. 6,961,055 (hereinafter "Doak").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant has amended claims 19, 20, 21, 22, 23, and 24 without prejudice and solely in order to expedite prosecution.

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the
Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge.

Claim 19

The Examiner stated:

> "Tochner fails to … teach an additional manual control that is operable to cause said video game character to perform an action…
> However … Partridge teaches a twelve-directional pad."
> (Office Action, page 4)

Tochner himself, however, directly states that input stroke keys and key-like switches are not a part of Tochner's configuration. More Particularly,

> "It differs from the present invention in that … the inputs are through key-like switches."
> (Tochner, paragraph 34).

> "It differs from the present invention in that the sensors act regular input stroke keys directly inputting electronic signals into a CPU running a software program." (Tochner, paragraph 34)

> "It differs from the present invention in that the input of information into the virtual world is by direct, correlated means."

Accordingly, Tochner directly states that key switches and input strokes are not to be included Tochner. Tochner himself prohibits the combination. Partridge cannot be combined with Tochner.

Additionally, solely to expedite prosecution and without prejudice, applicant has amended claim 19 to include a locating device that includes an accelerometer.

Neither Tochner nor Partridge, used either alone or in combination, show or suggest such a feature.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge. The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

Response To Official Notice Rejections

The Examiner appears to reject at least some dependent claims based off Official Notice. For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of instant and unquestionable demonstration as being well

known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant's claims, then applicant's claims are patentable.

In light of the foregoing, applicant respectfully requests that the Examiner's single reference 103(a) 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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

Jeffrey D. Mullen
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Mobile: (914) 837-7741

Meta Exhibit 1004
Meta v. Mullen - Page 00293

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

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:				
Extension - 3 months with $0 paid	2253	1	700	700

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
			Total in USD ($)	**700**

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (currently amended) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, first control signals are utilized, at least in part, to control a video game character in said video game, a manual control operable to cause said video game character to perform an action, said video game character is displayed on said display, a second video game character that is controlled via artificial intelligence, and is not controlled by manual-input, is displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (currently amended) The system of claim 19, wherein further comprising a second ~~said~~ locating device that includes ~~is~~ a positioning device.

21. (currently amended) The system of claim 19, ~~wherein said locating~~ further comprising a directional device for determining direction ~~is a movement measurement device~~.

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22. (currently amended) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (currently amended) The system of claim 22, ~~wherein said first~~ further comprising a second locating device that includes ~~is~~ a positioning device.

24. (currently amended) The system of claim 22, ~~wherein said first locating~~ further comprising a directional device for determining direction ~~is a movement measurement device~~.

25. (previously amended) The system of claim 22, further comprising a fourth video game character, wherein

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said fourth video game character is controlled via artificial intelligence.

26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

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33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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Meta v. Mullen - Page 00299

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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

AMENDMENT **06/02/2014**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) 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
/MAMYE WAGSTAFF/

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.

Notice of References Cited	Application/Control No. 11/461,761	Applicant(s)/Patent Under Reexamination MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,850,844 B1	02-2005	Walters et al.	701/410
	B	US-			
	C	US-			
	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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Meta v. Mullen - Page 00301

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 07/18/2014

JEFFREY D. MULLEN
1310 Riverfront Drive
PITTSBURGH, PA 15238

EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
07/18/2014	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. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	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 *6/2/14*.

☐ 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) *19-34* 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) *19-34* 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 _____ 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: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. 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 negatived by the manner in which the invention was made.

2. Claims 19-24, 27-29, and 31-34 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner et al (US 2002/0090985 A1) in view of Partridge (US 2001/0048425) and Walters et al (US 6,850,844 B1).

3. Re claim 19, Tochner discloses a system comprising:

a wireless telephone (paragraphs [0025, 0052]) having a locating device (paragraph [0051]) and a display (fig. 8, paragraph [0077]),

wherein a video game is played on said wireless telephone (paragraphs [0051, 0052, 0077]), first control signals are utilized, at least in part, to control a video game character in said video game, (when a real character plays out a scavenger hunt in the real world, it influences the movements of the game character wherein the manual control is using the mobile device with a different method of location tracking which controls the video game character to perform actions),

said video game character is displayed on said display (fig. 8, paragraph [0077]), a second video game character is controlled via artificial intelligence and is not controlled by manual-input (paragraph [0031, 0051, 0068], inherently if the player is

under attack or wounded by the dragon, the dragon is controlled via artificial intelligence) and said first control signals are provided by said locating device (paragraph [0052]).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]).

Finally, Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low. It further would have been obvious to incorporate the use of additional sensors such as an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as a wireless telephone.

4. Re claim 20, Tochner discloses a locating device being a positioning device (par. [0055]).

5. Re claim 21, Tochner has disclosed a movement measurement device, but does not disclose a directional device for determining direction. Walters teaches such (fig. 4B, 490). It would have been obvious to incorporate a compass in a wireless telephone in order to allow software to know the orientation and direction of the device.

6. Re claim 22, Tochner discloses a first wireless telephone (paragraphs [0025, 0052]) having a first locating device (paragraph [0051]), wherein a video game is played on said first wireless telephone (paragraphs [0051, 0052]), first control signals are utilized to control a first video game character in said video game, and said first control signals are provided by said first locating device (paragraph [0052]); and

a second wireless device having a second locating device and a display (fig. 8, paragraph [0077]), wherein second control signals are utilized to control a second video game character in said video game (paragraph [0065]), said first video game character and said second video game character is displayed on said display (paragraphs [0031, 0077, 0079]) and said second control signals are provided by said second locating device (paragraph [0052]), and a third video game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input (fig. 4b, paragraph [0051, 0067, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003,

0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]).

Finally, Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low. It further would have been obvious to incorporate the use of additional sensors such as an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as a wireless telephone.

7. Re claims 23 and 24, see the rejection to claims 20 and 21.

8. Re claim 27, Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

9. Re claim 28. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

10. Re claim 29. Tochner discloses a third video game character (fig. 4b, paragraph [0067, 0068], dragon).

11. Re claim 31. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

12. Re claim 32. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

13. Re claims 33 and 34. Tochner discloses wherein said wireless telephone includes a plurality of manual input controls (paragraphs [0055, 0065, 0084]).

14. Claim 25 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and Walters as applied to claim 22 above, in further view of Doak et al (US 6,961,055 B2).

15. Tochner substantially discloses the invention as claimed but fails to explicitly teach that a fourth video game character is controlled via artificial intelligence. Instead, Tochner discloses mobile gaming devices with displays that may communicate via RF, WAP, Bluetooth and teaches a dragon that is computer controlled (fig. 1a, item 22, paragraph [0051]) but not a fourth video game character. However in an analogous reference Doak teaches multiple NPC's or non-player characters to raise the difficulty of the game which increases player appeal (Doak, col. 12, lines 55-64). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a fourth game character that is controlled via artificial intelligence to interact with the player (increase difficulty) and increase player appeal.

16. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and Walters as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

17. Re claims 26 and 30, Tochner substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person" face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify Tochner with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

18. Applicant's arguments with respect to the claims have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Conclusion

19. Due to Examiner Andrew Kim having left the office, Examiner Kevin Y Kim is now examining the application. With a change in examiners comes a change in the interpretation of claims, prior art, and arguments, and as such, the examiner invites applicant to contact Examiner Kim in case any confusion or disagreement arises in order to hasten the prosecution of the application.

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). 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 date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y. Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. 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.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK

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

	/KEVIN Y KIM/ Primary Examiner.Art Unit 3716

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	2	"20010048425".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:48
L2	2	"20020090985".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
L3	848699	(mobile or cell or cellular or hand) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
L4	2	(US-20010048425-$ or US-20020090985-$).did.	US-PGPUB	OR	ON	2014/07/15 12:50
L5	2	3 and 4	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
L6	0	accelerometer and 5	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
L7	8782	(accelerometer and (GPS or (global near2 position$3)) and compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
L8	5067	3 and 7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
L9	24	8 and 463/42.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:09
L10	29157454	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
L11	1	9 and 10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
L12	213	8 and 10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:18
L13	1	11/461761	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
L14	1	13 and 7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
L15	40157	3 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
L16	5453	10 and 15	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22

L17	26	16 and "463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
L18	0	17 and 7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
L19	62	16 and 7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
L20	866261	(mobile or cell or cellular or hand or wireless) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
L21	40845	20 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
L22	5616	10 and 21	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
L23	45540	"463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
L24	28	22 and 23	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
L25	0	24 and 7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
L26	62	22 and 7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:29

7/ 15/ 2014 3:06:29 PM
C:\ Users\ kkim4\ Documents\ EAST\ Workspaces\ 11461761.wsp

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
January 18, 2015

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated July 18, 2014. A three-month extension of time and a Request for Continued Examination is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (previously presented) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, first control signals are utilized, at least in part, to control a video game character in said video game, a manual control operable to cause said video game character to perform an action, said video game character is displayed on said display, a second video game character that is controlled via artificial intelligence, and is not controlled by manual-input, is displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

22. (previously presented) A system comprising:

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a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by Tochner U.S. Patent Publication No. 2002/0090985 (hereinafter "Tochner") in view of Partridge U.S. Publication No. 2001/0048425 (hereinafter "Partridge") and further in view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters").

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and Walters and further in view of Doak U.S. Patent No. 6,961,055 (hereinafter "Doak").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and in view of Walters and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

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Applicant's Response to the
Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and further in view of Walters.

Claim 19

The Examiner stated:

> "Tochner fails to … teach an additional manual control that is operable to cause said video game character to perform an action…
> However … Partridge teaches a twelve-directional pad."
> (Office Action, page 4)

Tochner himself, however, directly states that input stroke keys and key-like switches are not a part of Tochner's configuration. More Particularly,

> "It differs from the present invention in that … the inputs are through key-like switches."
> (Tochner, paragraph 34).

> "It differs from the present invention in that the sensors act regular input stroke keys directly inputting electronic signals into a CPU running a software program." (Tochner, paragraph 34)

> "It differs from the present invention in that the input of information into the virtual world is by direct, correlated means."

Accordingly, Tochner directly states that key switches and input strokes are not to be included Tochner. Tochner himself prohibits the combination. Partridge cannot be combined with Tochner.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

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The Examiner also stated:

> "Finally, Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device … similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer…."
> (Office Action, page 3)

Walters, however, merely suggests dead reckoning when triangulation is interrupted. Walters is silent on a video game and, as such, any integration or configuration to the same. Accordingly, Walters directly teaches away from Tochner. They are far removed from one another. Similarly, Tochner directly teaches away from, and is inoperable to be combined with, Walters as Tochner is silent on what would occur if Tochner's system is interrupted. Tochner's system may be silent on, for example, waiting until the interruption stops. Accordingly, Tochner and Walters cannot be combined as it would eviscerate the spirit of the Tochner device. The Examiner cannot pick unrelated portions of unrelated devices and stich them together, in hindsight, to create a new device neither shown nor suggested by the individual devices.

Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

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Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and Walters and Doak. The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and Walters and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

Response To Official Notice Rejections

The Examiner appears to reject at least some dependent claims based off Official Notice. For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of instant and unquestionable demonstration as being well known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet

that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant's claims, then applicant's claims are patentable.

In light of the foregoing, applicant respectfully requests that the Examiner's single reference 103(a) 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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

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

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
RCE- 2nd and Subsequent Request	2820	1	850	850
		Total in USD ($)		**1550**

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. 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	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☐ Patent Practitioner Signature

☒ Applicant Signature

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
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Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2015-01-18
Name	Jeffrey D. Mullen		
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 t 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 estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Tim will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo 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.

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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

Electronic Acknowledgement Receipt

EFS ID:	21239657
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	18-JAN-2015
Filing Date:	01-AUG-2006
Time Stamp:	23:55:00
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$1550
RAM confirmation Number	7572
Deposit Account	503855
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)	JDM-005CON2--RCE.pdf	697791 71b39270a9cfe0c6fc74a1ad79a40e1213be4ad9	no	3
Warnings:					
Information:					
2		JDM-005C2--Reply.pdf	176443 333fb96e30b7fe47f2cb4f50239d592b5b7bb331	yes	10

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment Submitted/Entered with Filing of CPA/RCE	1	1
	Claims	2	5
	Amendment/Req. Reconsideration-After Non-Final Reject	6	10

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	32579 4e2500af3066ca8b882ec63ffa34237327831b56	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	906813		

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.

PTO/SB/06 (09-11)
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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

AMENDMENT **01/18/2015**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) 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
/DORRETTA BROOKS/

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.

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK

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

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 01/30/2015

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
01/30/2015	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. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	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 *1/18/15*.

☐ 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) *19-34* 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) *19-34* 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 _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

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

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Claim Rejections - 35 USC § 103

2. 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 negatived by the manner in which the invention was made.

3. Claims 19-24, 27-29, and 31-34 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner et al (US 2002/0090985 A1) in view of Partridge (US 2001/0048425) and Walters et al (US 6,850,844 B1).

4. Re claim 19, Tochner discloses a system comprising:

a wireless telephone (paragraphs [0025, 0052]) having a locating device (paragraph [0051]) and a display (fig. 8, paragraph [0077]),

wherein a video game is played on said wireless telephone (paragraphs [0051, 0052, 0077]), first control signals are utilized, at least in part, to control a video game character in said video game, (when a real character plays out a scavenger hunt in the real world, it influences the movements of the game character wherein the manual control is using the mobile device with a different method of location tracking which controls the video game character to perform actions),

said video game character is displayed on said display (fig. 8, paragraph [0077]), a second video game character is controlled via artificial intelligence and is not controlled by manual-input (paragraph [0031, 0051, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence) and said first control signals are provided by said locating device (paragraph [0052]).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]).

Finally, Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low. It further would have been obvious to incorporate the use of additional sensors such as an accelerometer in

order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as a wireless telephone.

5. Re claim 20, Tochner discloses a locating device being a positioning device (par. [0055]).

6. Re claim 21, Tochner has disclosed a movement measurement device, but does not disclose a directional device for determining direction. Walters teaches such (fig. 4B, 490). It would have been obvious to incorporate a compass in a wireless telephone in order to allow software to know the orientation and direction of the device.

7. Re claim 22, Tochner discloses a first wireless telephone (paragraphs [0025, 0052]) having a first locating device (paragraph [0051]), wherein a video game is played on said first wireless telephone (paragraphs [0051, 0052]), first control signals are utilized to control a first video game character in said video game, and said first control signals are provided by said first locating device (paragraph [0052]); and

a second wireless device having a second locating device and a display (fig. 8, paragraph [0077]), wherein second control signals are utilized to control a second video game character in said video game (paragraph [0065]), said first video game character and said second video game character is displayed on said display (paragraphs [0031, 0077, 0079]) and said second control signals are provided by said second locating device (paragraph [0052]), and a third video game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input (fig. 4b, paragraph [0051, 0067, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]).

Finally, Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low. It further would have been obvious to incorporate the use of additional sensors such as an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as a wireless telephone.

8. Re claims 23 and 24, see the rejection to claims 20 and 21.

9. Re claim 27, Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

10. Re claim 28. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

11. Re claim 29. Tochner discloses a third video game character (fig. 4b, paragraph [0067, 0068], dragon).

12. Re claim 31. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

13. Re claim 32. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

14. Re claims 33 and 34. Tochner discloses wherein said wireless telephone includes a plurality of manual input controls (paragraphs [0055, 0065, 0084]).

15. Claim 25 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and Walters as applied to claim 22 above, in further view of Doak et al (US 6,961,055 B2).

16. Tochner substantially discloses the invention as claimed but fails to explicitly teach that a fourth video game character is controlled via artificial intelligence. Instead, Tochner discloses mobile gaming devices with displays that may communicate via RF, WAP, Bluetooth and teaches a dragon that is computer controlled (fig. 1a, item 22, paragraph [0051]) but not a fourth video game character. However in an analogous reference Doak teaches multiple NPC's or non-player characters to raise the difficulty of

the game which increases player appeal (Doak, col. 12, lines 55-64). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a fourth game character that is controlled via artificial intelligence to interact with the player (increase difficulty) and increase player appeal.

17. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and Walters as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

18. Re claims 26 and 30, Tochner substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person" face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify Tochner with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time

of the invention to modify Tochner with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

19. Applicant's arguments filed 1/18/15 have been fully considered but they are not persuasive. Regarding the arguments on p. 7 where applicant states that Tochner prohibits the combination, the examiner respectfully disagrees. While applicant has correctly noted that Tochner explicitly notes the differences between the invention and other prior art, there is never a statement that the combination is prohibited. Being different is not a statement of prohibition or exclusion. Therefore, while Tochner does not disclose the key-like switches and input strokes for the claim limitation of a manual control, Partridge teaches such, and would have been obvious to an artisan of ordinary skill at the time the invention was made to implement such manual controls in combination with the invention taught by Tochner in order to allow players to have a tactical control of the game, increasing player immersion and controllability.

With respect to arguments on p. 8, it is irrelevant that Walters does not teach a video game. Tochner has been cited and teaches a video game on a mobile device. Walters has been cited to teach that it would have been obvious to include an accelerometer in the mobile device being used to play the video game. It is obvious not only because it would add novel and interesting ways to control the game (e.g. via motion control), but also because due to the natural progression of technology and the

state of the art, while accelerometers in mobile devices were less common at the time of Tochner, by the time of Walters, mobile devices have been known to include accelerometers to enhance the functionality of the device.

Conclusion

20. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). 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 Kevin Y. Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. 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.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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

AMENDMENT **06/30/2015**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) 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
/LINDA A. WASHINGTON/

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.

PTO/SB/30EFS (10-08)
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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☐ Patent Practitioner Signature

☒ Applicant Signature

PTO/SB/30EFS (10-08)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2015-06-30
Name	Jeffrey D. Mullen		
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 t 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 estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Tim will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo 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.

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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

Electronic Acknowledgement Receipt

EFS ID:	22795911
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	30-JUN-2015
Filing Date:	01-AUG-2006
Time Stamp:	23:17:45
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$1150
RAM confirmation Number	9583
Deposit Account	503855
Authorized User	MULLEN, JEFFREY D.

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)	JDM-005CON2--RCE.pdf	697792 6d9be08114f7c7bed247304e5e2c08697d9d0c73	no	3
Warnings:					
Information:					
2		JDM-005C2--Reply.pdf	180736 bb7755a34b32a13ea5cbdf0d80b0b0fa89c9857e	yes	12

Multipart Description/PDF files in .zip description

Document Description	Start	End
Amendment Submitted/Entered with Filing of CPA/RCE	1	1
Claims	2	5
Applicant Arguments/Remarks Made in an Amendment	6	12

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	32579 c1bb92e2e5e4a19a2f8f84041951c2c6e09d7b1d	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	911107	

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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.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (previously presented) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, first control signals are utilized, at least in part, to control a video game character in said video game, a manual control operable to cause said video game character to perform an action, said video game character is displayed on said display, a second video game character that is controlled via artificial intelligence, and is not controlled by manual-input, is displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

22. (previously presented) A system comprising:

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a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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JDM/005 CON2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
June 30, 2015

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated January 30, 2016. A two-month extension of time and a Request for Continued Examination is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 2 months with $0 paid	2252	1	300	300
Miscellaneous:				
RCE- 2nd and Subsequent Request	2820	1	850	850
		Total in USD ($)		**1150**

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by Tochner U.S. Patent Publication No. 2002/0090985 (hereinafter "Tochner") in view of Partridge U.S. Publication No. 2001/0048425 (hereinafter "Partridge") and further in view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters").

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and Walters and further in view of Doak U.S. Patent No. 6,961,055 (hereinafter "Doak").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and in view of Walters and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the
Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and further in view of Walters.

Claim 19

The Examiner stated:

> "Tochner fails to … teach an additional manual control that is operable to cause said video game character to perform an action…
> However … Partridge teaches a twelve-directional pad."
> (Office Action, page 3)

Tochner himself, however, directly states that input stroke keys and key-like switches are not a part of Tochner's configuration. More Particularly,

> "It differs from the present invention in that … the inputs are through key-like switches."
> (Tochner, paragraph 34).

> "It differs from the present invention in that the sensors act regular input stroke keys directly inputting electronic signals into a CPU running a software program." (Tochner, paragraph 34)

> "It differs from the present invention in that the input of information into the virtual world is by direct, correlated means."

Accordingly, Tochner directly states that key switches and input strokes are not to be included Tochner. Tochner himself prohibits the combination. Partridge cannot be combined with Tochner.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

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The Examiner also stated:

> "Finally, Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device … similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer…."
> (Office Action, page 3)

Walters, however, merely suggests dead reckoning when triangulation is interrupted. Walters is silent on a video game and, as such, any integration or configuration to the same. Accordingly, Walters directly teaches away from Tochner. They are far removed from one another. Similarly, Tochner directly teaches away from, and is inoperable to be combined with, Walters as Tochner is silent on what would occur if Tochner's system is interrupted. Tochner's system may be silent on, for example, waiting until the interruption stops. Accordingly, Tochner and Walters cannot be combined as it would eviscerate the spirit of the Tochner device. The Examiner cannot pick unrelated portions of unrelated devices and stich them together, in hindsight, to create a new device neither shown nor suggested by the individual devices.

Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19.

The Examiner also stated:

> "applicant correctly noted that Tochner explicitly notes the differences between the invention and the other prior art, there is never a statement that the combination is prohibited"
> (Office Action, page 8)

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Applicant respectfully disagrees with the Examiner's statement that a reference has to include a statement prohibiting a combination. Furthermore, in this case, Tochner actually clearly discusses the difference between Tochner and other references as the absence of the element. Accordingly, the element cannot be added without eviscerating the spirit of the Tochner device.

Again, Tochner does not have to explicitly prohibit a combination to render the combination impermissible. As per one example, the addition of an element that would eviscerate the spirit of a reference has long been held to be an impermissible combination.

The Examiner also stated:

> "it is obvious not only because it would add novel and interesting ways to control the game … but also because do to the natural progression of technology and the state of the art, while accelerometers in mobile devices were less common at the time of Tochner, by the time of Walters, mobile devices have been known to include accelerometers." (Office Action, pages 8-9).

The reason for a combination cannot be "it would add novel and interesting ways." The Examiner cannot state applicant's feature is shown by a prior art reference because applicant's feature is interesting. That is a test for patentability. Applicant's feature is patentable for being novel and interesting - not prior art for being novel and interesting.

The Examiner's unconnected allegation that mobile devices include accelerometers is irrelevant to Tochner and applicant's features not shown nor suggested by Tochner. The Examiner cannot simple pick and choose unrelated

elements of unrelated references and stitch them together in hindsight to create a new, inoperable device neither shown nor suggested by the individual devices – especially under the statement that the reason for the combination is because applicant's feature is novel and interesting.

The Examiner appears to reject claim 19 based off Official Notice. The Examiner is using personal knowledge to make a rejection. For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of instant and unquestionable demonstration as being well known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant's claims, then applicant's claims are patentable.

As shown above, the Examiner continues to make an improper rejection without providing references that show each and every element as well as motivation to combine the references in an operable manner. Accordingly, applicant reserves the right to petition – at any time before or after prosecution – for Patent Term Adjustment or Patent Term Extension.

Moreover, as admitted by the Examiner, Tochner fails to disclose at least:

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"the locating device includes an accelerometer" (Office action, page 3)

"an additional manual control that is operable to cause said video game character to perform an action" (Office action, page 3)

Both the locating device and manual control – which the Examiner admits is not disclosed by Tochner – impact the video game character. Accordingly, the additional element of both elements having a relationship with the video game character is not present in any combination of any of the two references. Accordingly, the Examiner's rejection of Walters and Partridge actually not only eviscerates the spirit of Tochner, but also the spirit of Walters and Partridge.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and Walters and Doak. The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and Walters and further in view of Stamper.

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As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 08/10/2015

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EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
08/10/2015	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. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	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 *6/30/15*.

☐ 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) *19-32* 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) *19-32* 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 _____ 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: _____.

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DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/30/15 has been entered.

Claim Rejections - 35 USC § 103

3. 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 negatived by the manner in which the invention was made.

4. Claims 19-24, 27-29, and 31-34 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner et al (US 2002/0090985 A1) in view of Partridge (US 2001/0048425) and Walters et al (US 6,850,844 B1).

5. Re claim 19, Tochner discloses a system comprising:

a wireless telephone (paragraphs [0025, 0052]) having a locating device (paragraph [0051]) and a display (fig. 8, paragraph [0077]),

wherein a video game is played on said wireless telephone (paragraphs [0051, 0052, 0077]), first control signals are utilized, at least in part, to control a video game character in said video game, (when a real character plays out a scavenger hunt in the real world, it influences the movements of the game character wherein the manual control is using the mobile device with a different method of location tracking which controls the video game character to perform actions),

said video game character is displayed on said display (fig. 8, paragraph [0077]), a second video game character is controlled via artificial intelligence and is not controlled by manual-input (paragraph [0031, 0051, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence) and said first control signals are provided by said locating device (paragraph [0052]).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]).

Finally, Tochner does not disclose the locating device includes an accelerometer.

Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low. It further would have been obvious to incorporate the use of additional sensors such as an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as a wireless telephone.

6. Re claim 20, Tochner discloses a locating device being a positioning device (par. [0055]).

7. Re claim 21, Tochner has disclosed a movement measurement device, but does not disclose a directional device for determining direction. Walters teaches such (fig. 4B, 490). It would have been obvious to incorporate a compass in a wireless telephone in order to allow software to know the orientation and direction of the device.

8. Re claim 22, Tochner discloses a first wireless telephone (paragraphs [0025, 0052]) having a first locating device (paragraph [0051]), wherein a video game is played on said first wireless telephone (paragraphs [0051, 0052]), first control signals are utilized to control a first video game character in said video game, and said first control signals are provided by said first locating device (paragraph [0052]); and

a second wireless device having a second locating device and a display (fig. 8,

paragraph [0077]), wherein second control signals are utilized to control a second video game character in said video game (paragraph [0065]), said first video game character and said second video game character is displayed on said display (paragraphs [0031, 0077, 0079]) and said second control signals are provided by said second locating device (paragraph [0052]), and a third video game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input (fig. 4b, paragraph [0051, 0067, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]).

Finally, Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low. It further would have

been obvious to incorporate the use of additional sensors such as an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as a wireless telephone.

9. Re claims 23 and 24, see the rejection to claims 20 and 21.

10. Re claim 27, Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

11. Re claim 28. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

12. Re claim 29. Tochner discloses a third video game character (fig. 4b, paragraph [0067, 0068], dragon).

13. Re claim 31. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

14. Re claim 32. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

15. Re claims 33 and 34. Tochner discloses wherein said wireless telephone includes a plurality of manual input controls (paragraphs [0055, 0065, 0084]).

16. Claim 25 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and Walters as applied to claim 22 above, in further view of Doak et al (US 6,961,055 B2).

17. Tochner substantially discloses the invention as claimed but fails to explicitly teach that a fourth video game character is controlled via artificial intelligence. Instead, Tochner discloses mobile gaming devices with displays that may communicate via RF, WAP, Bluetooth and teaches a dragon that is computer controlled (fig. 1a, item 22, paragraph [0051]) but not a fourth video game character. However in an analogous reference Doak teaches multiple NPC's or non-player characters to raise the difficulty of the game which increases player appeal (Doak, col. 12, lines 55-64). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a fourth game character that is controlled via artificial intelligence to interact with the player (increase difficulty) and increase player appeal.

18. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and Walters as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

19. Re claims 26 and 30, Tochner substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person" face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify Tochner with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

20. Applicant's arguments filed 6/30/15 have been fully considered but they are not persuasive. Regarding the arguments on p. 7, the Examiner notes that the cited paragraph of Tochner is regarding prior art in the form of sensors attached to the user, an electronic toy with sensors on its body, a virtual creature in a toy, and a multi-user gaming platform with a rich, variable environment that allows a large variety of virtual characters. Nowhere does Tochner disclose that the invention disclosed cannot utilize physical inputs on a mobile telephone.

In response to applicant's argument that Tochner is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed

invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Tochner is directed towards play of a video game on a wireless telephone. As discussed above, there is no actual disclosure that such a wireless telephone should not use physical buttons. In fact, as Tochner was filed in September 6, 2001, and published July 11, 2002, the Examiner notes that in actuality, the majority of wireless telephones were using physical buttons for controls. As a reference, the original iPhone, while not the first wireless phone with touch inputs, was one of the most popular and began the proliferation of touch controls, and was released in June 29, 2007.

Therefore, even though not explicitly disclosed, the wireless telephone utilized by Tochner most likely used physical buttons. Even still, Partridge has already been cited showing that the use of physical buttons on phones has been known and carries substantial benefits, such as ease of use and low costs.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Walters teaches a portable device including cellular antennae (and thus, can be considered by one of ordinary skill as a cellular/wireless telephone). The device also contains an accelerometer. Tochner has disclosed a wireless telephone playing a video game, and thus, Walters has no need to disclose such. The Examiner finally notes that the accelerometer of the claim appears only to exist within the device. There is no use of the accelerometer. Nonetheless, the Examiner notes that it would still be obvious to

implement an accelerometer as discussed by Walters in order to increase the accuracy of positioning the mobile device, which would increase the accuracy in determining the position of the user when playing a video game on said portable device, such as the one played in Tochner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y. Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul D'Agostino can be reached on (571) 270-1992. 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.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
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For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
February 10, 2016

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated August 10, 2015. A three-month extension of time and is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Electronic Acknowledgement Receipt

EFS ID:	24877214
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	10-FEB-2016
Filing Date:	01-AUG-2006
Time Stamp:	13:57:38
Application Type:	Utility under 35 USC 111(a)

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Deposit Account	503855
Authorized User	MULLEN, JEFFREY D.

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 CFR 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 CFR 1.17 (Patent application and reexamination processing fees)

Charge any Additional Fees required under 37 CFR 1.19 (Document supply fees)

Charge any Additional Fees required under 37 CFR 1.20 (Post Issuance fees)

Charge any Additional Fees required under 37 CFR 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		JDM-005C2--Reply.pdf	183971 6e227590cc89db2b13c395d2eb6381411b03c70b	yes	11

Multipart Description/PDF files in .zip description		
Document Description	**Start**	**End**
Amendment/Req. Reconsideration-After Non-Final Reject	1	1
Claims	2	5
Applicant Arguments/Remarks Made in an Amendment	6	11

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	30731 e109b843d78b57c4e093b55bf76ce5c9f50b17d9	no	2

Warnings:

Information:

Total Files Size (in bytes):	214702

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.

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by Tochner U.S. Patent Publication No. 2002/0090985 (hereinafter "Tochner") in view of Partridge U.S. Publication No. 2001/0048425 (hereinafter "Partridge") and further in view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters").

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and Walters and further in view of Doak U.S. Patent No. 6,961,055 (hereinafter "Doak").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and in view of Walters and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

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Applicant's Response to the
Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and further in view of Walters.

Claim 19

The Examiner stated:

> "Tochner … fails to explicitly teach a manual control that is operable to cause said video game character to perform an action … However, Partridge teaches a twelve directional pad for mobile phones"
> (Office Action, page 3)

Tochner does not provide a non-stationary experience – let alone the features of claim 19. Tochner is silent claim 19 of a video game is played on said wireless telephone.

For example, the Examiner stated:

> "Nowhere does Tochner disclose that the invention disclosed cannot utilize physical inputs on a mobile telephone."
> (Office Action, page 8)

The silence of Tochner on this feature does not provide the feature. And, Tochner himself directly states that input stroke keys and key-like switches are not a part of Tochner's configuration. More Particularly,

> "It differs from the present invention in that … the inputs are through key-like switches."
> (Tochner, paragraph 34).

> "It differs from the present invention in that the sensors act regular input stroke keys directly inputting electronic signals into a CPU

> running a software program." (Tochner, paragraph 34)
>
> "It differs from the present invention in that the input of information into the virtual world is by direct, correlated means."

Tochner does not have to explicitly prohibit a combination to render the combination impermissible.

Tochner is silent claim 19 of a video game is played on said wireless telephone. Similarly, Partidge is Partridge is silent on applicant's claim 19 of a video game is played on said wireless telephone.

Accordingly, neither Tochner nor Partridge, used either alone or in combination, show or suggest applicant's claim 19 of a video game is played on said wireless telephone.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

The Examiner also stated:

> "Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device … similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer…."
> (Office Action, pages 3-4)

Walters, however, merely suggests dead reckoning when triangulation is interrupted and is silent on a video game and, as such, any integration or configuration to the same.

Accordingly, Walters directly teaches away from Tochner. Tochner is silent on what would occur if Tochner's system is interrupted, which would render an impermissible combination. Tochner's system may be silent

on, for example, waiting until the interruption stops. Accordingly, Tochner and Walters cannot be combined as it would eviscerate the spirit of the Tochner device.

Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19.

The Examiner appears to reject claim 19 based off Official Notice. The Examiner is using personal knowledge to make a rejection. For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of instant and unquestionable demonstration as being well known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant's claims, then applicant's claims are patentable.

As shown above, the Examiner continues to make an improper rejection without providing references that show each and every element as well as motivation to combine the references in an operable manner. Accordingly, applicant reserves the right to petition – at any time before or after prosecution – for Patent Term Adjustment or Patent Term Extension.

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Moreover, as admitted by the Examiner, Tochner fails to disclose at least:

> "the locating device includes an accelerometer" (Office action, page 3)

> "an additional manual control that is operable to cause said video game character to perform an action" (Office action, page 3)

Both the locating device and manual control – which the Examiner admits is not disclosed by Tochner – impact the video game character. Accordingly, the additional element of both elements having a relationship with the video game character is not present in any combination of any of the two references. Accordingly, the Examiner's rejection of Walters and Partridge actually not only eviscerates the spirit of Tochner, but also the spirit of Walters and Partridge.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and Walters and Doak. The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in

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view of Partridge and Walters and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

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Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (previously presented) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is played on said wireless telephone, first control signals are utilized, at least in part, to control a video game character in said video game, a manual control operable to cause said video game character to perform an action, said video game character is displayed on said display, a second video game character that is controlled via artificial intelligence, and is not controlled by manual-input, is displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

22. (previously presented) A system comprising:

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a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
			Total in USD ($)	**700**

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
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PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
11/461,761	08/01/2006	

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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

AMENDMENT **02/10/2016**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) 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
/DEBRA SAVOY/

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.**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 03/11/2016

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EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
03/11/2016	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. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	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 *2/10/16*.

☐ 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) *19-34* 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) *19-34* 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 _____ 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: _____.

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DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Claim Rejections - 35 USC § 103

2. 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 negatived by the manner in which the invention was made.

3. Claims 19-24, 27-29, and 31-34 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner et al (US 2002/0090985 A1) in view of Partridge (US 2001/0048425) and Walters et al (US 6,850,844 B1).

4. Re claim 19, Tochner discloses a system comprising:

a wireless telephone (paragraphs [0025, 0052]) having a locating device (paragraph [0051]) and a display (fig. 8, paragraph [0077]),

wherein a video game is played on said wireless telephone (paragraphs [0051, 0052, 0077]), first control signals are utilized, at least in part, to control a video game character in said video game, (when a real character plays out a scavenger hunt in the real world, it influences the movements of the game character wherein the manual control is using the mobile device with a different method of location tracking which

controls the video game character to perform actions),

said video game character is displayed on said display (fig. 8, paragraph [0077]), a second video game character is controlled via artificial intelligence and is not controlled by manual-input (paragraph [0031, 0051, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence) and said first control signals are provided by said locating device (paragraph [0052]).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]).

Finally, Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low. It further would have been obvious to incorporate the use of additional sensors such as an accelerometer in

order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as a wireless telephone.

5. Re claim 20, Tochner discloses a locating device being a positioning device (par. [0055]).

6. Re claim 21, Tochner has disclosed a movement measurement device, but does not disclose a directional device for determining direction. Walters teaches such (fig. 4B, 490). It would have been obvious to incorporate a compass in a wireless telephone in order to allow software to know the orientation and direction of the device.

7. Re claim 22, Tochner discloses a first wireless telephone (paragraphs [0025, 0052]) having a first locating device (paragraph [0051]), wherein a video game is played on said first wireless telephone (paragraphs [0051, 0052]), first control signals are utilized to control a first video game character in said video game, and said first control signals are provided by said first locating device (paragraph [0052]); and

a second wireless device having a second locating device and a display (fig. 8, paragraph [0077]), wherein second control signals are utilized to control a second video game character in said video game (paragraph [0065]), said first video game character and said second video game character is displayed on said display (paragraphs [0031, 0077, 0079]) and said second control signals are provided by said second locating device (paragraph [0052]), and a third video game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input (fig. 4b, paragraph [0051, 0067, 0068], inherently if the player is under attack or wounded by the dragon, the dragon is controlled via artificial intelligence).

Tochner substantially discloses the invention as claimed but fails to explicitly teach a manual control that is operable to cause said video game character to perform an action. However in an analogous reference Partridge teaches a twelve-directional pad for mobile phones and hand-held computer games (Partridge, paragraphs [0003, 0021-0025]) because it would be easy to use, take up a small surface area, and keep costs low (Partridge, paragraphs [0061-0064]).

Finally, Tochner does not disclose the locating device includes an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a twelve-directional pad because it would be easy to use, take up a small surface area, and keep costs low. It further would have been obvious to incorporate the use of additional sensors such as an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as a wireless telephone.

8. Re claims 23 and 24, see the rejection to claims 20 and 21.

9. Re claim 27, Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

10. Re claim 28. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

11. Re claim 29. Tochner discloses a third video game character (fig. 4b, paragraph [0067, 0068], dragon).

12. Re claim 31. Tochner discloses wherein said wireless telephone includes a manual input control (paragraph [0065]).

13. Re claim 32. Tochner wherein said video game is selected from a list of video games (paragraphs [0087, 0101], if there are a variety of games available and a game is being played, at some point a selection of a game must have been made).

14. Re claims 33 and 34. Tochner discloses wherein said wireless telephone includes a plurality of manual input controls (paragraphs [0055, 0065, 0084]).

15. Claim 25 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and Walters as applied to claim 22 above, in further view of Doak et al (US 6,961,055 B2).

16. Tochner substantially discloses the invention as claimed but fails to explicitly teach that a fourth video game character is controlled via artificial intelligence. Instead, Tochner discloses mobile gaming devices with displays that may communicate via RF, WAP, Bluetooth and teaches a dragon that is computer controlled (fig. 1a, item 22, paragraph [0051]) but not a fourth video game character. However in an analogous reference Doak teaches multiple NPC's or non-player characters to raise the difficulty of

the game which increases player appeal (Doak, col. 12, lines 55-64). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tochner with a fourth game character that is controlled via artificial intelligence to interact with the player (increase difficulty) and increase player appeal.

17. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and Walters as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

18. Re claims 26 and 30, Tochner substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person" face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify Tochner with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time

of the invention to modify Tochner with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

19. Applicant's arguments filed 2/10/16 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As stated in the prior Office Action, Walters teaches a portable device including cellular antennae (and thus, can be considered by one of ordinary skill as a cellular/wireless telephone). The device also contains an accelerometer. Tochner has disclosed a wireless telephone playing a video game, and thus, Walters has no need to disclose such. The Examiner finally notes that the accelerometer of the claim appears only to exist within the device. There is no use of the accelerometer. Nonetheless, the Examiner notes that it would still be obvious to implement an accelerometer as discussed by Walters in order to increase the accuracy of positioning the mobile device, which would increase the accuracy in determining the position of the user when playing a video game on said portable device, such as the one played in Tochner. The fact that Walters does not play a video game is irrelevant, as this has been already taught by Tochner.

Additionally, there is no evidence that the combination would be impermissible. Touch inputs are well known equivalents to physical buttons to those of ordinary skill in the art. It would have been obvious to an artisan of ordinary skill at the time the invention was made to allow users to play a game on their mobile device in either a physical or touch interface configuration, as Partridge and Walters have shown that it would be obvious to try, leading to obvious results such as a game controlled by an interface. The use of either touch or physical buttons is a preference that would also be obvious to try, as there are only a limited number of ways a user can interface with his/her device.

The Examiner has not cited Official Notice in the rejection, and as Applicant has not pointed out where it is believed to have been used, the argument is not persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Simply stating that Walters and Partridge eviscerates the spirit of Tochner and themselves is not a persuasive argument, as there are no explanations or clarifications as to why this is the case. As discussed above, a piecemeal analysis of the references is improper. The Examiner concludes that the combination of Tochner, Walters, and Partridge would have been obvious in the eyes of those of ordinary skill at the time of the invention due to the reasons discussed in the action.

Conclusion

20. **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 Kevin Y. Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. 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.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK

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

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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	Filing Date	☐ To be Mailed
11/461,761	08/01/2006	

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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

AMENDMENT **09/12/2016**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) 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
/NICOLLE L. SCRIVNER/

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.

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by Tochner U.S. Patent Publication No. 2002/0090985 (hereinafter "Tochner") in view of Partridge U.S. Publication No. 2001/0048425 (hereinafter "Partridge") and further in view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters").

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and Walters and further in view of Doak U.S. Patent No. 6,961,055 (hereinafter "Doak").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and in view of Walters and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Without prejudice and solely in order to expedite prosecution, applicant has amended claim 19.

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the
Rejections Under 35 U.S.C. § 102(b)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable over Tochner in view of Partridge and further in view of Walters.

Claim 19

The Examiner stated:

> "Tochner … fails to explicitly teach a manual control that is operable to cause said video game character to perform an action … However, Partridge teaches a twelve directional pad for mobile phones"
> (Office Action, page 3)

Thus, the Examiner is relying on the combination of Tochner and Partridge to provide this feature.

To support the combination, the Examiner stated:

> "Nowhere does Tochner disclose that the invention disclosed cannot utilize physical inputs on a mobile telephone."
> (Office Action, page 8)

The Examiner's statement, however, is not correct.

Tochner himself directly states that input stroke keys and key-like switches are not a part of Tochner's configuration.

More Particularly,

> "It differs from the present invention in that … the inputs are through key-like switches."
> (Tochner, paragraph 34).

> "It differs from the present invention in that the sensors act regular input stroke keys directly inputting electronic signals into a CPU

> running a software program." (Tochner, paragraph 34)
>
> "It differs from the present invention in that the input of information into the virtual world is by direct, correlated means."

Accordingly, Tochner directly teaches away from the combination of Tochner and Partridge.

In this manner, the Examiner's combination fails. In light of the foregoing, applicant respectfully requests that the Examiner's rejection be withdrawn.

Furthermore, both Tochner and Partridge are silent claim 19 of a video game is played on said wireless telephone – let alone a video game is played on a wireless telephone with control signals provided by a locating device. Walters dead reckoning does not correct for this deficiency.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

The Examiner also stated:

> "Tochner does not disclose the locating device includes an accelerometer. Walters teaches a … an accelerometer"
> (Office Action, pages 3-4)

Walters' dead reckoning occurs when triangulation is interrupted and is not provided on a video game. Accordingly, Walters dead reckoning directly teaches away from Tochner as Tochner provides no functionality when Tochner's system is interrupted.

Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19.

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The Examiner appears to reject claim 19 based off Official Notice.

As per just one example, the Examiner's statement that Tochner shows an element because it does not explicitly state it cannot include the element is Official Notice.

In this example, the Examiner is using personal knowledge to make a rejection that is not included in Tochner.

For rejections under 35 U.S.C. § 103(a), the Examiner has the burden of showing each and every element of applicant's invention in the prior art combination. MPEP § 2144.03 requires that the facts of which notice are being taken be capable of instant and unquestionable demonstration as being well known in the art. *See In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). Applicant believes that the "facts" of which the Examiner may have provided a rejection without showing each and every element of a claim in a reference do not meet that standard, and invoke his right under MPEP § 2144.03 to have the Examiner provide documentary proof that those facts are actually well known. If the Examiner cannot find any reference that includes the features of applicant's claims, then applicant's claims are patentable. As shown above, the Examiner continues to make an improper rejection without providing references that show each and every element as well as motivation to combine the references in an operable manner. Accordingly, applicant reserves the right to petition – at any time before or after prosecution – for Patent Term Adjustment or Patent Term Extension.

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In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable by Tochner and Partridge and Walters and Doak. The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by Tochner in view of Partridge and Walters and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

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.

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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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

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JDM/005 CON2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
September 11, 2016

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated September 11, 2016. A three-month extension of time and a Request for Continued Examination and is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
RCE- 2nd and Subsequent Request	2820	1	850	850
		Total in USD ($)		**1550**

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (currently amended) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is operable to be played on said wireless telephone, said first control signals are operable to be utilized, at least in part, to control a video game character in said video game, a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

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22. (previously presented) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

Meta Exhibit 1004
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Electronic Acknowledgement Receipt

EFS ID:	26890124
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	12-SEP-2016
Filing Date:	01-AUG-2006
Time Stamp:	09:30:51
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$1550
RAM confirmation Number	9317
Deposit Account	503855
Authorized User	MULLEN, JEFFREY D.

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 CFR 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 CFR 1.17 (Patent application and reexamination processing fees)

Charge any Additional Fees required under 37 CFR 1.19 (Document supply fees)

Charge any Additional Fees required under 37 CFR 1.20 (Post Issuance fees)

Charge any Additional Fees required under 37 CFR 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)	JDM-005CON2--RCE.pdf	697791 ad014322b30c64cafc4d757159e366b3b7b5c644	no	3
Warnings:					
Information:					
2		JDM-005C2--Reply.pdf	179129 31b815e5aa352def3a9042ec0507815123bd4395	yes	11

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment Submitted/Entered with Filing of CPA/RCE	1	1
	Claims	2	5
	Amendment/Req. Reconsideration-After Non-Final Reject	6	11

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	32581 5765c2cf11a57fd9439945495839412 96c0593d0	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	909501		

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.

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

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

Application Number	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Patent Practitioner Signature

X Applicant Signature

EFS - Web 2.1.6

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2016-09-11
Name	Jeffrey D. Mullen		
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 t
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
estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Tim
will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo
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.

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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 10/11/2016

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
10/11/2016	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. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	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 *9/12/16*.

☐ 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) *19-34* 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) *19-34* 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 _____ 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: _____.

Meta Exhibit 1004
Meta v. Mullen - Page 00430

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/12/16 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of 35 U.S.C. 112(b):

> (b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 19 recites the limitation "said first control signals" in the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

6. 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, 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 negatived by the manner in which the invention was made.

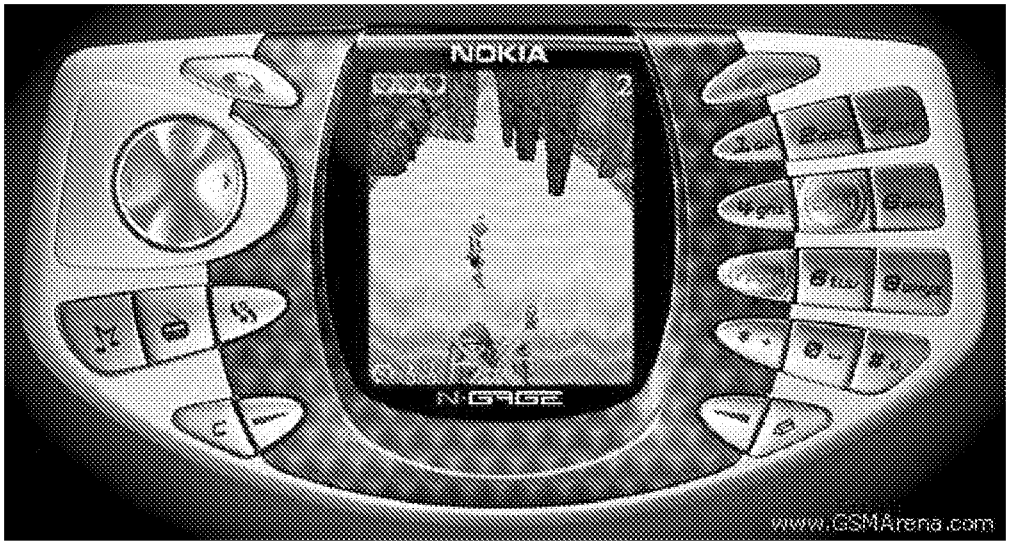
7. Claims 19-24, 27-29, and 31-34 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device)) in view of IGN (http://www.ign.com/articles/2004/09/28/call-of-duty-6) and Walters et al (US 6,850,844 B1).

8. Re claim 19, N-Gage discloses a system comprising:

a wireless telephone having a display, see below:



wherein a video game is operable to be played on said wireless telephone:



said first control signals are operable to be utilized, at least in part, to control a video game character in staid video game (utilizing the controls on the face of the phone), a manual control is operable to cause said video game character to perform an

action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display (see below image, where the player controls the main character and shoots enemy AI characters):



IGN is relied upon to show that Call of Duty, the game illustrated above, contains a game with AI characters (“From our limited play experience, the AI appears to be quite good and there is a great variety in level design, with plenty of foxholes to dip into").

The N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480,

wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

It would have been obvious to implement an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as the N-Gage, while also allowing games to utilize the accelerometer for novel game controls (e.g. twisting and rotating the device to drive a car).

9. Re claim 20, the accelerometer of Walters is considered a positioning device.

10. Re claim 21, N-Gage has disclosed a direction device (see the arrow buttons on the left side of the device).

11. Re claim 22, see the rejection to claim 19. As indicated by IGN, the N-Gage can support a multiplayer experience, and therefore, a second wireless telephone (i.e. a second N-Gage) using Bluetooth to support connectivity ("Through Bluetooth, up to four players can play either standard deathmatch or team battles, and the N-Gage Arena can be used to download new weapons, power-ups, cheats and hints"). Walters has taught the accelerometer as discussed in claim 19.

12. Re claims 23 and 24, see the rejection to claims 20 and 21.

13. Re claims 27, 31, 33, and 34, as shown in the image in the rejection of claim 19, the N-Gage has a plurality of manual input controls.

14. Re claims 28 and 32, the cited article for N-Gage contains a list of video games available for the N-Gage.

15. Re claim 29, as Call of Duty for N-Gage has been cited to support at least four players in a multiplayer session, therefore, there is at least a third video game character.

16. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the N-Gage in view of Walters as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

17. Re claims 26 and 30, N-Gage substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person" face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify a video game with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify N-Gage with Stamper to improve the realism of video games

by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

18. Applicant's arguments with respect to the claims have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y. Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. 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.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

Notice of References Cited	Application/Control No. 11/461,761	Applicant(s)/Patent Under Reexamination MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	CPC Classification	US Classification
	A	US-				
	B	US-				
	C	US-				
	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	CPC Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Wikipedia, N-Gage (device), 7 October 2003, https://en.wikipedia.org/wiki/N-Gage_(device)
	V	IGN, Call of Duty, 27 September 2004, http://www.ign.com/articles/2004/09/28/call-of-duty-6
	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.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK

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

	/KEVIN Y KIM/ Primary Examiner.Art Unit 3716

Electronic Acknowledgement Receipt

EFS ID:	28888395
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	11-APR-2017
Filing Date:	01-AUG-2006
Time Stamp:	10:05:51
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	$700
RAM confirmation Number	041117INTEFSW10072000
Deposit Account	503855
Authorized User	Jeffrey Mullen

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

37 CFR 1.16 (National application filing, search, and examination fees)

37 CFR 1.17 (Patent application and reexamination processing fees)

37 CFR 1.19 (Document supply fees)

37 CFR 1.20 (Post Issuance fees)

37 CFR 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		JDM-005C2--Reply.pdf	156157 15539dcb79366beb0fc3f9f6b2fec5eece62d53c	yes	10
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Amendment/Req. Reconsideration-After Non-Final Reject		1	1	
	Claims		2	5	
	Amendment/Req. Reconsideration-After Non-Final Reject		6	10	
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30730 187760deb298baa448bc4eb95b2c02c6e5442bda	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	186887		

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.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (currently amended) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is operable to be played on said wireless telephone, ~~said~~ first control signals are operable to be utilized, at least in part, to control a video game character in said video game, a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

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22. (previously presented) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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Meta v. Mullen - Page 00445

26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
			Total in USD ($)	**700**

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claim 19 under 35 U.S.C. 112.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device) (hereinafter "N-Gage") in view of IGN (http://www.ign.com/articles/2004/09/28/call-of-duty-6) (hereinafter "IGN") and further view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters").

The Examiner rejected claims 28 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage and in view of Walters and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Without prejudice and solely in order to expedite prosecution, applicant has amended claim 19.

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the
Rejections Under 35 U.S.C. § 112

The Examiner rejected claim 19 under 35 U.S.C. 103(a) as being unpatentable in view of 112.

The Examiner stated that "said first control signals" has insufficient antecedent basis.

Without prejudice, and solely in order to expedite prosecution, applicant has amended claim 19.

Applicant respectfully requests that the Examiner's rejection of claim 19 be withdrawn.

Applicant's Response to the
Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable over N-Gage and IGN and further in view of Walters.

The N-Gage and IGN References

Applicant's application is a continuation of an applicant that claims the benefit of U.S. provisional applications. The N-Gage and IGN references may not qualify as references in their own accord – let alone have publication dates that exist before the priority of the present application. The N-Gage document appears to be a recent document that spans a recent perspective of particulars of N-Gage through time.

Claim 19

Albeit applicant contends the references are not, in fact, applicable art, applicant will present arguments without prejudice and solely in order to expedite prosecution.

The Examiner stated:

> "N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer. Walters teaches a portable device … as well as an accelerometer." (Office Action, page 5)

N-Gage, however, is not just silent on providing control signals in the form of an accelerometer.

N-Gage is also silent on applicant's claim 19 of first control signals provided by a locating device operable to be utilized, at least in part, to control a video game character in the video game.

The absence of this element in N-Gage is material. There is nothing that can be done to change N-Gage from having a character controlled by manual input to a having character controlled, at least in part, by control signals from a locating device.

N-Gage directly teaches away from a character controlled by control signals from a locating device because N-Gage's character is controlled solely via manual input. N-Gage's manual input is the direct opposite of applicant's locating device. Accordingly, N-Gage teaches utilizing manual input controls to completely control the character and not applicant's method that would remove the use of these manual input controls, at least in part, to control a character by control signals from a locating device.

Walters dead reckoning does not correct for this deficiency. Walters' dead reckoning occurs when triangulation is interrupted and is not provided on a video game. Accordingly, Walters dead reckoning directly teaches away from N-Gage.

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Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

Claim 25

No rejection was provided for claim 25. Accordingly, applicant respectfully requests that the Examiner's rejection of claim 25 be withdrawn.

The Dependent Claims

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage in view of Walters and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

Conclusion

Applicant respectfully submits that this application, including the pending claims, is in condition

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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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

Jeffrey D. Mullen
Applicant (Reg. No. 52,056)
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Mobile: (914) 837-7741

Meta Exhibit 1004
Meta v. Mullen - Page 00454

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
April 11, 2017

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated October 11, 2016. A three-month extension of time is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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 11/461,761	Filing Date 08/01/2006	☐ 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	04/11/2017	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $40 =	0
	Independent (37 CFR 1.16(h))	* 2	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.

LIE
JASON B. EADDY

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.

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	2230685	(control$4 or movement or moving) with (player or character or user or avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
L2	22674	1 same accelerometer	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
L3	32556162	@pd< "20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
L4	411	L3 and 2	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
L5	93	4 and (phone or cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
L6	1659438	(mobile or cell) near2 (phone or device)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
L7	46	4 and 6	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
L8	1006385	(mobile or cell) near2 phone	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
L9	19	4 and 8	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S1	2	"20010048425".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:48

S2	2	"20020090985".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S3	848699	(mobile or cell or cellular or hand) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S4	2	(US-20010048425-$ or US-20020090985-$).did.	US-PGPUB	OR	ON	2014/07/15 12:50
S5	2	S3 and S4	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S6	0	accelerometer and S5	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S7	8782	(accelerometer and (GPS or (global near2 position$3)) and compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S8	5067	S3 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S9	24	S8 and 463/42.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:09
S10	29157454	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S11	1	S9 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S12	213	S8 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:18
S13	1	11/461761	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S14	1	S13 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S15	40157	S3 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S16	5453	S10 and S15	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22

S17	26	S16 and "463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S18	0	S17 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S19	62	S16 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S20	866261	(mobile or cell or cellular or hand or wireless) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S21	40845	S20 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S22	5616	S10 and S21	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S23	45540	"463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S24	28	S22 and S23	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S25	0	S24 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S26	62	S22 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:29
S27	929	n adj gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S28	10187	n-gage or n$gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S29	10732	S27 or S28	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S30	29	accelerometer and S29	US-PGPUB; USPAT; USOCR; EPO; JPO;	OR	ON	2016/10/05 14:42

			DERWENT			
S31	6	(US-20010048425-$ or US-20020090985-$ or US-20080108437-$ or US-20050033515-$ or US-20070060216-$).did. or (US-6850844-$).did.	US-PGPUB; USPAT	OR	ON	2017/04/19 12:35
S32	4	S31 and game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:35
S33	4467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:53
S34	26038705	@ay<"2003"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S35	32556162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S36	4467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S37	28	S36 and S35	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57

4/19/2017 1:14:53 PM
C:\Users\kkim4\Documents\EAST\Workspaces\11461761.wsp

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK
EAST search refresh	4/19/2017	KK

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

	/KEVIN Y KIM/ Primary Examiner.Art Unit 3716

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 04/20/2017

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
04/20/2017	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. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	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 *4/11/2017*.

☐ 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) *19-34* 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) *19-34* 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 _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

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

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Claim Rejections - 35 USC § 103

2. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

3. 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, 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 negatived by the manner in which the invention was made.

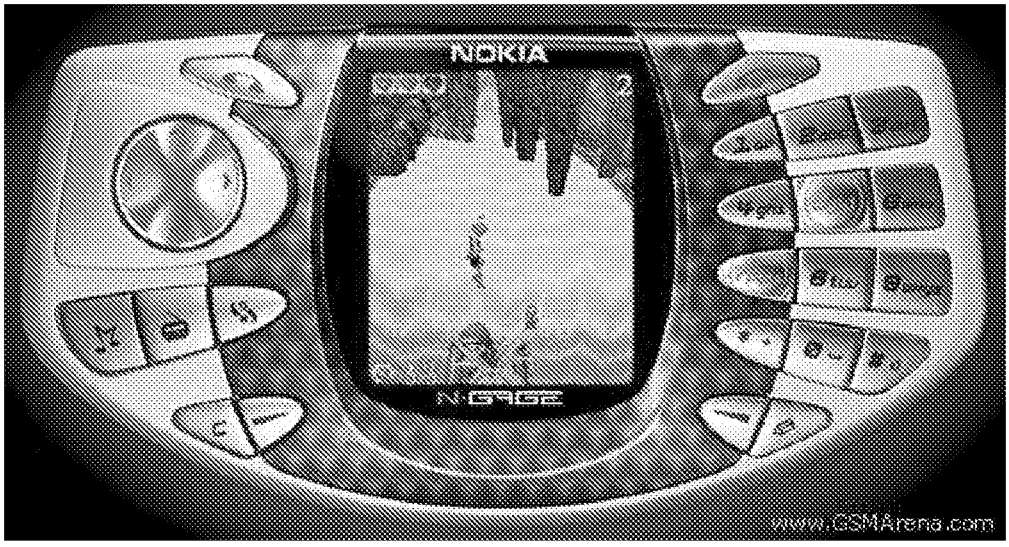
4. Claims 19-24, 27-29, and 31-34 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device)) in view of IGN (http://www.ign.com/articles/2004/09/28/call-of-duty-6) and Walters et al (US 6,850,844 B1).

5. Re claim 19, N-Gage discloses a system comprising:

a wireless telephone having a display, see below:



wherein a video game is operable to be played on said wireless telephone:



said first control signals are operable to be utilized, at least in part, to control a video game character in staid video game (utilizing the controls on the face of the phone), a manual control is operable to cause said video game character to perform an

action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display (see below image, where the player controls the main character and shoots enemy AI characters):



IGN is relied upon to show that Call of Duty, the game illustrated above, contains a game with AI characters (“From our limited play experience, the AI appears to be quite good and there is a great variety in level design, with plenty of foxholes to dip into").

The N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer. Walters teaches a portable device that includes cellular antennae, as well as an accelerometer (fig. 4B, 480, wherein a dead

reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

It would have been obvious to implement an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as the N-Gage, while also allowing games to utilize the accelerometer for novel game controls (e.g. twisting and rotating the device to drive a car).

6. Re claim 20, the accelerometer of Walters is considered a positioning device.

7. Re claim 21, N-Gage has disclosed a direction device (see the arrow buttons on the left side of the device).

8. Re claim 22, see the rejection to claim 19. As indicated by IGN, the N-Gage can support a multiplayer experience, and therefore, a second wireless telephone (i.e. a second N-Gage) using Bluetooth to support connectivity ("Through Bluetooth, up to four players can play either standard deathmatch or team battles, and the N-Gage Arena can be used to download new weapons, power-ups, cheats and hints"). Walters has taught the accelerometer as discussed in claim 19.

9. Re claims 23 and 24, see the rejection to claims 20 and 21.

10. Re claims 27, 31, 33, and 34, as shown in the image in the rejection of claim 19, the N-Gage has a plurality of manual input controls.

11. Re claims 28 and 32, the cited article for N-Gage contains a list of video games available for the N-Gage.

12. Re claim 29, as Call of Duty for N-Gage has been cited to support at least four players in a multiplayer session, therefore, there is at least a third video game character.

13. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the N-Gage in view of Walters as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

14. Re claims 26 and 30, N-Gage substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person" face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify a video game with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify N-Gage with Stamper to improve the realism of video games

by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

15. Applicant's arguments filed 4/11/2017 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). While Walters alone does not explicitly disclose the use of a locating device (e.g. accelerometer or dead reckoning), one cannot analyze Walters alone in a vacuum. Furthermore, Walters discloses that the apparatus, systems, and methods can integrate triangulation positioning functionality with other handheld device functionality (16:22-34). In this manner, it would have been obvious to implement controlling a video game character with a locating device in order to improve the level of interactivity and realism of a game being played on the N-Gage.

The Examiner disagrees with Applicant's argument that the N-Gage directly teaches away from control with a locating device. The non-inclusion of accelerometer control is not equivalent to forbidding or recommending against the use of such, and the Examiner regards the use of accelerometers for controlling characters in a video game to be obvious to an artisan of ordinary skill in the art, as the advantages of alternative control methods are well-known to those of ordinary skill in the art, offering perks such

as improved immersion and interactivity. Additionally, the use of accelerometers to control video games is common and well-known to those of ordinary skill in the art, and as Walters discloses a phone with an accelerometer, and the N-Gage discloses a phone that controls a video game, the Examiner again believes that it is obvious to an artisan of ordinary skill to implement an accelerometer such as the one in Walters to control a video game being played on the N-Gage.

Conclusion

16. **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 Kevin Y. Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday.

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, Dmitry Suhol can be reached on (571) 272-4430. 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.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

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

Application Number	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Patent Practitioner Signature

X Applicant Signature

EFS - Web 2.1.6

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2017-10-19
Name	Jeffrey D. Mullen		
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 t
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
estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Tim
will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo
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.

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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

Electronic Acknowledgement Receipt

EFS ID:	30698182
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	19-OCT-2017
Filing Date:	01-AUG-2006
Time Stamp:	02:59:14
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	$1550
RAM confirmation Number	101917INTEFSW03012900
Deposit Account	503855
Authorized User	Jeffrey Mullen

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

37 CFR 1.16 (National application filing, search, and examination fees)

37 CFR 1.17 (Patent application and reexamination processing fees)

37 CFR 1.19 (Document supply fees)

37 CFR 1.20 (Post Issuance fees)

37 CFR 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)	JDM-005CON2--RCE.pdf	697794 24d98c23c7e492161cefdaee2ca6ece12603e761	no	3
Warnings:					
Information:					
2		JDM-005C2--Reply.pdf	173522 b985e49ede3b833ee15d38171a693e00d5a7734e	yes	9

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	5
	Applicant Arguments/Remarks Made in an Amendment	6	9

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	32532 25863fc7254e6d60931e8aa1491ecbcb3c3fc01b	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	903848		

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.

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claim 19 under 35 U.S.C. 112.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device) (hereinafter "N-Gage") in view of IGN (http://www.ign.com/articles/2004/09/28/call-of-duty-6) (hereinafter "IGN") and further view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters").

The Examiner rejected claims 28 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage and in view of Walters and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable over N-Gage and IGN and further in view of Walters.

Meta Exhibit 1004
Meta v. Mullen - Page 00478

The N-Gage and IGN References

The references do not appear to be prior art. The references appear to be a recent document that spans a recent perspective of particulars of N-Gage through time. Thus, the applicant respectfully requests that the Examiner remove the reference from the rejection as they appear to occur after the priority date of the present application.

Claim 19

The Examiner admits that N-Gage is silent on providing control signals in the form of an accelerometer. *See* Office Action, page 5.

N-Gage, however, is also silent on first control signals provided by a locating device operable to be utilized, at least in part, to control a video game character in the video game.

N-Gage shows a character controlled by manual input. A character controlled by manual input is not a character controlled by a location device. Thus, N-gage does not show a locating device for controlling a video game character.

Walters does not correct for this deficiency. Walters merely alleges GPS navigation. There is no mention by Walters in any game or video game character. Thus, Walters does not show a locating device for controlling a video game character.

As it is clear that N-Gage does not show a locating device for controlling a video game character and Walters does not show a locating device for controlling a video game character then no combination of N-Gage and Walters show or suggest a locating device for controlling a video game character.

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Applicant invokes his right that the Examiner provide documentary proof that the element of a locating device for controlling a video game character is present in the art and combinable with the referenced combination. A reference that shows a video game and a reference that shows a locating device merely is combined to show a video game and a locating device. Applicant's invention of claim 19 includes a locating device for controlling a video game character. None of the art, used either alone or in combination, show or suggest such a feature.

Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

Claim 25

No rejection was provided for claim 25. Accordingly, applicant respectfully requests that the Examiner's rejection of claim 25 be withdrawn.

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The Dependent Claims

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage in view of Walters and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

Jeffrey D. Mullen
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2212 Hassinger Lane
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Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
RCE- 2ND AND SUBSEQUENT REQUEST	2820	1	850	850
		Total in USD ($)		**1550**

JDM/005 CON2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
October 18, 2017

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated April 18, 2017. A three-month extension of time and a Request for Continued Examination is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (previously presented) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is operable to be played on said wireless telephone, first control signals are operable to be utilized, at least in part, to control a video game character in said video game, a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

Meta Exhibit 1004
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22. (previously presented) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

Meta Exhibit 1004
Meta v. Mullen - Page 00488

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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

AMENDMENT **10/19/2017**

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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

AMENDMENT

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) 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
CHERYL CLARK

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
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

32733 7590 11/20/2017

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER
KIM, KEVIN Y

ART UNIT	PAPER NUMBER
3716	

DATE MAILED: 11/20/2017

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

TITLE OF INVENTION: SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

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	02/20/2018

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: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PTOL-85 (Rev. 02/11)

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)

32733 7590 11/20/2017
JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

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.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

TITLE OF INVENTION: SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

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	02/20/2018

EXAMINER	ART UNIT	CLASS-SUBCLASS
KIM, KEVIN Y	3716	345-156000

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 _____
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 — 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.
- ❑ Applicant asserting small entity status. See 37 CFR 1.27 — 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.
- ❑ Applicant changing to regular undiscounted fee 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. _____

PTOL-85 Part B (10-13) Approved for use through 10/31/2013. OMB 0651-0033 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Meta Exhibit 1004
Meta v. Mullen - Page 00491

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 11/20/2017

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER
KIM, KEVIN Y

ART UNIT	PAPER NUMBER
3716	

DATE MAILED: 11/20/2017

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.

PTOL-85 (Rev. 02/11)

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. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	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 *remarks filed 10/19/2017*.
   ☐ 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 _____. 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)
2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
5. ☐ Examiner's Amendment/Comment
6. ☒ Examiner's Statement of Reasons for Allowance
7. ☐ Other _____.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Allowable Subject Matter

2. Claims 19-34 are allowed.

3. The following is an examiner's statement of reasons for allowance: there is no teaching or suggestion in the prior art of a system comprising a wireless telephone having a locating device and a display, wherein a video game is operable to be played on said wireless telephone, first control signals are operable to be utilized, at least in part, to control a video game character in said video game, a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

4. While in prior Office Actions the Examiner cited Walters as teaching a locating device, with N-Gage disclosing a phone that allows players to control a video game character, upon consideration of Applicant's remarks and the cited prior art, the Examiner concedes that while a combination of N-Gage and Walters would indeed create a device similar to the claimed invention, there is no indication that one of

ordinary skill would have had the foresight of utilizing the locating device in Walters normally used for GPS navigation and utilize those sensors for controlling a video game character.

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."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y. Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday.

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, Dmitry Suhol can be reached on (571) 272-4430. 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.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

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

BIB DATA SHEET

CONFIRMATION NO. 4152

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/461,761	08/01/2006	345	3716	JDM/005 CON2

APPLICANTS

INVENTORS

Jeffrey D Mullen, New York, NY;

**** CONTINUING DATA ***************************

This application is a CON of 10/932,536 09/01/2004
which claims benefit of 60/499,810 09/02/2003
and claims benefit of 60/603,481 08/20/2004

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **
08/15/2006

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /KEVIN Y KIM/ Examiner's Signature	☐ Met after Allowance KK Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
		NY	14	4	2

ADDRESS

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116
UNITED STATES

TITLE

SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

FILING FEE RECEIVED		
425	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

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	2	"20010048425".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:48
S2	2	"20020090985".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S3	848699	(mobile or cell or cellular or hand) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S4	2	(US-20010048425-$ or US-20020090985-$).did.	US-PGPUB	OR	ON	2014/07/15 12:50
S5	2	S3 and S4	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S6	0	accelerometer and S5	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S7	8782	(accelerometer and (GPS or (global near2 position$3)) and compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S8	5067	S3 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S9	24	S8 and 463/42.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:09
S10	29157454	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S11	1	S9 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S12	213	S8 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:18
S13	1	11/461761	US-PGPUB; USPAT; EPO;	OR	ON	2014/07/15 14:21

			JPO; DERWENT			
S14	1	S13 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S15	40157	S3 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S16	5453	S10 and S15	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S17	26	S16 and "463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S18	0	S17 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S19	62	S16 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S20	866261	(mobile or cell or cellular or hand or wireless) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S21	40845	S20 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S22	5616	S10 and S21	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S23	45540	"463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S24	28	S22 and S23	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S25	0	S24 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S26	62	S22 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:29
S27	929	n adj gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42

S28	10187	n-gage or n$gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S29	10732	S27 or S28	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S30	29	accelerometer and S29	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S31	6	(US-20010048425-$ or US-20020090985-$ or US-20080108437-$ or US-20050033515-$ or US-20070060216-$).did. or (US-6850844-$).did.	US-PGPUB; USPAT	OR	ON	2017/04/19 12:35
S32	4	S31 and game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:35
S33	4467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:53
S34	26038705	@ay<"2003"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S35	32556162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S36	4467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S37	28	S36 and S35	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S38	2230685	(control$4 or movement or moving) with (player or character or user or avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
S39	22674	S38 same accelerometer	US-PGPUB; USPAT; USOCR; EPO; JPO;	OR	ON	2017/04/19 13:06

			DERWENT			
S40	32556162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S41	411	S40 and S39	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S42	93	S41 and (phone or cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S43	1659438	(mobile or cell) near2 (phone or device)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S44	46	S41 and S43	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S45	1006385	(mobile or cell) near2 phone	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S46	19	S41 and S45	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S47	897687	(GPS or (global near2 position$3))	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:32
S48	169065	(video near2 game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S49	33744	S47 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S50	10288	S47 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S51	29047398	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40

S52	185	S51 and S50	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S53	246883	S47 same (phone cell mobile)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:41
S54	81	S52 and S53	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:41
S55	21677	accelerometer same (phone cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:49
S56	279	S55 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S57	0	S56 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S58	2739	S55 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S59	24	S58 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S60	313085	(control$4 move moving) near4 (game character avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:41
S61	2154	S60 and S55	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42
S62	13	S61 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42

EAST Search History (Interference)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp

L1	9919	345/156.ccls. 463/40-42.ccls.	USPAT	OR	ON	2017/11/13 16:09
L2	0	((wireless near2 telephone) and (locating near2 device) and accelerometer).clm.	USPAT	OR	ON	2017/11/13 16:10

11/13/2017 4:10:36 PM
C:\Users\kkim4\Documents\EAST\Workspaces\11461761.wsp

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	**Art Unit**
	KEVIN Y KIM	3716

CPC								
Symbol							**Type**	**Version**
A63F		13	/	65			F	2014-09-02
A63F		13	/	216			I	2014-09-02
A63F		13	/	79			I	2014-09-02
A63F		13	/	332			I	2014-09-02
A63F		13	/	42			I	2014-09-02
A63F		13	/	12			I	2013-01-01
A63F		2300	/	204			A	2013-01-01
A63F		2300	/	205			A	2013-01-01
A63F		2300	/	406			A	2013-01-01
A63F		2300	/	408			A	2013-01-01
A63F		2300	/	5573			A	2013-01-01
A63F		2300	/	8082			A	2013-01-01
			/					
			/					
			/					

CPC Combination Sets								
Symbol							**Type**	**Set**	**Ranking**	**Version**
			/							
			/							

NONE		**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	16	
/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	11/13/2017	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	**Art Unit**
	KEVIN Y KIM	3716

US ORIGINAL CLASSIFICATION		INTERNATIONAL CLASSIFICATION														
CLASS	SUBCLASS	CLAIMED									NON-CLAIMED					
345	156	G	0	9	G	5 / 00 (2006.0)										
CROSS REFERENCE(S)		A	6	3	F	9 / 24 (2006.0)										
		A	6	3	F	13 / 00 (2014.0)										
CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)	G	0	6	F	17 / 00 (2006.0)										
463	40	41	42			G	0	6	F	19 / 00 (2011.01.01)						

NONE		Total Claims Allowed:	
(Assistant Examiner)	(Date)	16	
/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	11/13/2017	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

Meta Exhibit 1004
Meta v. Mullen - Page 00506

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	**Art Unit**
	KEVIN Y KIM	3716

☒ 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		33										
	2		18		34										
	3		19												
	4		20												
	5		21												
	6		22												
	7		23												
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	9		25												
	10		26												
	11		27												
	12		28												
	13		29												
	14		30												
	15		31												
	16		32												

NONE (Assistant Examiner)	(Date)	**Total Claims Allowed:** 16	
/KEVIN Y KIM/ Primary Examiner.Art Unit 3716 (Primary Examiner)	11/13/2017 (Date)	O.G. Print Claim(s) 1	O.G. Print Figure 1

Meta Exhibit 1004
Meta v. Mullen - Page 00507

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK
EAST search refresh	4/19/2017	KK

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner
463	40-42	11/13/2017	KK
345	156	11/13/2017	KK

	/KEVIN Y KIM/ Primary Examiner.Art Unit 3716

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK
EAST search refresh	4/19/2017	KK

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner
463	40-42	11/13/2017	KK
345	156	11/13/2017	KK

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	**Art Unit**
	KEVIN Y KIM	3716

CPC								
Symbol							**Type**	**Version**
A63F	/	13	/	65			F	2014-09-02
A63F	/	13	/	216			I	2014-09-02
A63F	/	13	/	79			I	2014-09-02
A63F	/	13	/	332			I	2014-09-02
A63F	/	13	/	42			I	2014-09-02
A63F	/	13	/	12			I	2013-01-01
A63F	/	2300	/	204			A	2013-01-01
A63F	/	2300	/	205			A	2013-01-01
A63F	/	2300	/	406			A	2013-01-01
A63F	/	2300	/	408			A	2013-01-01
A63F	/	2300	/	5573			A	2013-01-01
A63F	/	2300	/	8082			A	2013-01-01

CPC Combination Sets								
Symbol							**Type**	**Set**	**Ranking**	**Version**

NONE		**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	16	
/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	11/13/2017	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	**Art Unit**
	KEVIN Y KIM	3716

US ORIGINAL CLASSIFICATION		INTERNATIONAL CLASSIFICATION														
CLASS	SUBCLASS	CLAIMED									NON-CLAIMED					
345	156	G	0	9	G	5 / 00										
CROSS REFERENCE(S)		A	6	3	F	9 / 24										
		A	6	3	F	13 / 00										
CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)	G	0	6	F	17 / 00										
463	40 41 42	G	0	6	F	19 / 00										

NONE		**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	16	
/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	11/13/2017	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	**Art Unit**
	KEVIN Y KIM	3716

☒ 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		33										
	2		18		34										
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	16		32												

NONE (Assistant Examiner)	(Date)	**Total Claims Allowed:** 16	
/KEVIN Y KIM/ Primary Examiner.Art Unit 3716 (Primary Examiner)	11/13/2017 (Date)	O.G. Print Claim(s) 1	O.G. Print Figure 1

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 12/07/2017

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
12/07/2017	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.

Corrected Notice of Allowability	Application No. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	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 *claims filed 10/19/2017*.
   ☐ 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 *19-34*. 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)
2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
5. ☒ Examiner's Amendment/Comment
6. ☐ Examiner's Statement of Reasons for Allowance
7. ☐ Other _____.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

Meta Exhibit 1004
Meta v. Mullen - Page 00514

DETAILED ACTION

Allowable Subject Matter

1. Claims 19-34 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y. Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday.

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, Dmitry Suhol can be reached on (571) 272-4430. 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.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

Electronic Acknowledgement Receipt

EFS ID:	31840230
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	20-FEB-2018
Filing Date:	01-AUG-2006
Time Stamp:	19:32:20
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	$950
RAM confirmation Number	022118INTEFSW19352500
Deposit Account	503855
Authorized User	Jeffrey Mullen

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

37 CFR 1.16 (National application filing, search, and examination fees)

37 CFR 1.17 (Patent application and reexamination processing fees)

37 CFR 1.19 (Document supply fees)

37 CFR 1.20 (Post Issuance fees)

37 CFR 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)	JDM-005CON2--RCE.pdf	697792 98d29e1c5c3f33f0d9164b759f2ddf10247e65cf	no	3
Warnings:					
Information:					
2	Transmittal Letter	JDM-005C2--IDS.pdf	104485 2d12b63a23286a016e700dcd4ddc2c21edf15cf6	no	8
Warnings:					
Information:					
3	Information Disclosure Statement (IDS) Form (SB08)	JDM-005C2--PTOSB08A.pdf	299053 ffb6394ba37a7b97cd3a31a1758dedfa50ed97e3	no	4
Warnings:					
Information:					
This is not an USPTO supplied IDS fillable form					
4	Non Patent Literature	JDM-005C7--reference1.pdf	25022 00abe062e85391885ee10e8c938ae2d2eafb2157	no	1
Warnings:					
Information:					
5	Non Patent Literature	JDM-005C7--reference2.pdf	473174 eacafcf99c76a93a057b29656ef3eecb37a747dc	no	1
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Information:					
6	Non Patent Literature	JDM-005CON5--NPL.pdf	687326 e36a31d7deedc2245c029e3a888b691be79c04cb	no	1
Warnings:					

Information:					
7		JDM-005CON--NPLandFR.pdf	5585526 9f73359ee22dbabb3fbf9fc9466187b73e2f5a4e	yes	109

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Non Patent Literature	1	50
	Foreign Reference	51	109

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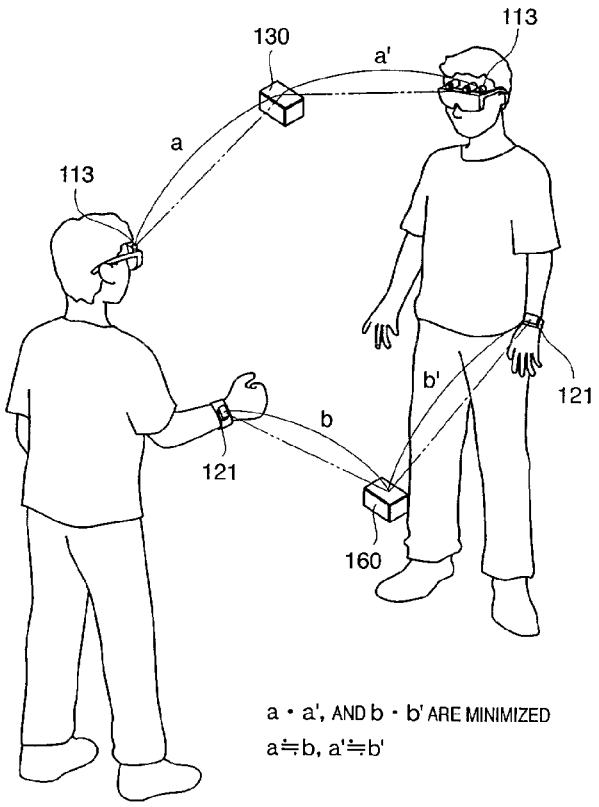
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(54) Title: MIXED REALITY SYSTEM WHICH REDUCES MEASUREMENT ERRORS OF VIEWPOINT POSITION AND DIRECTION OF OBSERVER



(57) Abstract: ABSTRACT A mixed reality system which reduces positional shifts between a real space picture and a virtual space picture with an inexpensive arrangement is disclosed. The mixed reality system according to this invention detects the viewpoint position and direction of an observer and the position and direction of another region of the observer by using reception results on signals output from a transmitter. In this mixed reality system, the transmitter is positioned such that the distance between the transmitter and a receiver used for the measurement of the viewpoint position and direction of the observer becomes shorter than the distance between the transmitter and a receiver used for the measurement of the position and direction of another region of the observer. This makes it possible to reduce measurement errors of the line-of-sight position and direction which are more dominant over positional shifts.

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DESCRIPTION

MIXED REALITY SYSTEM WHICH REDUCES MEASUREMENT ERRORS OF VIEWPOINT POSITION AND DIRECTION OF OBSERVER

TECHNICAL FIELD

The present invention relates to an augmented or mixed reality system which creates and displays a mixed reality space picture by combining a real space picture received from a video camera or the like and a virtual space picture created by CG or the like, and a head mounted display apparatus which can be used for the mixed reality system.

The present invention also relates to a method of determining the position of a transmitter used to measure the position and direction of a predetermined region of an observer in the above mixed reality system.

BACKGROUND ART

In a mixed reality system, to merge a real space with a virtual space, the 3D coordinates and direction of a real space object by using some means. As methods of acquiring these pieces of information, for example, the following method are realized: a method using a position/direction measurement apparatus typified by FASTRAK (trademark) available from Polhemus Inc. in the US, a method of combining information obtained by image processing of a real space picture based on known camera parameters with

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information obtained by a gyro, and a method of measuring the position and direction of a real space object by using a special multi-eye camera.

Apparatuses used in these methods are expensive, and besides, have measurement errors. To reduce such measurement errors, a measurement apparatus which is more expensive rather than cost-effective is required, which is one of the factors that hinder a reduction in the cost of a mixed reality system.

Fig. 22 shows an example of how a conventional position/direction measurement apparatus typified by FASTRAK available from Polhemus Inc. in the US.

Referring to Fig. 22, reference numerals 300a and 300b denote observers; 301, an HMD (Head Mounted Display) used by an observer to observe a mixed real space; 302, a position/direction measurement receiver mounted on the HMD 301; and 304, a position/direction measurement transmitter hidden by a wall. The observers 300a and 300b stand to face each other in a set 310. Each observer can freely determine a viewpoint position and line-of-sight direction within a movable area 311.

Reference numeral 312 denotes a mixed real space picture observable area. When the observer 300a or 300b sees this mixed real space picture observable area 312, he/she can observe, through the HMD 301, a mixed real space picture obtained by merging a CG picture as a virtual space picture with a real space picture. When the observer does

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not see the mixed real space picture observable area 312, only a real space picture is displayed on the HMD 301. A virtual space picture is displayed at a position determined on the basis of the viewpoint position and line-of-sight direction of the observer. It is therefore important to reduce measurement errors of the viewpoint position and line-of-sight direction when the observer sees the mixed real space picture observable area 312.

As shown in Fig. 22, if, however, the receiver 302 is fixed to the left side of the HMD 301 to measure the viewpoint position and line-of-sight direction of an observer, the distance between the receiver 302 and the transmitter 304 becomes long. This may result in an increase in measurement errors.

DISCLOSURE OF INVENTION

The present invention has been made in consideration of the above problem in the prior art, and has as its object to reduce positional shifts between a real space picture and a virtual space picture with an inexpensive arrangement.

According to the first aspect of the present invention, a mixed reality system which creates and displays a mixed real space picture by combining a real space picture with a virtual space picture, characterized by comprising a transmitter, a first receiver which receives a signal generated by said transmitter to measure

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a viewpoint position and direction of an observer, and a second receiver which receives a signal generated by said transmitter to measure a position and direction of another body region of the observer, wherein said transmitter is positioned such that a distance between said transmitter and said first receiver becomes shorter than a distance between said transmitter and said second receiver.

According to the second aspect of the present invention, a head mounted display apparatus which is used in a mixed reality system that creates and displays a mixed real space picture by combining a real space picture with a virtual space picture, and which can mount a receiver used to measure a viewpoint position and direction of an observer to be mounted, characterized in that a plurality of mount portions for detachably mounting said receiver are formed.

According to the third aspect of the present invention, a method of positioning a transmitter in a mixed reality system which includes the transmitter, a first receiver which receives a signal generated by the transmitter to measure a viewpoint position and direction of an observer, and a second receiver which receives a signal generated by the transmitter to measure a position and direction of another body region of the observer, and creates and displays a mixed real space picture by combining a real space picture with a virtual space picture, characterized in that said transmitter is positioned such that a distance between the transmitter and the first

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receiver becomes shorter than a distance between the transmitter and the second receiver.

BRIEF DESCRIPTION OF DRAWINGS

The accompanying drawings, which are incorporated in and constitute a part of the specification, illustrate embodiments of the invention and, together with the description, serve to explain the principles of the invention.

Fig. 1 is a view showing the schematic arrangement of a mixed reality system to which the third embodiment of the present invention is applied;

Fig. 2 is a view showing the arrangement of an HMD;

Fig. 3 is a flow chart showing the processing of creating a mixed real space picture;

Figs. 4A and 4B are views showing a real space picture example and virtual space picture;

Fig. 5 is a view showing an ideal (with no error in position sensor measurement values) mixed real space picture corresponding to the real space picture example and virtual space picture example in Figs. 4A and 4B;

Fig. 6 is a view showing a mixed real space picture corresponding to the real space picture example and virtual space picture example in Figs. 4A and 4B in a case where an error exists only in an eye position sensor measurement value;

Fig. 7 is a view showing a mixed real space picture

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corresponding to the real space picture example and virtual space picture example in Figs. 4A and 4B in a case where an error exists only in a hand position sensor measurement value;

Fig. 8 is a view for explaining the distance relationship between a position sensor transmitter and a position sensor in the first embodiment of the present invention;

Fig. 9 is a view for explaining the distance relationship between a position sensor transmitter and a position sensor in the second embodiment of the present invention;

Fig. 10 is a view for explaining the distance relationship between a position sensor transmitter and a position sensor in the third embodiment of the present invention;

Fig. 11 is a view showing the schematic arrangement of a mixed reality system to which the third embodiment of the present invention is applied;

Fig. 12 is a view showing the schematic arrangement of a mixed reality system to which the fourth embodiment of the present invention is applied;

Fig. 13 is a view for explaining the distance relationship between a position sensor transmitter and a position sensor in the fourth embodiment of the present invention;

Fig. 14 is a view showing the schematic arrangement

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of a mixed reality system to which the fifth embodiment of the present invention is applied;

Fig. 15 is a view for explaining the distance relationship between position sensor transmitters and position sensors in the fifth embodiment of the present invention;

Fig. 16 is a view showing the schematic arrangement of a mixed reality system to which the sixth embodiment of the present invention is applied;

Fig. 17 is a perspective view showing a case where the HMD according to the sixth and seventh embodiments is viewed from the direction of a photographing unit;

Fig. 18 is a perspective view showing a case where the HMD according to the sixth and seventh embodiments is viewed from the direction of a display unit;

Fig. 19 is a block diagram showing a hardware arrangement corresponding to one observer in the system shown in Fig. 16;

Fig. 20 is a view for explaining the mount position of a position sensor (receiver) in the sixth embodiment of the present invention;

Fig. 21 is a view for explaining the mount position of a position sensor (receiver) in the seventh embodiment of the present invention; and

Fig. 22 is a view for explaining an example of a problem in the prior art.

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BEST MODE OF CARRYING OUT THE INVENTION

Preferred embodiments of the present invention will now be described in detail in accordance with the accompanying drawings.

[First Embodiment]

Fig. 1 is a view showing the schematic arrangement of a mixed reality system to which the first embodiment of the present invention is applied. An observer 100 is wearing an HMD (Head Mounted Display) 110 on the head and a glove 120 on his/her hand.

As shown in Fig. 2, the HMD 110 is comprised of a video camera 111, LCD 112, position/direction measurement apparatus receiver (eye position sensor) 113, and optical prisms 114 and 115. The video camera 111 photographs a real space picture at/in the viewpoint position and line-of-sight direction of the observer through the optical prism 115. The eye position sensor 113 is used to measure the viewpoint position and line-of-sight direction of an observer. The LCD 112 displays a mixed real space picture. This picture is guided to the pupil of the observer through the optical prism 114.

The glove 120 incorporates a hand position sensor 121 and speaker 122 (not shown). The hand position sensor 121 is used as a sensor for measuring the position and direction of the hand of the observer. The speaker 122 generates a sound corresponding to an event that has occurred at the

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position of the hand. This sound may be a sound generated when the user touches or hits a virtual space object with his/her hand, a sound generated when the condition of a virtual space object displayed in synchronism with the position of the hand changes, or the like.

Reference numeral 130 denotes a position/direction measurement apparatus transmitter (position sensor transmitter); and 131, a position/direction measurement apparatus body (position sensor body). The eye position sensor 113, hand position sensor 121, and position sensor transmitter 130 are connected to the position sensor body 131. Magnetism is transmitted from the position sensor transmitter 130. This magnetism is received by the eye position sensor 113 and hand position sensor 121. The position sensor body 131 calculates the position and direction of the eye and hand on the basis of the reception intensity signal from the hand position sensor 121. As this position/direction measurement apparatus, FASTRAK available from Polhemus Inc. in the US or the like can be used.

Reference numeral 140 denotes a processing apparatus for creating a mixed real space picture for one observer and displaying it on the HMD 110. This processing apparatus 140 is comprised of, for example, a personal computer, a video capture card, a video card having a CG function, a sound card, and the like. The HMD 110, speaker 122, and position sensor body 131 are connected to the processing

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apparatus 140.

A procedure for creating a mixed real space picture in the processing apparatus 140 will be described next with reference to the flow chart of Fig. 3.

First of all, the processing apparatus 140 receives a viewpoint position, a line-of-sight direction, and the position and direction of the hand transmitted from the position sensor body 131 (step S301). Note that the operation in step S301 uses thread S311 of periodically receiving the viewpoint position, the line-of-sight direction, and the position and direction of the hand transmitted from the position sensor body 131.

The virtual space time is then updated, and the state of the virtual space (the type, position, and condition of a virtual space object) is updated (step S302). In this case, if there is a virtual space object whose position and direction change in synchronism with the position and direction of a real space object, the state of such an object is also updated. If, for example, the user is made to see that he/she is always wearing a glove as a virtual space object on his/her hand, the position and direction of the glove are updated in accordance with changes in the position and direction of the hand in step S302.

If the relationship between the position and direction (the hand position and viewpoint position) of the real space object and the position and direction of the virtual space object is then checked, and it is determined

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that a predefined event has occurred, the state of the virtual space is updated in accordance with the event (step S303). For example, the occurrence of an even corresponds to a case where it is determined that the user touches the virtual space object with his/her hand. Updating the state of a virtual space in accordance with this event may be equivalent to changing, for example, the picture of the touched virtual space object into a picture of an explosion.

A real space picture at/in the viewpoint position and line-of-sight direction of the observer which is obtained from the video camera 111 is received (step S304). This operation in step S304 uses thread S314 of periodically acquiring the real space picture obtained from the video camera 111 through a video capture card.

A virtual space picture at/in the viewpoint position and line-of-sight direction of the observer, which are obtained in step S301, is created in accordance with the state of virtual space updated in steps S302 and S303 (step S305).

Finally, the virtual space picture created in step S305 is combined with the real space picture received in step S304, and the resultant picture is output to the LCD 112 of the HMD 110 (step S306). The above processing is repeatedly executed until some terminating operation is performed (step S307).

A method unique to this embodiment will be described next, which is used to reduce the differences in position

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and direction between a virtual space object and a real space object in a mixed real space picture observed by each observer.

If the position/direction measurement apparatus can properly measure the viewpoint position and line-of-sight direction of an observer and the position and direction of the hand, there are no differences in position and direction between the virtual space object and the real space object. Consider the real space picture shown in Fig. 4A and the virtual space picture shown in Fig. 4B. In this case, ideally, a mixed reality picture like the one shown in Fig. 5 is created. In practice, however, the position/direction measurement apparatus uses magnetism or ultrasonic waves, and hence is very susceptible to disturbances and has a small measurable range. The actual position/direction measurement apparatus can measure with effective accuracy only within a range of about 80 cm from the position sensor transmitter. It is also known that even in measurement in a space without any ferromagnetic object, position and direction measurement errors monotonously increase with an increase in distance between the position sensor transmitter and the position sensor (receiver). In order to improve this situation, it is important to minimize the distance between the position sensor transmitter and the receiver.

Measurement errors in the position/direction measurement apparatus pose a more serious problem in the

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measurement of viewpoint position and line-of-sight direction. If measurement errors about the hand position and direction increase, only a positional shift occurs between the hand the virtual space object that moves in synchronism with the hand, as shown in Fig. 7. If, however, measurement errors about the viewpoint position and line-of-sight direction increase, positional shifts occur with respect to all virtual space objects as well as a positional shift with respect to the hand, as shown in Fig. 6.

The principal object of the first embodiment is therefore to improve the measurement accuracy of the eye position sensor 113. To reduce positional shifts between a real space object and a virtual space object, the position sensor transmitter 130 is placed such that the distance between the eye position sensor 113 and the position sensor transmitter 130 becomes shorter than the distances between the position sensor transmitter 130 and the remaining sensors connected to the position sensor body 131 at the positions and directions at/in which the respective position sensors are used with high frequencies, as shown in Fig. 8, thereby improving the measurement accuracy of the viewpoint position and line-of-sight direction as compared with the measurement accuracy of the position and direction of the remaining position sensors. This makes it possible to make positional shifts with respect to all the virtual space objects less noticeable.

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The position of the position sensor transmitter 130 cannot be specified but should be changed flexibly depending on the type of mixed reality picture the mixed reality system displays and the position and direction viewed by an observer.

Assume that a plurality of observers exist. In this case, mixed reality can be further augmented by setting a situation in which the observers can observe each other. In general, therefore, the direction in which each observer observes with a high frequency becomes the horizontal direction. In such a situation, placing the position sensor transmitter 130 above the head of the observer as shown in Fig. 8 makes it possible to have the merits of this embodiment and prevent a picture of the transmitter, which should not be combined as a real space object in the mixed real space, from being combined. In addition, this allows the observer to freely move in all directions. Furthermore, since measurement errors caused when the observer moves become equal to each other in all directions, management is facilitated. As described above, a mixed real space picture without any unnecessary real object, which has high quality as a whole, can be observed while the freedom of movement is ensured.

[Second Embodiment]

The second embodiment exemplifies a case where a position sensor transmitter 130 is placed such that the

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distance from a hand position sensor 121 is shortened, as well as the distance from an eye position sensor 113, at/in the viewpoint position and line-of-sight direction at/in which the hand is observed with a high frequency and at/in the hand position and direction, as shown in Fig. 9.

In the second embodiment, in a situation where an observer frequently observes the hand, the position sensor transmitter 130 is so placed as to shorten the distance between the eye position sensor 113 and the position sensor transmitter 130 as well as the distance between the hand position sensor 121 and the position sensor transmitter 130. This makes it possible to reduce measurement errors in both the eye position sensor 113 and the hand position sensor 121. As compared with the first embodiment, a virtual space object that moves in synchronism with the hand can be observed while the object is localized on the hand with a small error.

Obviously, the posture of an observer in which the hand is frequently observed depends on the contents of a mixed real space picture which the mixed reality system is to present to the observer. For this reason, the position sensor transmitter 130 must be adjusted such that the distance from the hand position sensor 121 becomes almost equal to the distance from the eye position sensor 113 when the hand is frequently observed.

This embodiment has exemplified the case where the position of a virtual space object is changed in synchronism

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with the hand. However, the present invention is not limited to this, and can also be applied to a case where the position of a virtual space object is changed in synchronism with another body region such as a foot.

[Third Embodiment]

Fig. 11 is a view showing the schematic arrangement of a mixed reality system to which the third embodiment is applied. This system is based on the assumption that two observers simultaneously observe the same mixed real space. This system includes two systems each identical to the one shown in Fig. 1. Note that a position sensor transmitter 130 and position sensor body 131 are shared by the two observers to realize a reduction in the total cost of the mixed real space system. The position sensor body 131 is connected to only one processing apparatus 140 and is not connected to the other processing apparatus 140. For this reason, the processing apparatuses 140 for the respective observers are connected to each other through a network 150 to allow the processing apparatus 140 to which the position sensor body 131 is not connected to create a mixed real space picture.

In the third embodiment, as shown in Fig. 10, at the position where each observer observes a hand with a high frequency, the position sensor transmitter 130 is so placed as to almost match the distance (a or a') between an eye position sensor 113 for each observer and the position

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sensor transmitter 130 with the distance (b or b') between a hand position sensor 121 and the position sensor transmitter 130. In addition, the position sensor transmitter 130 is so placed as to minimize the respective distances (a, a', b, and b').

With this arrangement, each observer can observe a virtual space object that moves in synchronism with a hand with a small position shift on the hand.

Note that positional shifts can be made uniform with respect to all observers by placing the position sensor transmitter 130 such that the distance (a) between the eye position sensor 113 for a given observer and the position sensor transmitter 130 becomes almost equal to the distance (a') between the eye position sensor 113 for the other observer and the position sensor transmitter 130, and the distance (b) between the hand position sensor 121 for a given observer and the position sensor transmitter 130 becomes almost equal to the distance (b') between the hand position sensor 121 for the other observer and the position sensor transmitter 130.

The procedure executed by each processing apparatus 140 is almost the same as that in the first embodiment except that the processing apparatus 140 to which the position sensor body 131 controls the position sensor body 131 through a position/direction acquisition thread in thread S311 in Fig. 3 to acquire measurement values. This processing apparatus 140 then accesses the network 150 to

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distribute the measurement values obtained by the respective position sensors to the other processing apparatus.

The processing apparatus 140 to which the position sensor body 131 is not connected accesses the network through a position/direction acquisition thread in thread S311 in Fig. 3 to acquire the measurement values obtained by the respective position sensors which are sent from the processing apparatus 140 to which the position sensor body 131 is connected.

[Fourth Embodiment]

The fourth embodiment is obtained by developing the first embodiment to have one each of a position sensor transmitter and a position sensor body for one position sensor. In this case, two components, i.e., a position sensor transmitter and position sensor body, are required for one position sensor, and hence the cost increases accordingly. However, a viewpoint position, a line-of-sight direction, and the position and direction of the hand can be measured with high accuracy.

Fig. 12 is a view showing the schematic arrangement of a mixed reality system to which the fourth embodiment is applied. This system additionally has a hand position sensor transmitter 160 and position sensor body 161 as compared with the arrangement of the first embodiment shown in Fig. 1. The hand position sensor body 161 is connected

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to a processing apparatus 140, and the hand position sensor transmitter 160 is connected to the hand position sensor body 161. A hand position sensor 121 is designed to receive magnetism from the hand position sensor transmitter 160. In this embodiment, a position sensor transmitter 130 and position sensor body 131 function as dedicated devices for the eyes.

The hand position sensor transmitter 160 is so placed as to shorten the distance between the hand position sensor 121 and the hand position sensor transmitter 160 at/in the hand position and direction where an observer observes the hand with a high frequency. The position sensor transmitter 130 is so placed as to shorten the distance between an eye position sensor 113 and the eye position sensor transmitter 130.

Although the procedure executed by the processing apparatus 140 is almost the same as that in the first embodiment except that in thread S311 in Fig. 3, a position/direction acquisition thread controls the plurality of position sensor bodies 131 and 161 to acquire measurement values from the respective sensor bodies.

By arranging the dedicated position sensor transmitter and position sensor body for each position sensor in this manner, positional shifts between a real space picture and a virtual space picture can be further reduced in the viewpoint position, the line-of-sight direction, and the hand position and direction where the

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hand is observed with high frequencies, as compared with the second embodiment. This allows the observer to observe a mixed real space picture with higher quality.

The fourth embodiment is especially effective in preventing an observer from feeling a positional shift when a translucent virtual space object like seawater or a virtual space picture almost equal in size to a hand (real space picture) is to be expressed as if it were always on the hand of the observer.

Assume that a virtual space object is not translucent. In this case, if the virtual space object is larger than the hand, the hand is completely hidden by the virtual space object. Even if, therefore, a slight positional shift occurs, the resultant mixed real space picture does not look strange to the observer. In the case of a translucent virtual space object equal in size to a hand, even with a slight positional shift, the hand cannot be hidden by the virtual space object, and the positional shift between the hand and the virtual space object is seen by the observer. Furthermore, in the case of a translucent virtual space object, a positional shift between a virtual space object and a real space object is always seen by the observer regardless of the size of the virtual space object.

Even in such a situation, this embodiment can prevent the observer from observing positional shifts between the virtual space object and the real space object.

Note that the quality of a mixed real space picture

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can be improved by placing the eye position sensor transmitter 130 above the head of the observer, as shown in Fig. 13, as in the first embodiment. In addition, if possible, the hand position sensor transmitter 160 may be placed below the hand position at/in the hand position and direction where the observer uses the system with a high accuracy. With this arrangement, the hand position sensor transmitter 160 does not interfere with the field of view of the observer in the horizontal direction, thereby presenting a mixed real space picture with higher quality.

[Fifth Embodiment]

Fig. 14 is a view showing the arrangement of a mixed reality system to which the fifth embodiment is applied. In this embodiment, as in the fourth embodiment, position sensor transmitters 130 and 160 and position sensor bodies 131 and 161 are respectively provided for an eye position sensor 113 and hand position sensor 121 to allow high-accuracy measurement of a viewpoint position, a line-of-sight direction, and the position and direction of the hand. In addition, the position sensor transmitters 130 and 160 and position sensor bodies 131 and 161 are shared by two observers to attain a reduction in cost.

The two position sensor bodies 131 and 161 are connected to only one processing apparatus 140 and are not connected to the other processing apparatus 140. The processing apparatuses 140 for the respective observers are

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therefore connected to each other through a network 150 to allow the processing apparatus 140 to which the position sensor bodies 131 and 161 are not connected to create a mixed real space picture.

In this embodiment, as shown in Fig. 15, the distance between the eye position sensor 113 for each observer and the eye position sensor transmitter 130 and the distance between the hand position sensor 121 and the hand position sensor transmitter 160 are minimized at a position where each observer makes observations with a high frequency. In addition, the eye position sensor transmitter 130 and hand position sensor transmitter 160 are placed such that the distances between the eye position sensors 113 for the respective observers and the position sensor transmitter 130 become almost equal to each other, and the distances between the hand position sensors 121 for the respective observers and the hand position sensor transmitter 160 become almost equal to each other.

With this arrangement, all observers can observe a high-quality mixed real picture with positional shifts between a virtual object and a real object being further reduced, and positional shifts are made uniform to all the observers.

The procedure executed by each processing apparatus 140 is the same as that in the first embodiment except that the processing apparatus 140 to which the position sensor bodies 131 and 161 are connected controls the position

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sensor bodies 131 and 161 through a position/direction acquisition thread in thread S311 in Fig. 3 to acquire measurement values. The apparatus then accesses the network 150 to distribute the measurement values obtained by the respective position sensors to the other processing apparatus.

If the eye position sensor transmitter 130 is placed above the head of an observer and the hand position sensor transmitter 160 is placed below the hand position where the observer observes the hand with a high frequency as in the fourth embodiment, the position sensor transmitters 130 and 160 do not interfere with the field of view of the observer in the horizontal direction. This allows the observer to observe a high-quality mixed real space picture in the direction in which a mixed real space is observed with a high frequency.

[Sixth Embodiment]

Fig. 16 is a view showing the schematic arrangement of a mixed reality system to which the sixth embodiment is applied. Referring to Fig. 16, reference numerals 300a and 300b denote observers who observe mixed real space pictures created in this system. Each of the observers 300a and 300b wears an HMD 301 on which a receiver 302 is mounted. Each observer can observe a mixed real space corresponding to position/direction measurement values through the HMD 301.

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Reference numeral 306 denotes a position/direction measurement apparatus. A transmitter 304 and receiver 302 are connected to this position/direction measurement apparatus 306. The magnetism generated from the transmitter 304 is received by the receiver 302. The position/direction measurement apparatus 306 then measures the viewpoint position and line-of-sight direction of the observer from the strength of magnetism.

The position/direction measurement apparatus 306 is connected to a processing apparatus 307 to be always notified of the viewpoint position and line-of-sight direction of the observer from the position/direction measurement apparatus 306. The processing apparatus 307 creates a mixed real space picture corresponding to the viewpoint position and line-of-sight direction of each observer on the basis of this information, and displays it on the HMD 301.

The processing apparatuses 307 for the respective observers are connected to each other through a network 330. The respective processing apparatuses 307 share the viewpoint positions and line-of-sight directions of the respective observers and the position and direction of a virtual space object by using the network 330. This allows a given observer to display a virtual space object at the position of the other observer.

Figs. 17 and 18 are perspective views of the HMD 301 to which the sixth embodiment is applied. Fig. 17 is a

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perspective view from the direction of a photographing unit. Fig. 18 is a perspective view from the direction of a display unit.

Reference numeral 201 denotes an HMD display unit. This HMD display unit 201 includes two units, i.e., a right-eye display 201R and left-eye display 201L, each of which has a color liquid crystal and prism. A mixed real space picture corresponding to the viewpoint position and line-of-sight direction of an observer is displayed on each display unit.

Reference numerals 204 to 208 denote constituent members for head mounting. To mount the HMD 301 on the head, the observer wears it while the length adjusting portion 206 is loosened by the adjuster 205. After the forehead pad 208 is brought into tight contact with the forehead, the length adjusting portion 206 may be fastened by the adjuster 205 to bring the temple bridges 204 and occiput pad 207 into tight contact with the temple and occipital portion of the observer, respectively.

Reference numeral 203 denotes an HMD photographing unit for photographing a real space picture at/in the viewpoint position and line-of-sight direction of an observer. This HMD photographing unit 203 includes two units, i.e., a right-eye photographing unit 203R and left-eye photographing unit 203L, each of which is formed by an NTSC compact video camera. The photographed real space picture is superimposed on a virtual space picture

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to create a mixed real space picture.

The receiver 302 is used to receive magnetism generated by the transmitter 304 as information for the measurement of the viewpoint position and line-of-sight direction of the observer. As the mount portions of the receiver 302 for the HMD 301, three portions, i.e., receiver joints 200R, 200L, and 200C, are formed. The receiver 302 can be detachably mounted on an arbitrary joint of these receiver joints 200R, 200L, and 200C. Referring to Figs. 17 and 18, the receiver 302 is mounted on the receiver joint 200R on the right side in the direction of the light of sight of the observer. However, the receiver 302 can be amounted on the receiver joint 200L on the left side in the direction of the light of sight of the observer or the receiver joint 200C on the median line of the observer.

In this embodiment, the receiver joints 200R, 200L, and 200C are designed to have receptacles in which the receiver 302 is fitted to be fixed. However, other detachable joint (mount) schemes may be used.

Reference numeral 210 denotes a receiver signal line, which is exposed outside the HMD 301 at a position near the receiver joint 200C. This receiver signal line 210 is long enough to allow the receiver 302 to be mounted on either of the receiver joints 200R, 200L, and 200C.

Reference numeral 209 denotes a tied linear member obtained by binding various kinds of lines, e.g., signal lines and power feed lines to the HMD photographing unit

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203 and the like and the above receiver signal line 210. The tied linear member 209 is attached to the occipital portion mount portion 207. Signal lines and power feed lines to the right and left displays 201R and 201L, HMD photographing units 203R and 203L, and the like in the tied linear member 209 pass through the right and left temple mount portions 204.

Fig. 19 is a block diagram showing a hardware arrangement corresponding to one observer in the system shown in Fig. 16. The processing apparatus 307 incorporates a right-eye video capture board 350, left-eye video capture board 351, right-eye graphic board 352, left-eye graphic board 353, I/O interface 354, and network interface 359. These constituent elements are connected to a CPU 356, HDD 355, and memory 357.

The left- and right-eye video capture boards 351 and 350 are respectively connected to the left- and right-eye video cameras 203L and 203R, and convert pictures actually photographed by these video cameras 203L and 203R into pictures in a form that can be processed by the processing apparatus 307 with a virtual space picture. The left- and right-eye graphic boards 353 and 352 are respectively connected to the left- and right-eye display units (devices) 201L and 201R to perform display control on the left- and right-eye display units 201L and 201R.

The I/O interface 354 is connected to the position/direction measurement apparatus 306. The

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network interface 359 is connected to the network 330. Note that each of the processing apparatuses 140 according to the first to fifth embodiments is constituted by the same constituent elements as those of the processing apparatus 307 according to this embodiment.

An outline of processing performed by the mixed reality system according to this embodiment will be described next. In this system, (1) a real space picture at/in the current viewpoint position and line-of-sight direction of an observer is acquired, (2) the viewpoint position and line-of-sight direction of the observer are acquired, and (3) a virtual space picture at/in the acquired viewpoint position and line-of-sight direction is created. In this case, the positional relationship between an object in a virtual space viewed from the viewpoint position and an object in a real space in consideration of the position, shape, and the like of the object in the real space which are stored in advance, (4) the real space picture is superimposed on the virtual space picture to create a mixed real space picture, and (5) the mixed real space picture is presented to the observer. By repeating this series of operations, the observer is made to experience a mixed real space picture.

In this series of operations, acquisition processing of a real space picture at/in the current viewpoint position and line-of-sight direction of the observer is performed by the video capture boards 350 and 351. More specifically,

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the video capture boards 350 and 351 convert video signals from the video cameras 203R and 203L into digital signals and continuously store them in the memory 357. The viewpoint position and line-of-sight direction of the observer are kept transmitted from the position/direction measurement apparatus 306 to the processing apparatus 307 through the I/O interface 354.

The processing apparatus 307 updates the time in a virtual space on the basis of a program stored in the memory 357 and calculates the position and direction of the virtual space object again. A virtual space picture corresponding to the viewpoint position and direction of the observer, which are acquired through the I/O interface 354, is created.

In this case, by defining in advance an object existing in a real space such that it exists in a virtual space, a virtual space picture can also be created in consideration of the positional relationship between the real space object and the virtual space object. For example, a virtual space object can be seen as if it were hidden behind a real wall.

Finally, the real space picture and virtual space picture created in the memory 357 are superimposed on each other to create a mixed real space picture. The created mixed real space picture is displayed on the HMD displays 201R and 201L under the control of the graphic boards 352 and 353.

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A method of mounting the receiver 302, which is a characteristic feature of this embodiment, will be described next. Fig. 20 shows a state where the receiver 302 is mounted on a right receiver joint 210R of the HMD 301 for the observer 300a, and the receiver 302 is mounted on left receiver joint 210L of the HMD 301 for the observer 300b in the same situation as that shown in Fig. 22 which shows the problem in the prior art.

Assume that the transmitters 304 for measuring the viewpoint positions and line-of-sight directions of the observers 300a and 300b are placed at the positions in Fig. 20. In this case, by selecting receiver joints for mounting the receivers 302 in the above manner, the distances between the transmitters 304 and receivers 302 used by the observers 300a and 300b are shortened when both the observers 300a and 300b set their viewpoint positions in movable areas 311, and line-of-sight directions are set in the direction of a mixed real space picture observable area 312. In other words, position/direction measurement errors can be reduced in a situation where the observers 300a and 300b make observations with high frequencies.

In addition, by selecting mount positions for the receivers 302 as shown in Fig. 20, since the observers 300a and 300b, receivers 302, and transmitters 304 are symmetrical about a line segment 313 passing through the center of the mixed real space picture observable area 312, measurement errors of positions and directions associated

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with the two observers 300a and 300b can be made uniform.

[Seventh Embodiment]

The seventh embodiment is applied to a case where transmitters 304 are placed in front of observers 300a and 300b, as shown in Fig. 21.

When the transmitters 304 are placed in front of the observers 300a and 300b in this manner, receivers 302 are mounted on central receiver joints 200C of HMDs 301 to minimize the distances between the receivers 302 on the HMD 301 and the transmitters 304.

In this case, as in the sixth embodiment, position/direction measurement errors can be reduced in a situation where the observers 300a and 300b make observations with high frequencies. In addition, position/direction measurement errors associated with the two observers 300a and 300b can be made uniform.

As described above, according to the first to seventh embodiments positional shifts between a real space picture and a virtual space picture can be reduced by the method requiring no cost, i.e., adjusting the mount position of the transmitter for position/direction measurement or the mount position of the receiver on each HMD.

The present invention is not limited to the above embodiments. For example, as the transmitters and receivers (position/direction measurement apparatus), for example, devices based on an ultrasonic scheme instead of

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a magnetic scheme can be used. In addition, the respective embodiments described above can be properly combined with each other.

As has been described above, according to the present invention, positional shifts between a real space picture and a virtual space picture can be reduced with an inexpensive arrangement.

Furthermore, the present invention can be applied to the system comprising either a plurality of units or a single unit. It is needless to say that the present invention can be applied to the case which can be attained by supplying programs which execute the process defined by the present system or invention.

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CLAIMS

1. A mixed reality system which creates and displays a mixed real space picture by combining a real space picture with a virtual space picture, characterized by comprising:

a transmitter;

a first receiver which receives a signal generated by said transmitter to measure a viewpoint position and direction of an observer; and

a second receiver which receives a signal generated by said transmitter to measure a position and direction of another body region of the observer,

wherein said transmitter is positioned such that a distance between said transmitter and said first receiver becomes shorter than a distance between said transmitter and said second receiver.

2. The mixed reality system according to claim 1, characterized in that said transmitter is positioned such that the distance between said transmitter and said first receiver always become shorter than the distance between said transmitter and said second receiver within at least a predetermined movement range of the observer.

3. The mixed reality system according to claim 1, characterized in that the mount position of said transmitter for measuring the viewpoint position and direction of the observer is above the head of the observer.

4. The mixed reality system according to claim 1, characterized in that said transmitter is shared by said

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plurality of first and second receivers.

5. The mixed reality system according to claim 1, characterized in that said receiver and transmitter receive and transmit magnetism or an ultrasonic wave.

6. A head mounted display apparatus which is used in a mixed reality system that creates and displays a mixed real space picture by combining a real space picture with a virtual space picture, and which can mount a receiver used to measure a viewpoint position and direction of an observer to be mounted,

characterized in that a plurality of mount portions for detachably mounting said receiver are formed.

7. The head mounted display apparatus according to claim 6, characterized in that said mount portions are formed at least on a median line of the observer and both left and right sides in a line-of-sight direction of the observer.

8. The head mounted display apparatus according to claim 6 or 7, characterized in that a signal line connected to said receiver extends from a portion near said mount portion on the median line to the outside.

9. The head mounted display apparatus according to claim 6, characterized in that said receiver receives magnetism or an ultrasonic wave.

10. A method of positioning a transmitter in a mixed reality system which includes the transmitter, a first receiver which receives a signal generated by the transmitter to measure a viewpoint position and direction

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of an observer, and a second receiver which receives a signal generated by the transmitter to measure a position and direction of another body region of the observer, and creates and displays a mixed real space picture by combining a real space picture with a virtual space picture,

characterized in that said transmitter is positioned such that a distance between the transmitter and the first receiver becomes shorter than a distance between the transmitter and the second receiver.

11. The method of positioning the transmitter in the mixed reality system according to claim 10, characterized in that said transmitter is positioned such that the distance between said transmitter and said first receiver always become shorter than the distance between said transmitter and said second receiver within at least a predetermined movement range of the observer.

12. The method of positioning the transmitter in the mixed reality system according to claim 10, characterized in that the mount position of said transmitter for measuring the viewpoint position and direction of the observer is above the head of the observer.

13. The method of positioning the transmitter in the mixed reality system according to claim 10, characterized in that said transmitter is shared by said plurality of first and second receivers.

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FIG. 1

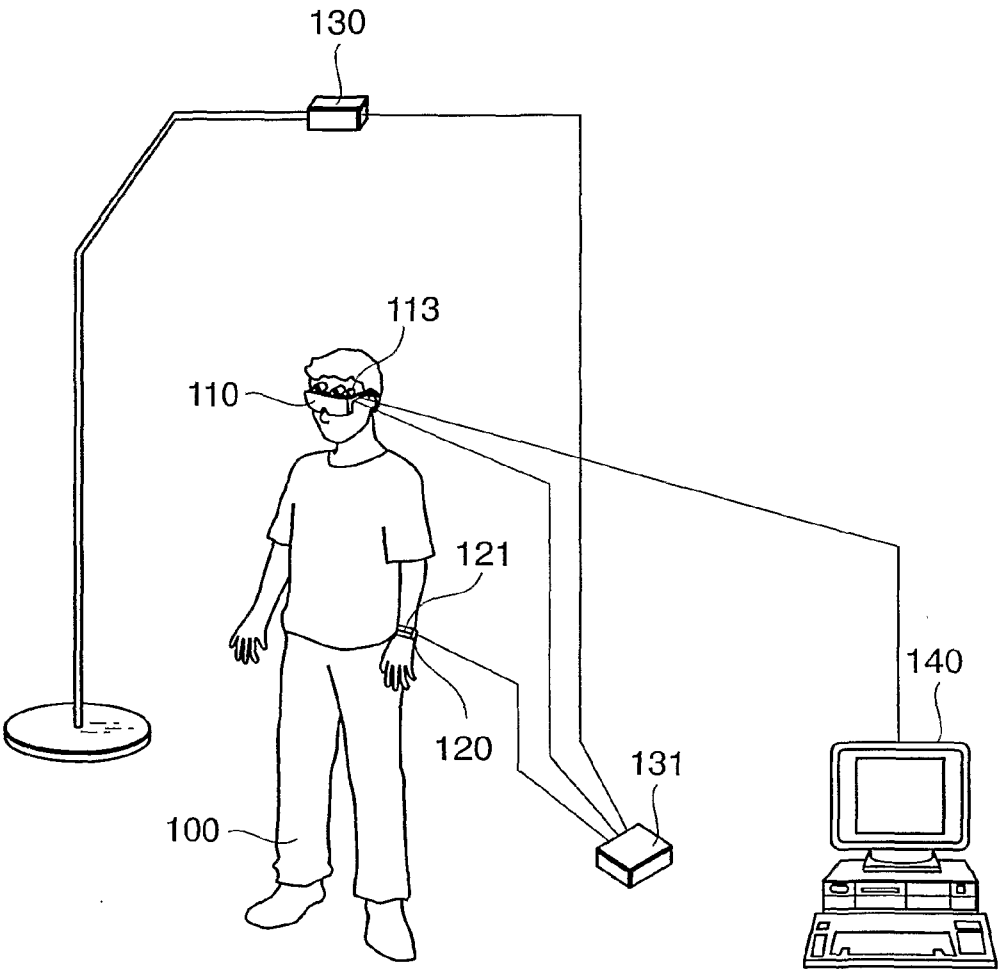


FIG. 2

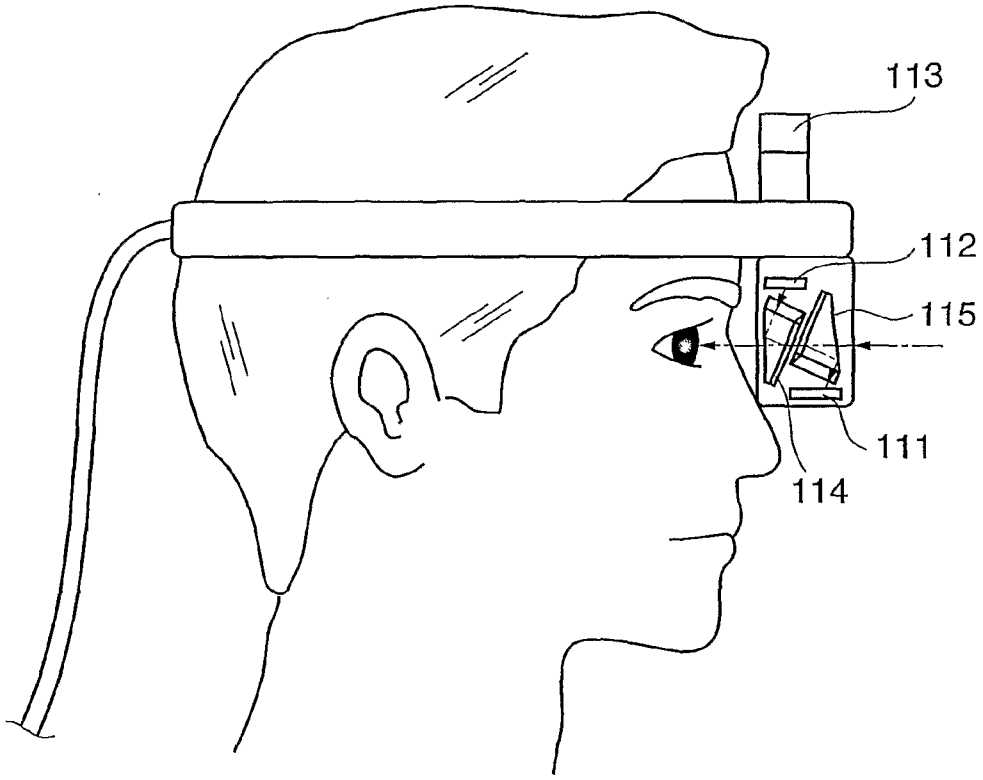


FIG. 3

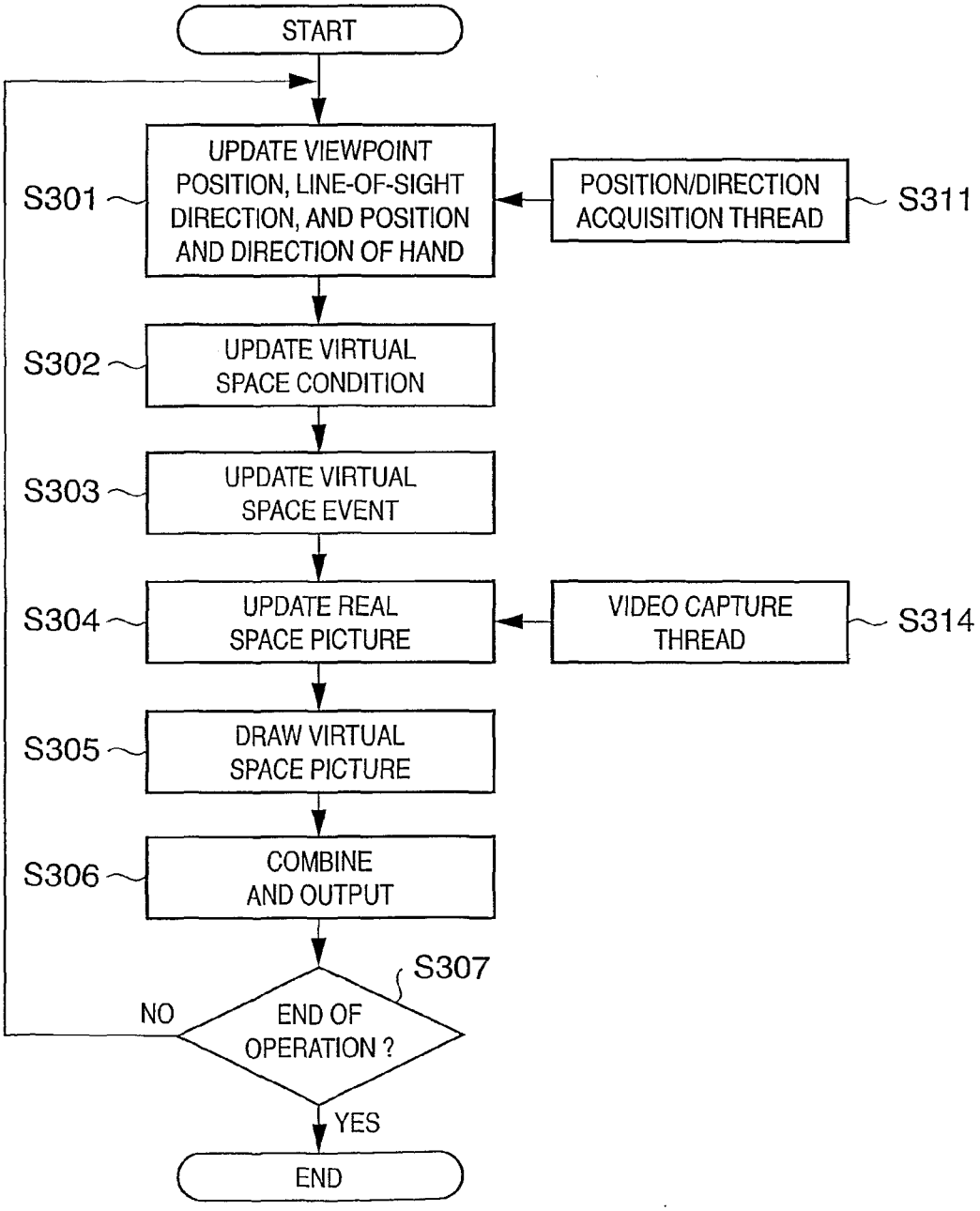

START
S301
UPDATE VIEWPOINT POSITION, LINE-OF-SIGHT DIRECTION, AND POSITION AND DIRECTION OF HAND
POSITION/DIRECTION ACQUISITION THREAD
S311
S302
UPDATE VIRTUAL SPACE CONDITION
S303
UPDATE VIRTUAL SPACE EVENT
S304
UPDATE REAL SPACE PICTURE
VIDEO CAPTURE THREAD
S314
S305
DRAW VIRTUAL SPACE PICTURE
S306
COMBINE AND OUTPUT
S307
NO
END OF OPERATION ?
YES
END

FIG. 4A

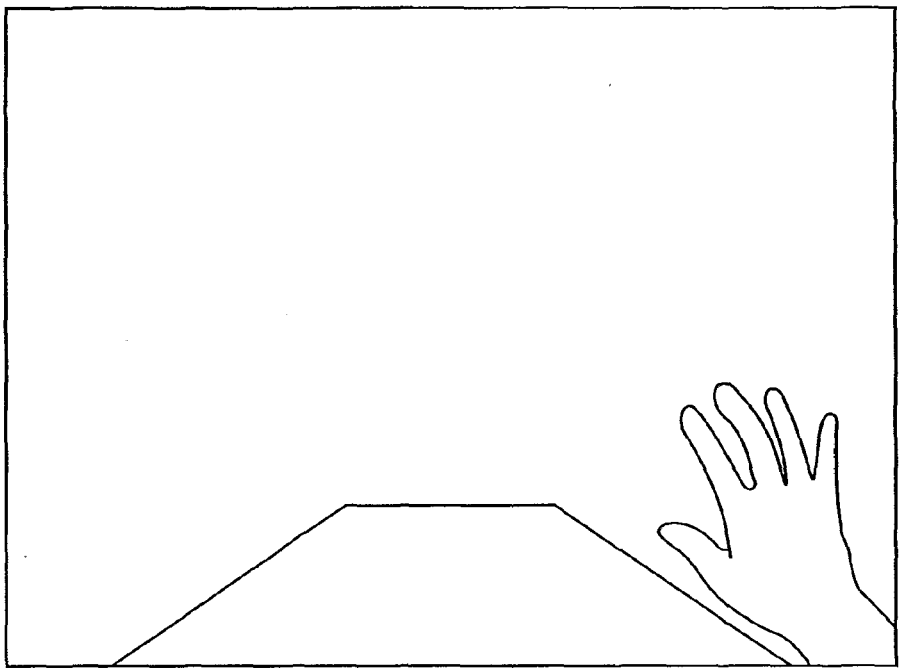
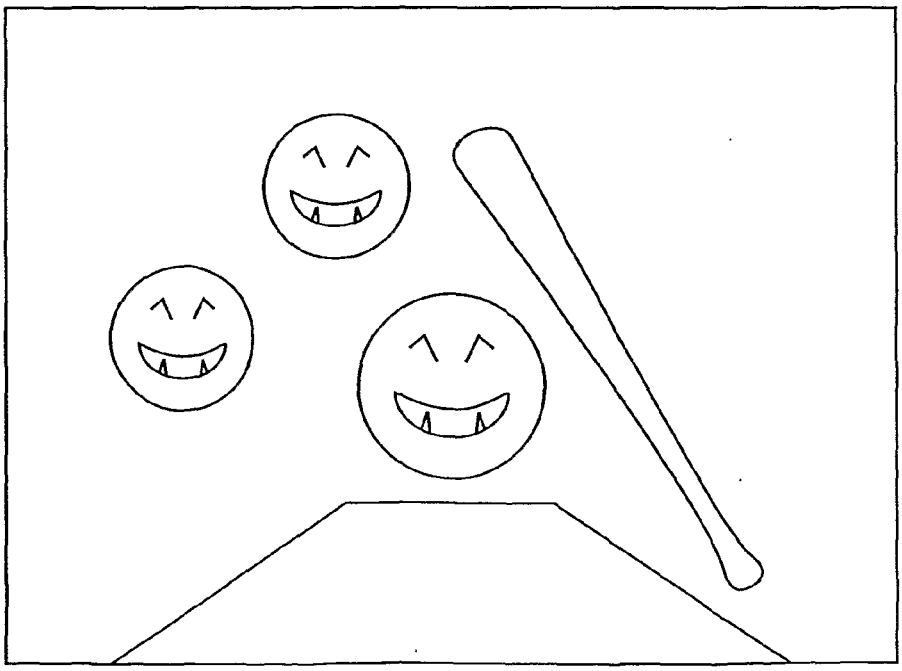
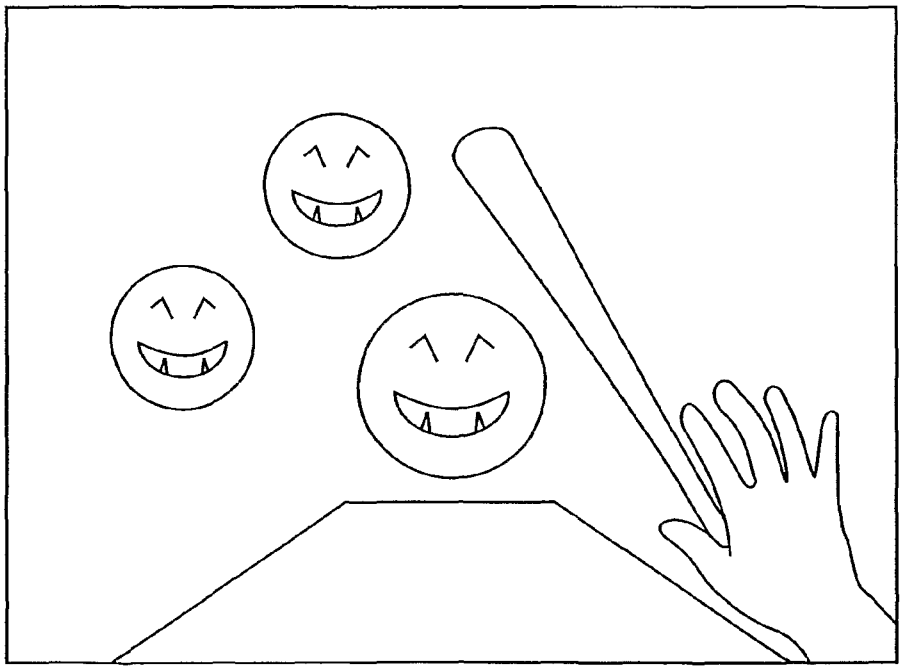


FIG. 4B



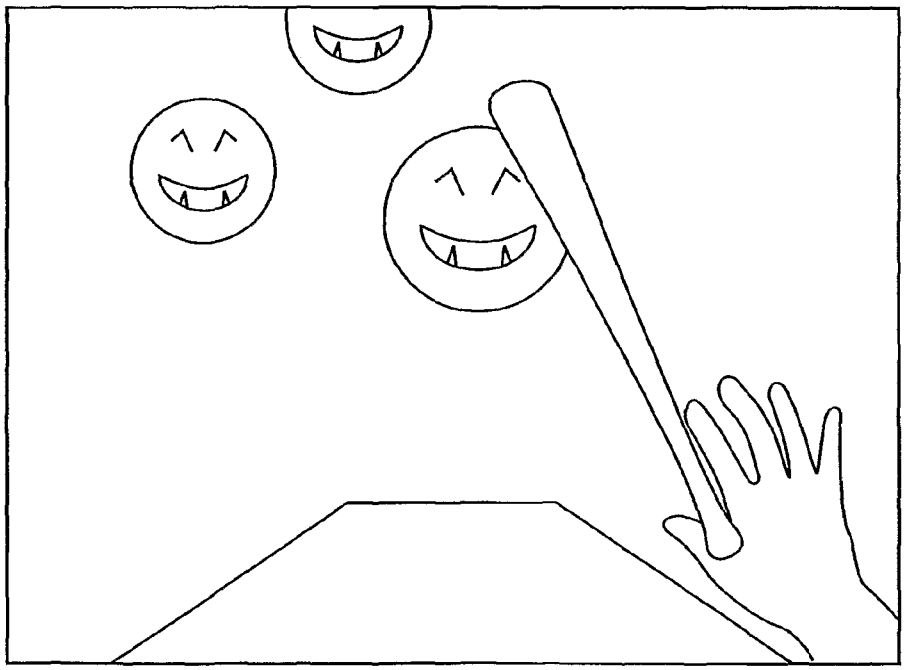
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FIG. 5



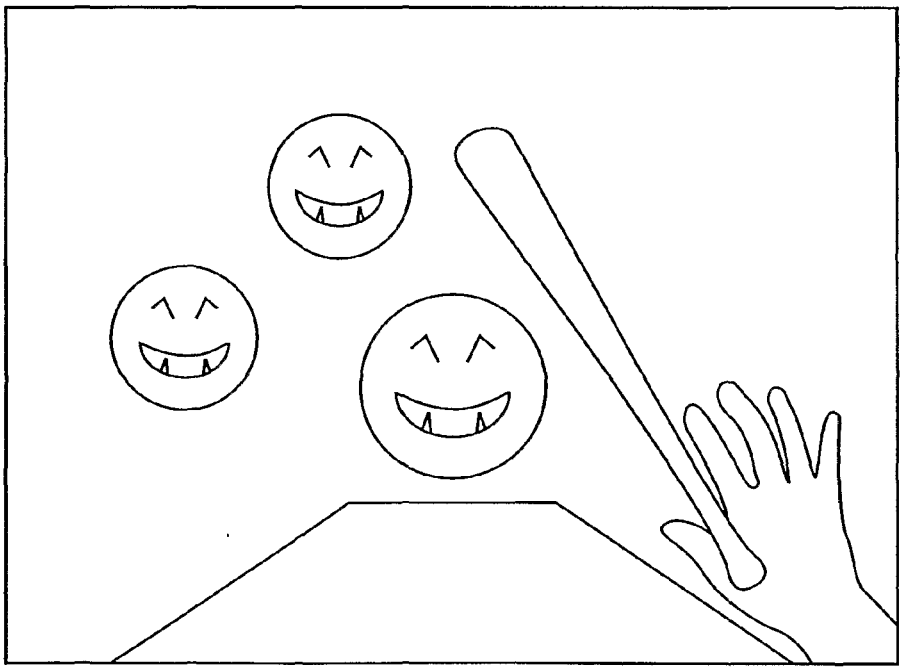
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FIG. 6



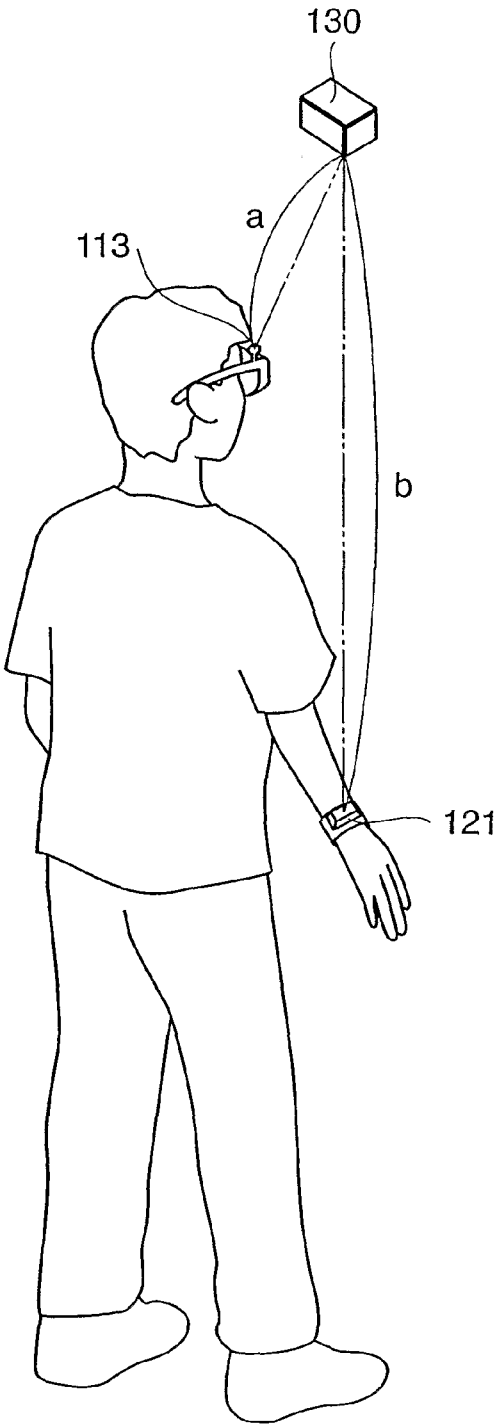
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FIG. 7



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FIG. 8



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FIG. 9

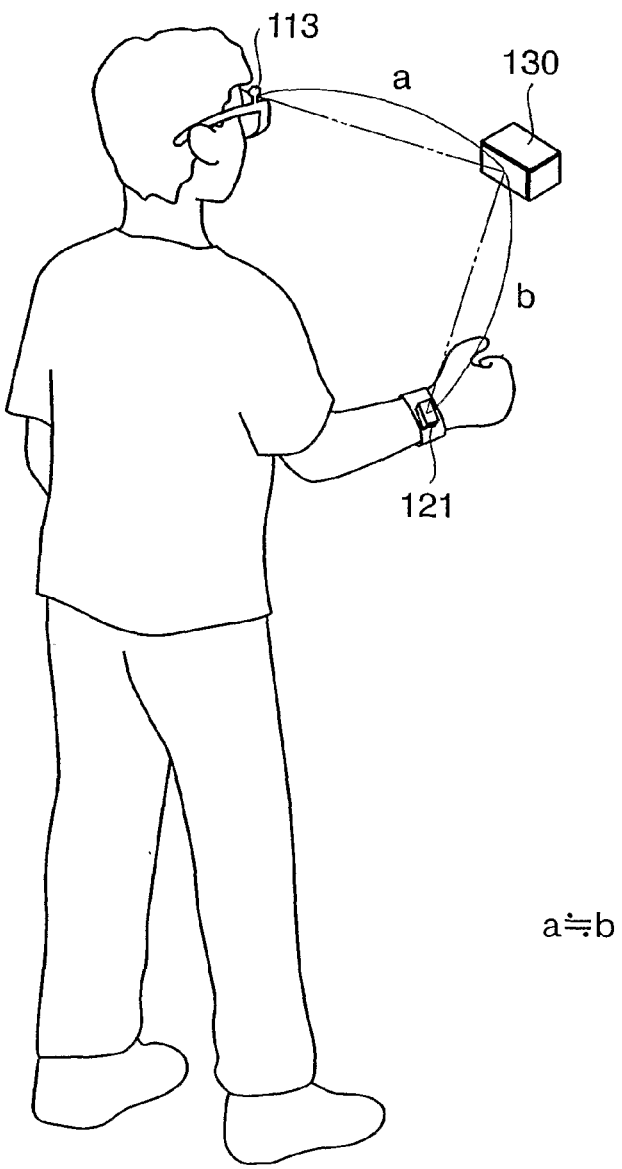
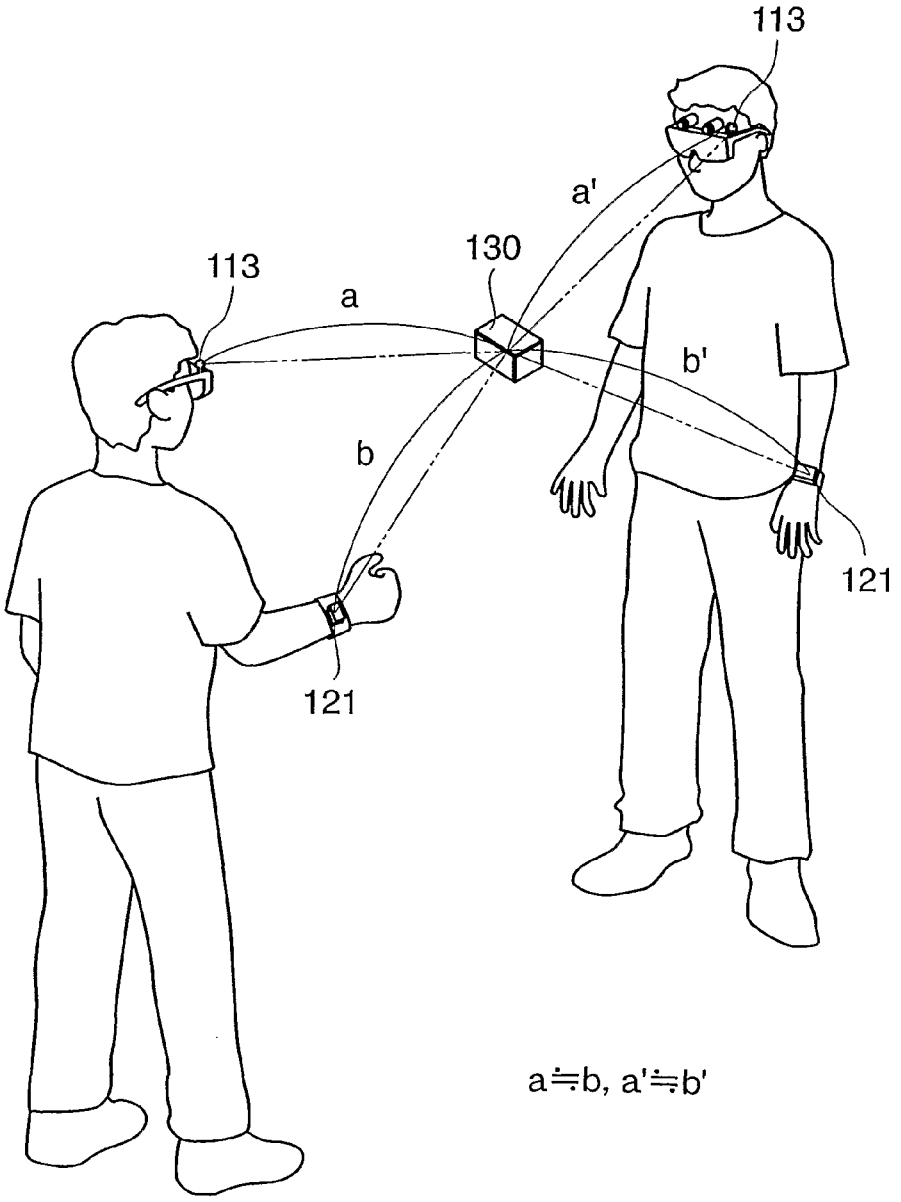


FIG. 10



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FIG. 11

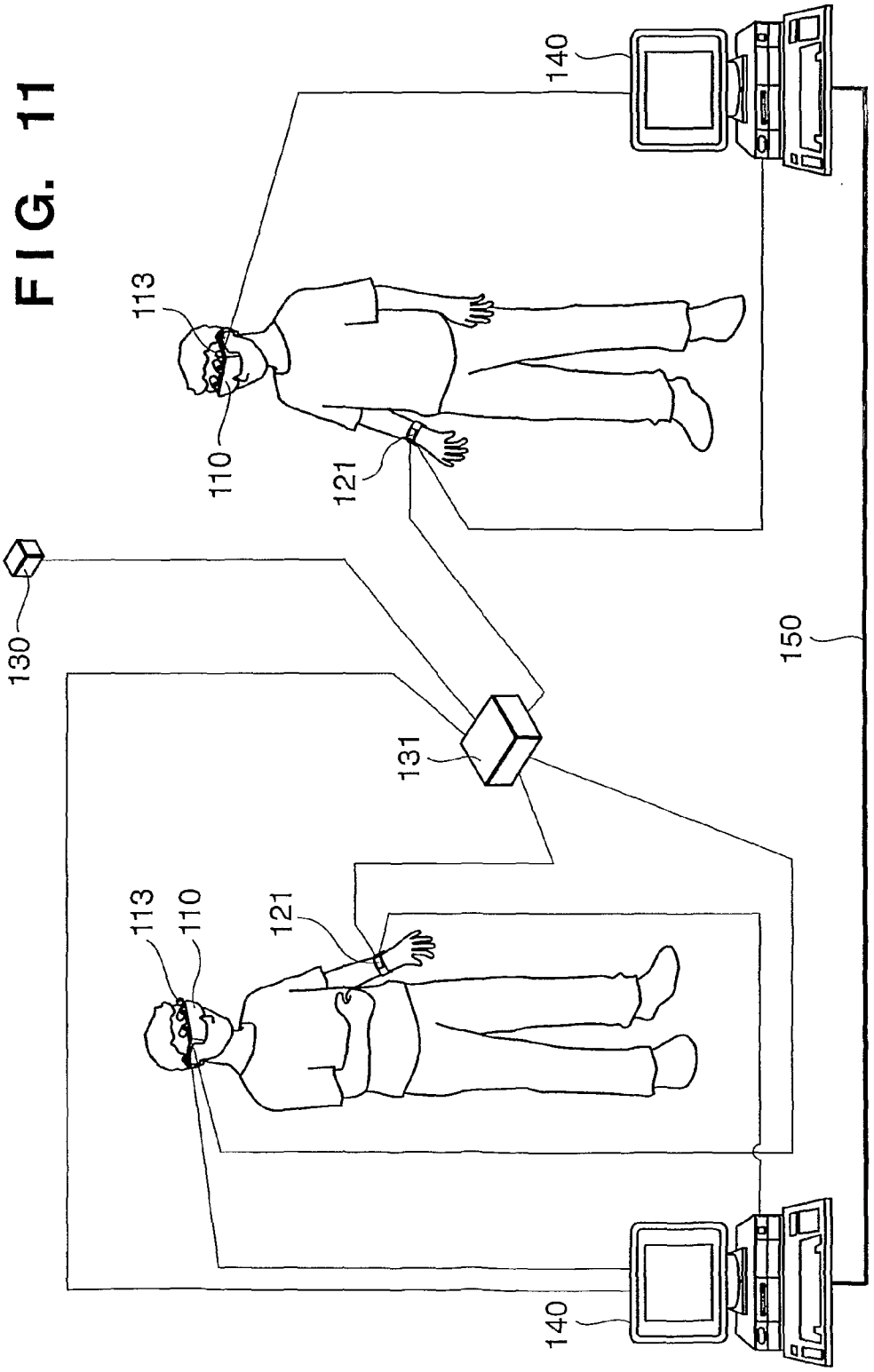
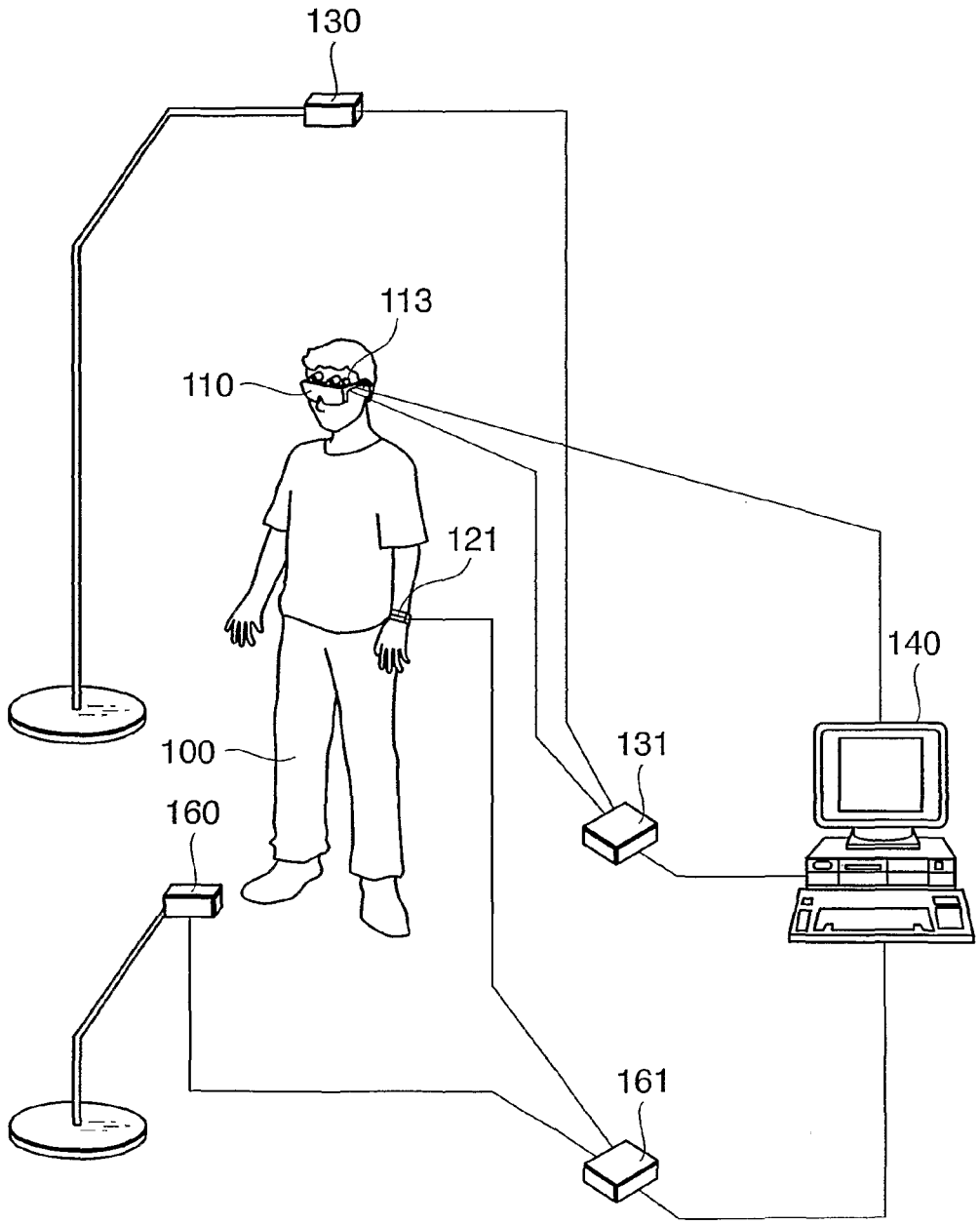
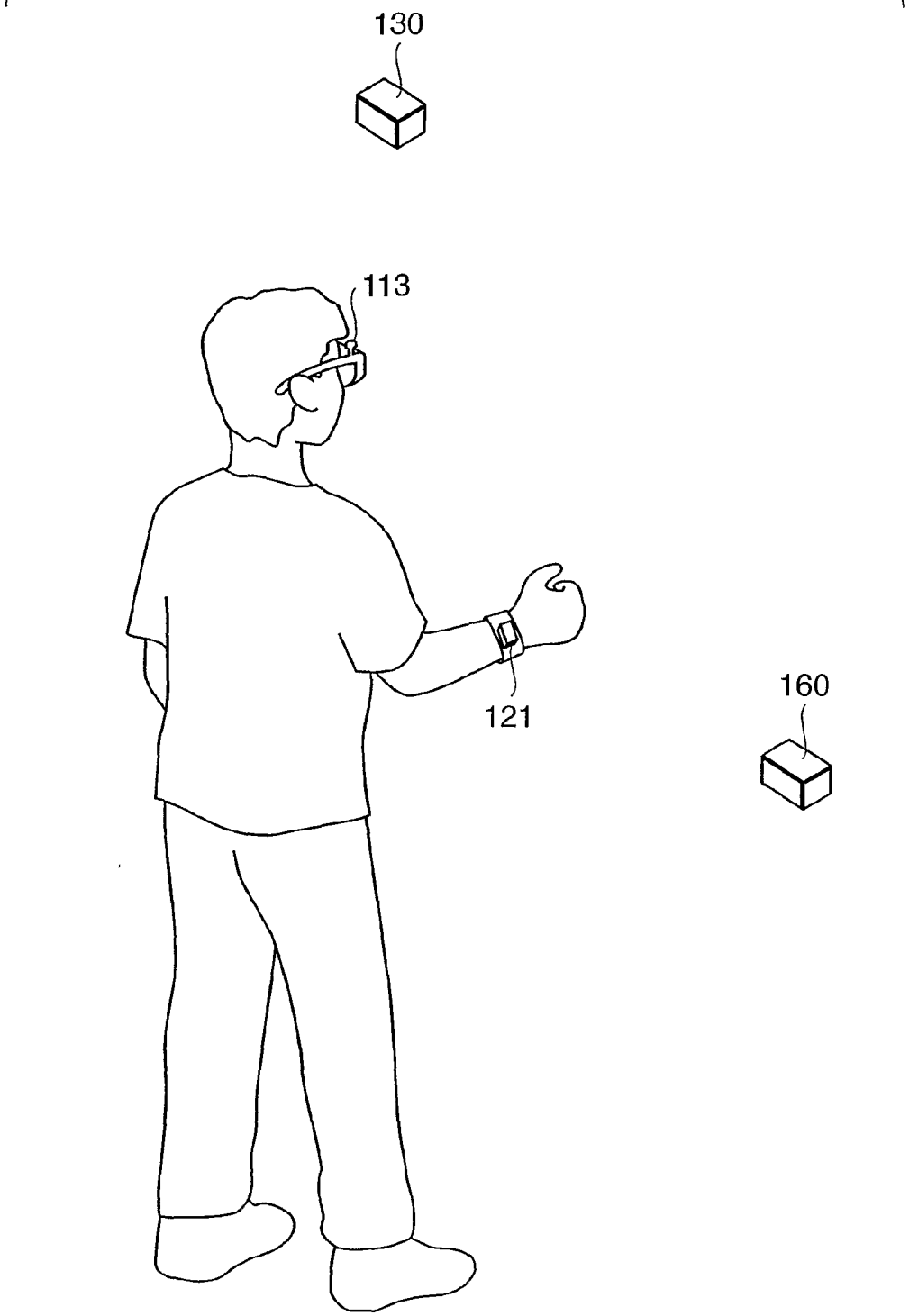


FIG. 12



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FIG. 13



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FIG. 14

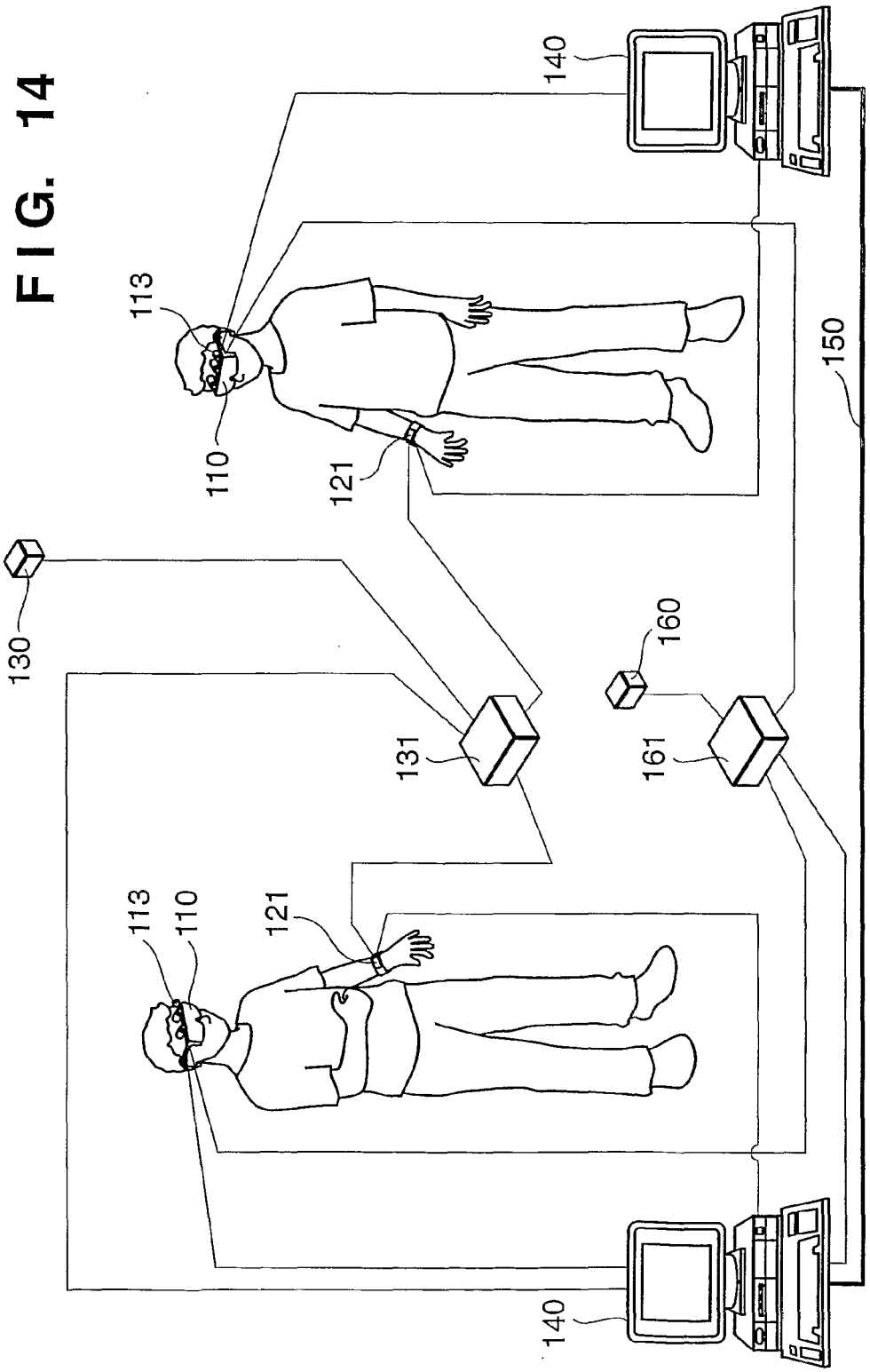


FIG. 15

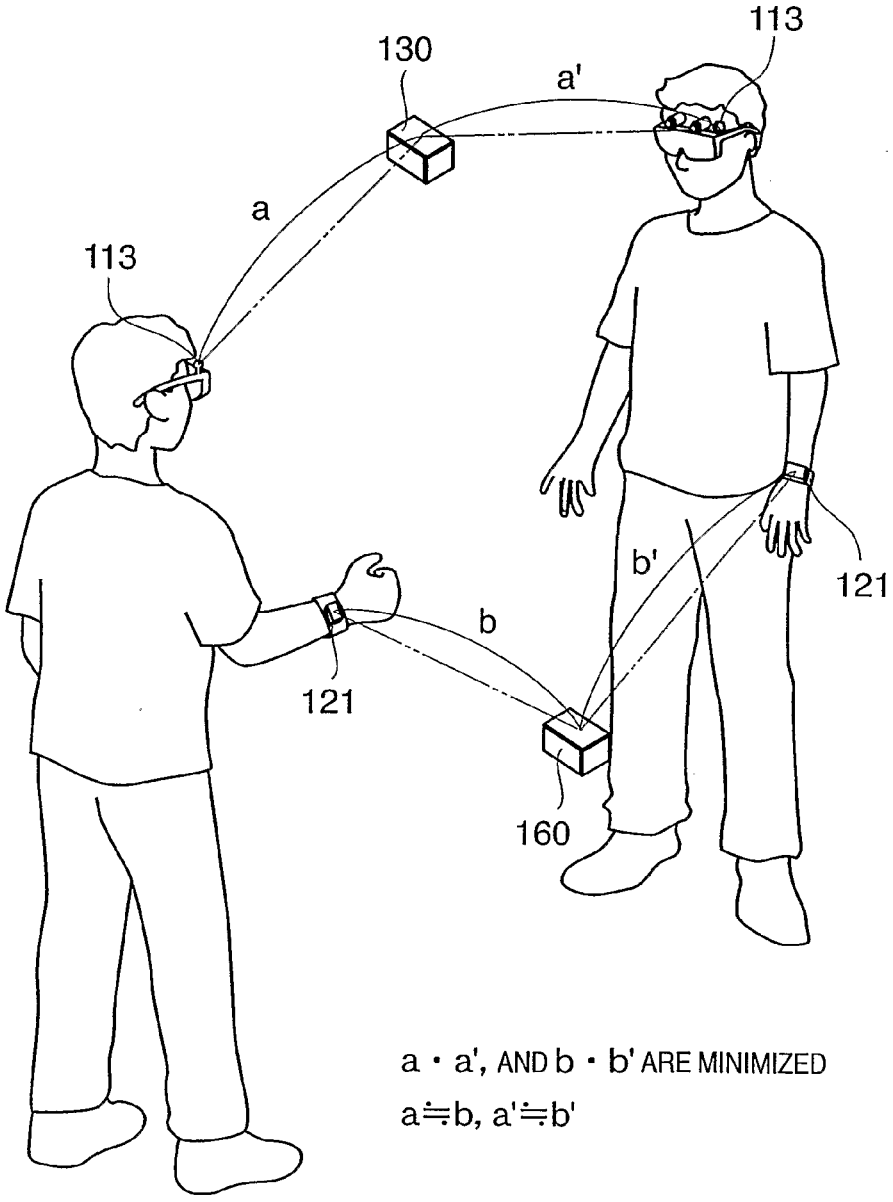
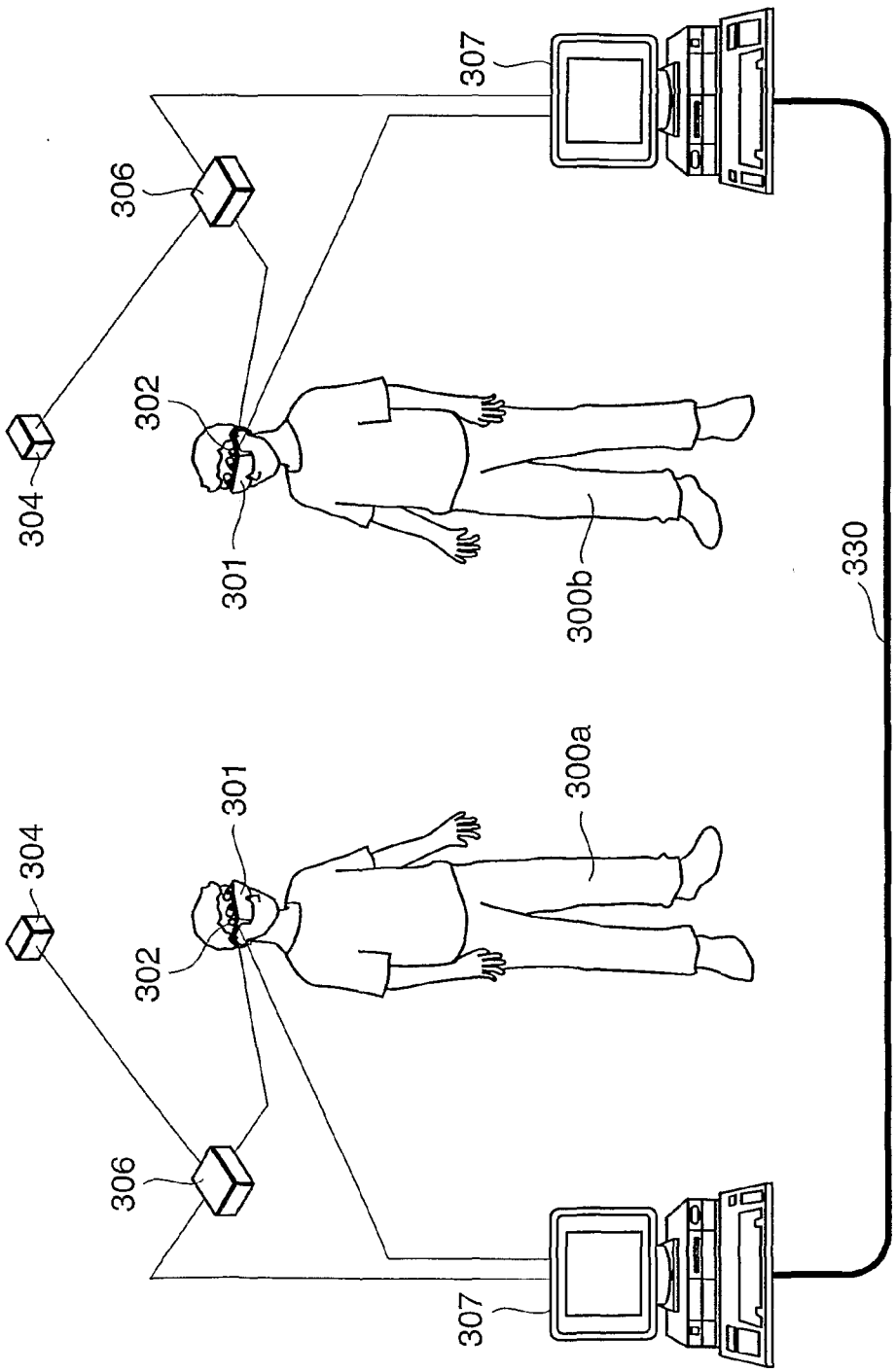
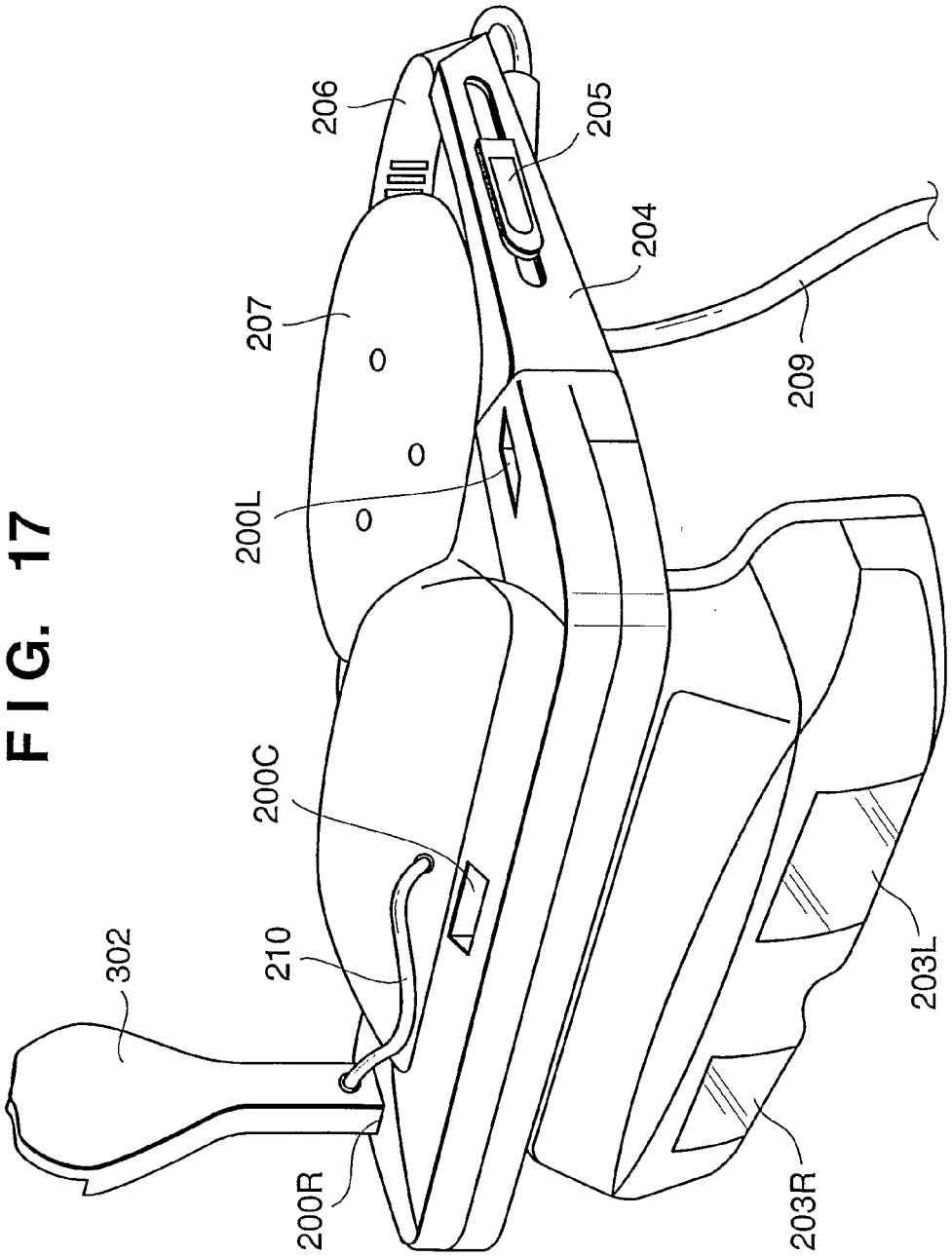


FIG. 16



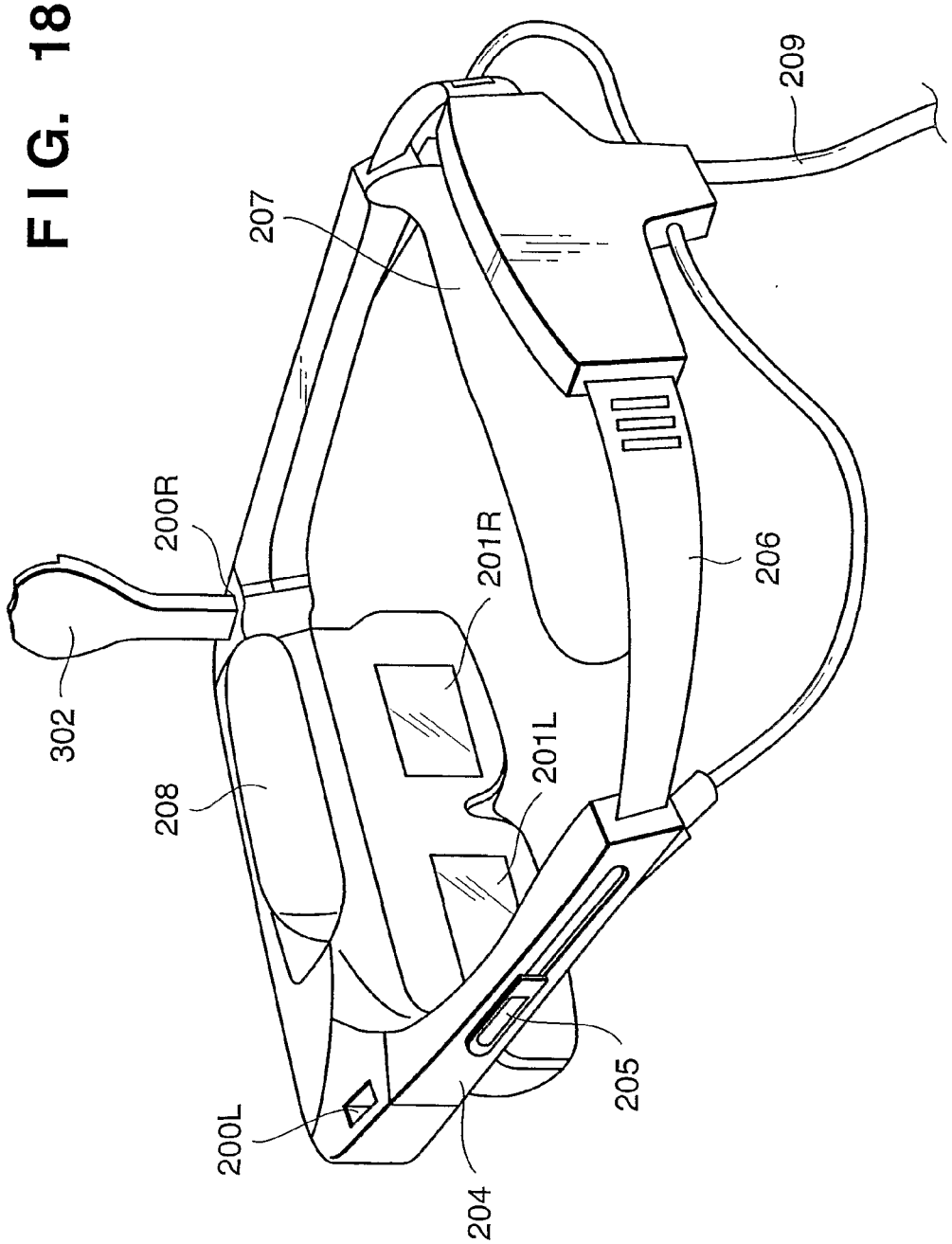
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FIG. 17



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FIG. 18



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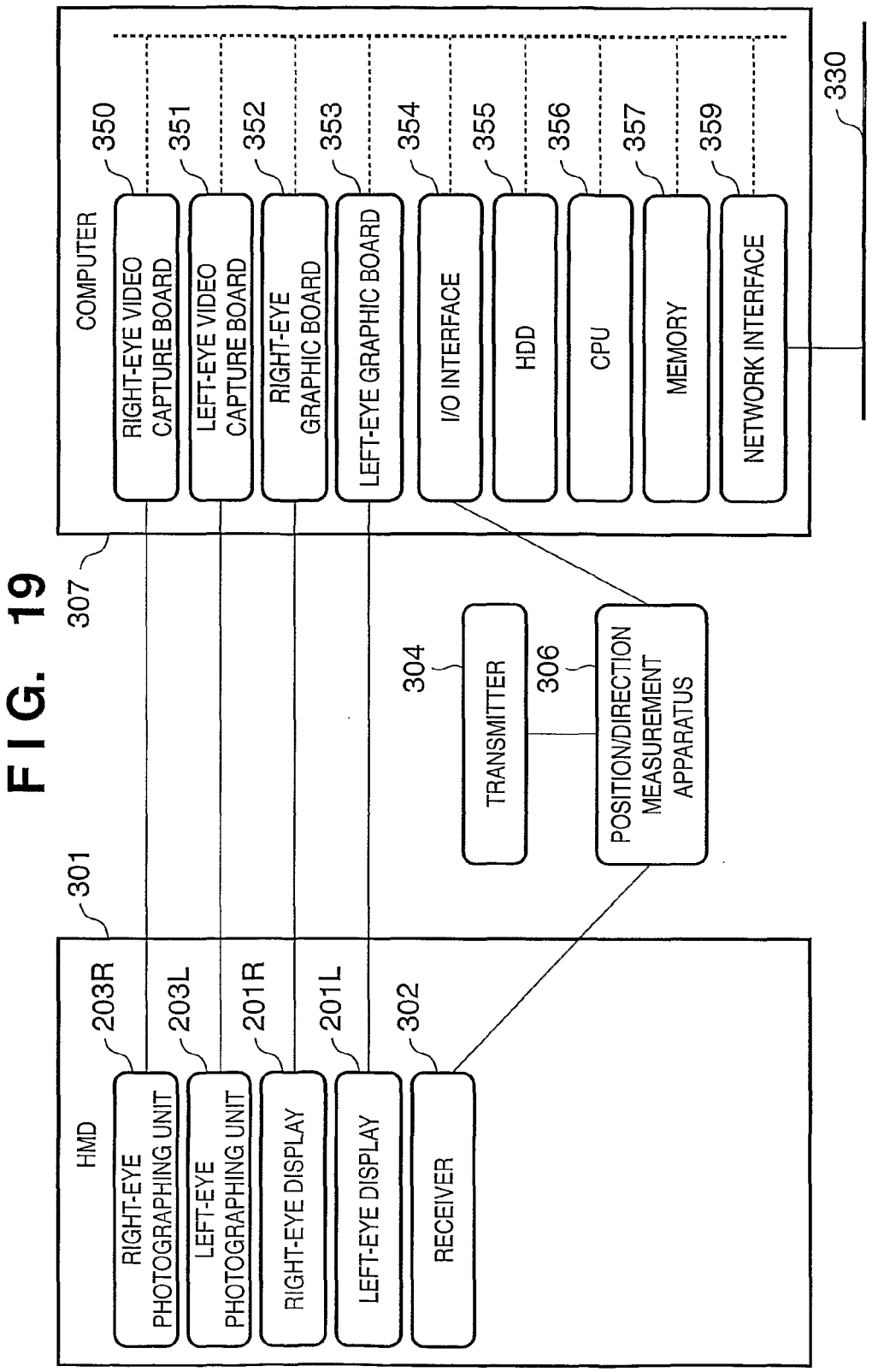
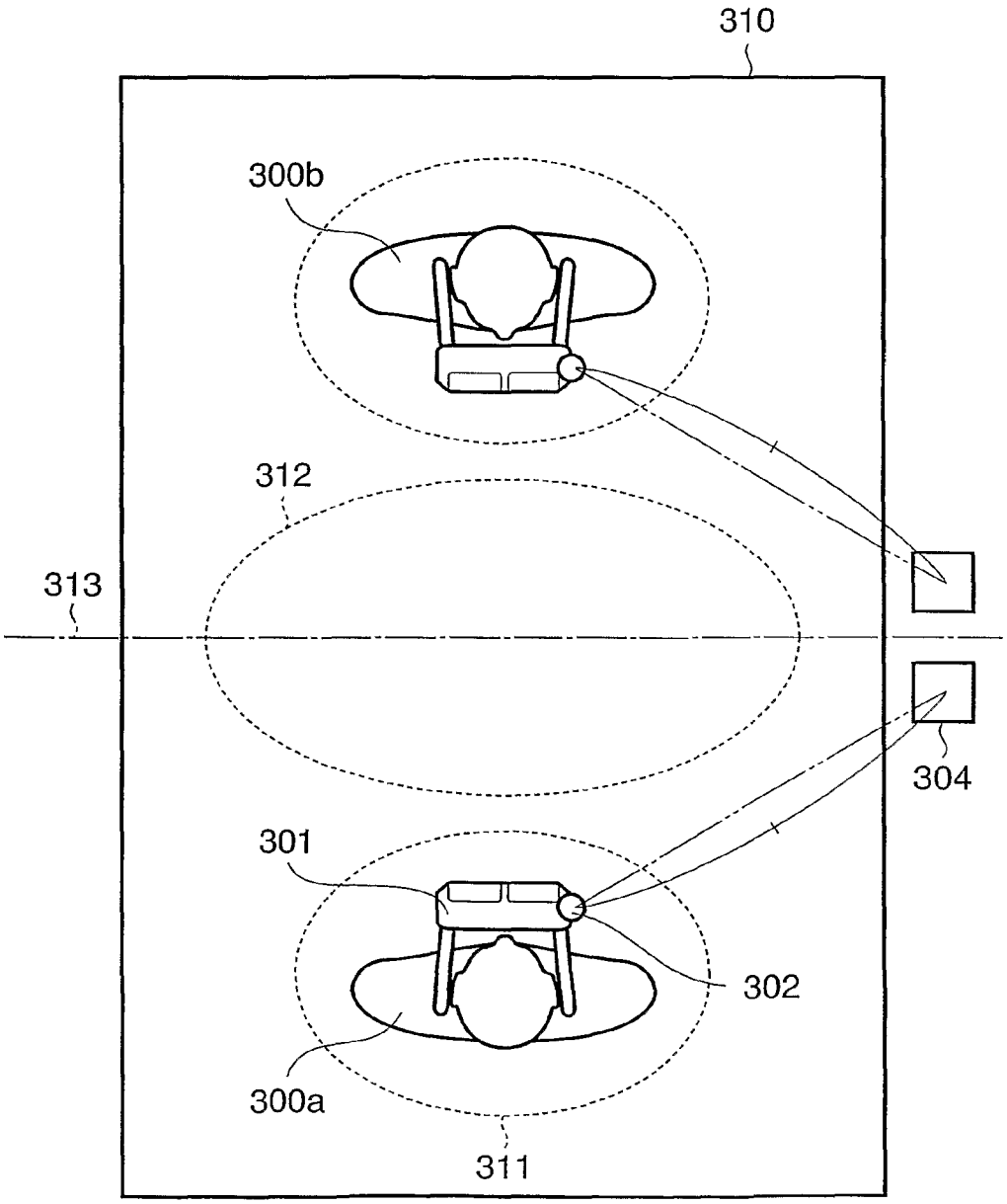


FIG. 19

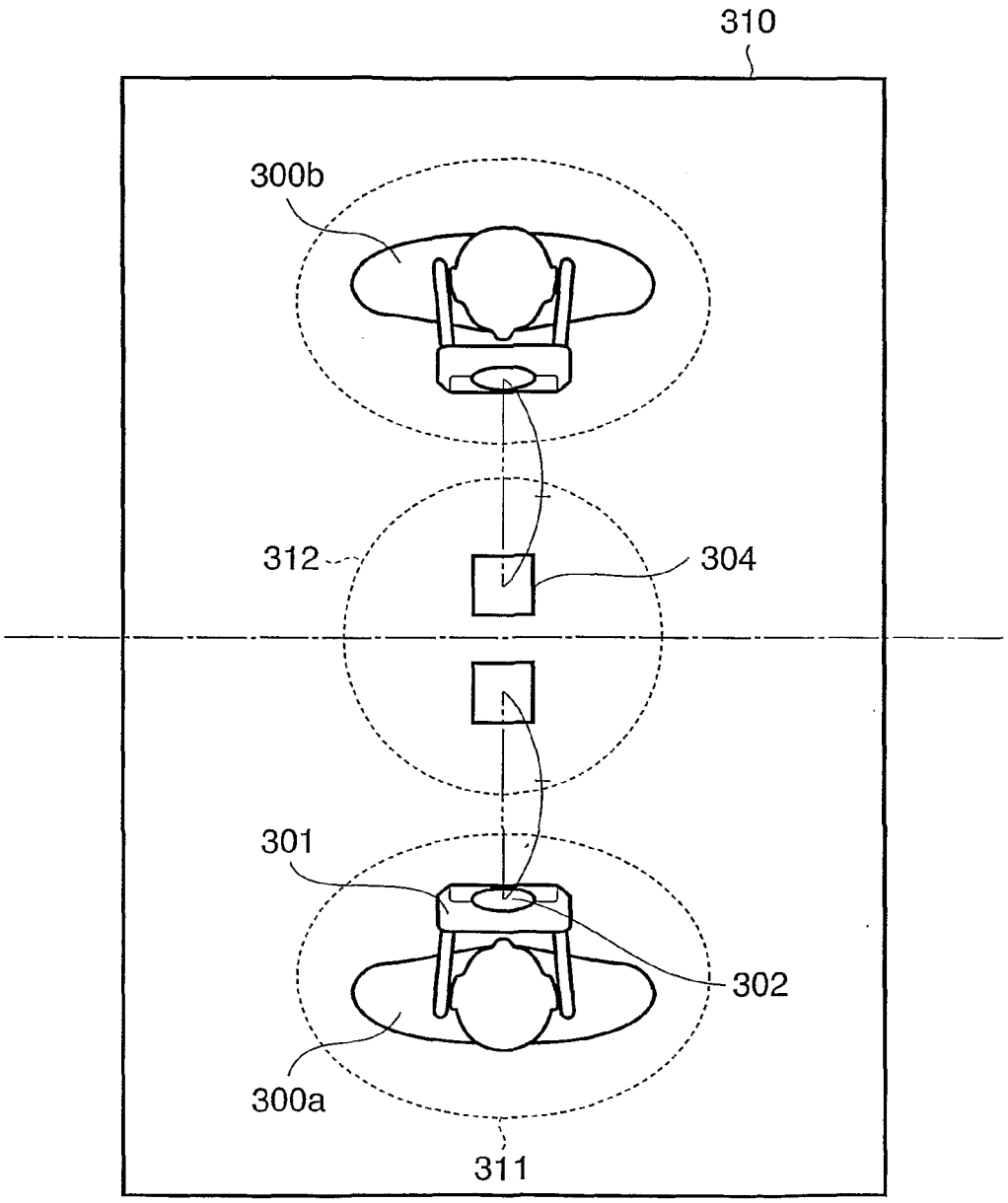
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FIG. 20



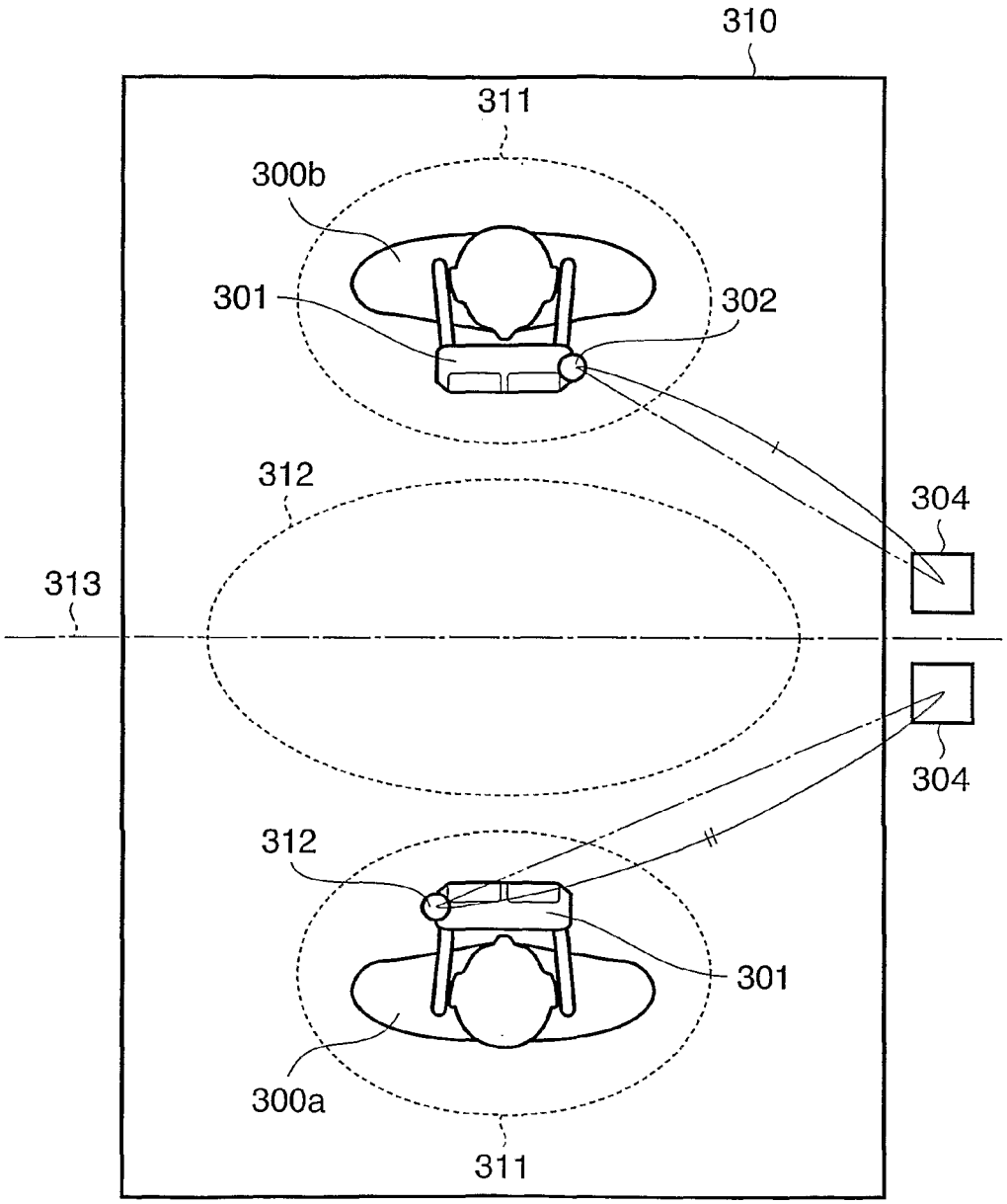
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FIG. 21



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FIG. 22



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Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Miscellaneous:				
RCE- 2ND AND SUBSEQUENT REQUEST	2820	1	950	950
		Total in USD ($)		**950**

PTO/SB/08A (10-01)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Substitute for form 1449A/PTO				***Complete if known***	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				**Application Number**	11/461,761
				Filing Date	August 8, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	4152
(use as many sheets as necessary)				**Examiner Name**	Kevin Y. Kim
Sheet	1	of	4	**Attorney Docket Number**	JDM/005CON2

U.S. PATENT DOCUMENTS					
Examiner initials*	Cite No.[1]	Document Number Number – Kind Code[2] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
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		6,633,267	10/2003	Numa	

Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.
1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.
This collection of information is required by 37 CFR 1.97 and 1.98. 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 2 hours 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.**

Substitute for form 1449A/PTO **INFORMATION DISCLOSURE STATEMENT BY APPLICANT** (use as many sheets as necessary)				***Complete if known***	
				Application Number	11/461,761
				Filing Date	August 8, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	4152
				Examiner Name	Kevin Y. Kim
Sheet	2	of	4	**Attorney Docket Number**	JDM/005CON2

		6,633,304	10/2003	Anabuki	
		6,663,105	12/2003	Sullivan et al.	
		6,690,947	02/2004	Tom	
		6,735,435	05/2004	Newell et al.	
		6,853,935	02/2005	Satch et al.	
		6,872,139	03/2005	Sato et al.	
		6,951,515	10/2005	Ohshima et al.	
		6,972,734	12/2005	Ohshima et al.	
		7,038,699	05/2006	Sato et al.	
		7,050,078	05/2006	Dempski	
		7,056,216	08/2006	Ohshima et al.	
		7,084,887	08/2006	Sato et al.	
		7,303,474	12/2007	Anderson et al.	
		7,657,910	02/2010	McAulay et al	
		2001/0040591	11/2001	Abbott et al.	
		2001/0054019	12/2001	de Fabrega	
		2001/0006908	07/2001	Fujioka et al.	
		2002/0052933	05/2002	Leonhard et al.	
		2002/0061741	05/2002	Leung et al.	
		2002/0063655	05/2002	Aoyama	
		2002/0082068	06/2002	Singhai	
		2002/0086732	07/2002	Kirmse et al	
		2002/0090985	07/2002	Tochner et al	
		2002/0102992	08/2002	Koorapaty	
		2002/0128063	09/2002	Kunieda et al	
		2002/0190861	12/2002	Wentworth	

Examiner Signature		Date Considered	

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Substitute for form 1449A/PTO **INFORMATION DISCLOSURE STATEMENT BY APPLICANT** (use as many sheets as necessary)				***Complete if known***	
				Application Number	11/461,761
				Filing Date	August 8, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	4152
				Examiner Name	Kevin Y. Kim
Sheet	3	of	4	**Attorney Docket Number**	JDM/005CON2

		2002/0131404	09/2002	Mehta et al	
		2003/0134665	07/2003	Kato et al.	
		2003/0144047	07/2003	Sprogis	
		2003/0171147	09/2003	Sinclair et al.	
		2003/0032484	02/2003	Ohshima	
		2003/0062675	04/2003	Noro et al.	
		2003/0210228	11/2003	Ebersole et al.	
		2003/0217070	11/2003	Gotoh	
		2004/0046655	03/2004	Benes et al.	
		2004/0053690	03/2004	Fogel et al.	
		2004/0058732	03/2004	Plocionelli	
		2004/0128250	07/2004	Fox	
		2004/0164897	08/2004	Treadwell et al.	
		2004/0224740	11/2004	Ball et al.	
		2004/0248653	12/2004	Barros et al.	
		2005/0009608	01/2005	Roberts et al.	
		2005/0048987	03/2005	Glass	
		2006/0154710	07/2006	Serafat	
		2008/0253315	10/2008	Bodlaender	

FOREIGN PATENT DOCUMENTS

Examiner initials*	Cite No.[1]	Foreign Patent Document Country Code[3] - Number[4] - Kind Code[5] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]
		WO02073287A2	09/1992	Yonezawa et al.		

NON PATENT LITERATURE DOCUMENTS

Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.
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PTO/SB/08A (10-01)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Substitute for form 1449A/PTO				***Complete if known***	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				**Application Number**	11/461,761
				Filing Date	August 8, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	4152
(use as many sheets as necessary)				**Examiner Name**	Kevin Y. Kim
Sheet	4	of	4	**Attorney Docket Number**	JDM/005CON2

Examiner initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T[2]
		"Antti Kotanen, Marko Hannikainen, Helena Leppakoski, Timo D. Hamalainen "Experimnets with Bluetooth" Proeedings of the International Conferene on Information Technology: Computers and Communications (ITCC '03) April, 2003.	
		"First Person Indoor/outdoor Augmented Reality Application: ARQuake", written by Thomas et al, and published February 2002	
		Mortal Kombat instruction booklet for Super Nintendo, 1992, Licensed from Midway.	
		Mortak Kombat 4 (released October 15, 1997). Published by Midway Games <http://en.wikipedia.org/w/index.php?title=Mortal_Kombat_4&printable=yes>	
		Youtube.com Screenshot of Super Dodge Ball Walkthrough with Commentary (Part 1 of 2). Accessed: December 14, 2010. http://www.youtube.com/watch?E1LUWmr64JA	
		GameFAQs: Super Dodge Ball (NES) FAG/Walkthrough by TOKADasrik. Accessed: December 14, 2010. http://www.gamefaqs.com/nes/587662-super-dodge-ball/faqs/34823	
		Halo: Combat Evolved, Wikipedia description, http://en.wikipedia.org/wiki/Halo_%28game%29	
		Quake Game Manual, Release cira 1996	
		"Description of Journey Geolocation Game" published November 4, 2004 accessible via URLhttps://web.archive.org/web/20041102005616 /http://journey.mop/us.com/, 1 page	

Examiner Signature		Date Considered	

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JDM/005CON2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATING CELLULAR PHONES AND SECURITY MEASURES FOR THE SAME
Group Art Unit	:	4152
Examiner	:	Kevin Y Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
February 20, 2018

INFORMATION DISCLOSURE STATEMENT

Sir:

A Request for Continued Examination is applicable hereto and being submitted herewith. In accordance with 37 C.F.R. §§ 1.56 and 1.97, applicant wishes to call the attention of the Examiner to the following documents:

Patent Documents

5,139,261	08/1992	Openiano	(4)
5,523,890	06/1996	Reaney	(1)
5,724,660	03/1998	Kauser et al.	(1)
5,741,182	04/1998	Lipps et al.	(4)
5,802,274	09/1998	Dorak et al.	(5)

5,902,343	05/1999	Hale et al.	(1)
5,913,727	06/1999	Ahdoot	(1)
5,999,808	12/2999	LaDue	(4)
6,080,063	06/2000	Khosla	(1)
6,011,653	01/2000	Karasawa	(1)
6,015,344	01/2000	Kelly et al.	(5)
6,028,593	02/2000	Rosenberg et al.	(8)
6,106,397	08/2000	Phillips	(2)
6,106,399	08/2000	Baker et al.	(6)
6,124,825	09/2000	Eschenbach	(2)
6,287,200	09/2001	Sharma	(1)
6,337,688	01/2002	Berstis	(1)
6,378,390	04/2002	Saito	(2)
6,522,312	02/2003	Ohshima et al.	(2)
6,527,641	03/2003	Sinclair et al.	(7)
6,545,661	04/2003	Goschy et al.	(8)
6,625,299	09/2003	Meisner et al.	(2)
6,633,267	10/2003	Numa	(1)
6,633,304	10/2003	Anabuki	(2)
6,663,105	12/2003	Sullivan et al.	(5)
6,690,947	02/2004	Tom	(1)
6,735,435	05/2004	Newell et al.	(1)
6,853,935	02/2005	Satch et al.	(2)
6,872,139	03/2005	Sato et al.	(2)
6,951,515	10/2005	Ohshima et al.	(2)
6,972,734	12/2005	Ohshima et al.	(2)
7,038,699	05/2006	Sato et al.	(2)
7,050,078	05/2006	Dempski	(2)
7,056,216	08/2006	Ohshima et al.	(2)
7,084,887	08/2006	Sato et al.	(2)
7,303,474	12/2007	Anderson et al.	(1)

7,657,910	02/2010	McAulay et al	(5)
2001/0040591	11/2001	Abbott et al.	(6)
2001/0054019	12/2001	de Fabrega	(5)
2001/0006908	07/2001	Fujioka et al.	(4)
2002/0052933	05/2002	Leonhard et al.	(1)
2002/0061741	05/2002	Leung et al.	(1)
2002/0063655	05/2002	Aoyama	(6)
2002/0082068	06/2002	Singhai	(7)
2002/0086732	07/2002	Kirmse et al	(7)
2002/0090985	07/2002	Tochner et al	(1)
2002/0102992	08/2002	Koorapaty	(6)
2002/0128063	09/2002	Kunieda et al	(7)
2002/0190861	12/2002	Wentworth	(6)
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2003/0144047	07/2003	Sprogis	(7)
2003/0171147	09/2003	Sinclair et al.	(7)
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2003/0062675	04/2003	Noro et al.	(1)
2003/0210228	11/2003	Ebersole et al.	(1)
2003/0217070	11/2003	Gotoh	(1)
2004/0046655	03/2004	Benes et al.	(1)
2004/0053690	03/2004	Fogel et al.	(2)
2004/0058732	03/2004	Plocionelli	(5)
2004/0128250	07/2004	Fox	(5)
2004/0164897	08/2004	Treadwell et al.	(5)
2004/0224740	11/2004	Ball et al.	(6)
2004/0248653	12/2004	Barros et al.	(1)
2005/0009608	01/2005	Roberts et al.	(1)
2005/0048987	03/2005	Glass	(7)
2006/0154710	07/2006	Serafat	(1)

2008/0253315 10/2008 Bodlaender (4)

Foreign Patent Documents

WO02073287A2 09/1992 Japan Yonezawa et al. (2)

Non-Patent Documents

"Antti Kotanen, Marko Hannikainen, Helena Leppakoski, Timo D. Hamalainen "Experimnets with Bluetooth" Proeedings of the International Conferene on Information Technology: Computers and Communications (ITCC '03) April, 2003. (1)

"First Person Indoor/outdoor Augmented Reality Application: ARQuake", written by Thomas et al, and published February 2002 (2)

Mortal Kombat instruction booklet for Super Nintendo, 1992, Licensed from Midway. (1)

Mortak Kombat 4 (released October 15, 1997). Published by Midway Games <http://en.wikipedia.org/w/index.php?title=Mortal_Kombat_4&printable=yes> (1)

Youtube.com Screenshot of Super Dodge Ball Walkthrough with Commentary (Part 1 of 2). Accessed: December 14, 2010. http://www.youtube.com/watch?E1LUWmr64JA (1)

GameFAQs: Super Dodge Ball (NES) FAG/Walkthrough by TOKADasrik. Accessed: December 14, 2010. http://www.gamefaqs.com/nes/587662-super-dodge-ball/faqs/34823 (1)

Halo: Combat Evolved, Wikipedia description, http://en.wikipedia.org/wiki/Halo_%28game%29 (2)

Quake Game Manual, Release cira 1996 (2)

"Description of Journey Geolocation Game" published November 4, 2004 accessible via URL https://web.archive.org/web/20041102005616/http://journey.mop/us.com/, 1 page (6)

Pikmin, December 2, 2001, Nintendo, instruction manual (8)

Wikipedia, Super Dodge Ball - Wikipedia, the free encyclopedia. Accessed December 14, 2010. http://en.wikipedia.org/wiki/Super_Dodge_Ball (8)

It is respectfully requested that these documents be (1) fully considered by the Patent and Trademark Office during examination of this application; and (2) printed on any patent which may issue on this application. Applicant requests that a copy of Form PTO/SB/08A, as considered and initialed by the Examiner, be returned with the next communication.

Documents above marked with a (1) were cited in Application No. 10/932,536. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (2) were cited in Application No. 11/486,756. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Meta Exhibit 1004
Meta v. Mullen - Page 00589

Documents above marked with a (3) were cited in Application No. 11/461,761. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (4) were cited in Application No. 11/461,827. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (5) were cited in Application No. 11/775,227. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (6) were cited in Application No. 11/778,047. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United

Meta Exhibit 1004
Meta v. Mullen - Page 00590

States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (7) were cited in Application No. 11/841,889. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (8) were cited in Application No. 11/842,019. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Applicant hereby submits that not all of the patent documents and non-patent literature submitted herein may be, in fact, prior art to the present application. Applicant reserves the right to dispute whether references, or subject matter within references, are prior art to the present application (e.g., continuation-in-part subject matter filed after the filing date of the present application).

Applicant respectfully submits that this application, including the pending claims, is in condition for allowance. A favorable action is respectfully requested.

This Statement is being submitted with a Request for Continued Examination.

The Director is hereby authorized to charge any fees associated with this filing, or credit any overpayment of the same, to Deposit Account No. 50-3855.

Respectfully Submitted,

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

Meta Exhibit 1004
Meta v. Mullen - Page 00592

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. 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	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Patent Practitioner Signature

X Applicant Signature

EFS - Web 2.1.6

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

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Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2018-02-20
Name	Jeffrey D. Mullen		
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 t
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
estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Tim
will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo
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.

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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

PTO/SB/08A (10-01)
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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 4

Complete if known	
Application Number	11/461,761
Filing Date	August 8, 2006
First Named Inventor	Jeffrey D. Mullen
Art Unit	4152
Examiner Name	Kevin Y. Kim
Attorney Docket Number	JDM/005CON2

U.S. PATENT DOCUMENTS

Examiner initials*	Cite No.[1]	Document Number: Number – Kind Code[2] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		5,139,261	08/1992	Openiano	
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Examiner Signature		Date Considered	

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1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.
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Substitute for form 1449A/PTO **INFORMATION DISCLOSURE STATEMENT BY APPLICANT** (use as many sheets as necessary)				***Complete if known***	
				Application Number	11/461,761
				Filing Date	August 8, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	4152
				Examiner Name	Kevin Y. Kim
Sheet	2	of	4	**Attorney Docket Number**	JDM/005CON2

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Examiner Signature		Date Considered	

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Sheet 3 of 4

Complete if known	
Application Number	11/461,761
Filing Date	August 8, 2006
First Named Inventor	Jeffrey D. Mullen
Art Unit	4152
Examiner Name	Kevin Y. Kim
Attorney Docket Number	JDM/005CON2

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FOREIGN PATENT DOCUMENTS

Examiner initials*	Cite No.[1]	Foreign Patent Document: Country Code[3] - Number[4] - Kind Code[5] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]
		WO02073287A2	09/1992	Yonezawa et al.		

NON PATENT LITERATURE DOCUMENTS

Examiner Signature		Date Considered	

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Substitute for form 1449A/PTO				***Complete if known***	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				**Application Number**	11/461,761
				Filing Date	August 8, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	4152
(use as many sheets as necessary)				**Examiner Name**	Kevin Y. Kim
Sheet	4	of	4	**Attorney Docket Number**	JDM/005CON2

Examiner initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T[2]
		"Antti Kotanen, Marko Hannikainen, Helena Leppakoski, Timo D. Hamalainen "Experimnets with Bluetooth" Proeedings of the International Conferene on Information Technology: Computers and Communications (ITCC '03) April, 2003.	
		"First Person Indoor/outdoor Augmented Reality Application: ARQuake", written by Thomas et al, and published February 2002	
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		Mortak Kombat 4 (released October 15, 1997). Published by Midway Games <http://en.wikipedia.org/w/index.php?title=Mortal_Kombat_4&printable=yes>	
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Examiner Signature	/KEVIN Y KIM/	Date Considered	03/07/2018

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EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	6534	(accelerometer gyroscope gyro) with ((wireless cell mobile) near3 (phone telephone))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:53
L2	3663	(game gaming) and 1	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:54
L3	29047516	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:55
L4	25	L3 and 2	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:55
L5	2	"6641482".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 11:01
S1	2	"20010048425".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:48
S2	2	"20020090985".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S3	848699	(mobile or cell or cellular or hand) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S4	2	(US-20010048425-$ or US-20020090985-$).did.	US-PGPUB	OR	ON	2014/07/15 12:50
S5	2	S3 and S4	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S6	0	accelerometer and S5	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S7	8782	(accelerometer and (GPS or (global near2 position$3)) and compass)	US-PGPUB; USPAT; EPO; JPO;	OR	ON	2014/07/15 13:12

			DERWENT			
S8	5067	S3 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S9	24	S8 and 463/42.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:09
S10	29157454	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S11	1	S9 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S12	213	S8 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:18
S13	1	11/461761	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S14	1	S13 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S15	40157	S3 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S16	5453	S10 and S15	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S17	26	S16 and "463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S18	0	S17 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S19	62	S16 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S20	866261	(mobile or cell or cellular or hand or wireless) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S21	40845	S20 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S22	5616	S10 and S21	US-PGPUB;	OR	ON	2014/07/15

			USPAT; EPO; JPO; DERWENT			14:28
S23	45540	"463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S24	28	S22 and S23	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S25	0	S24 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S26	62	S22 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:29
S27	929	n adj gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S28	10187	n-gage or n$gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S29	10732	S27 or S28	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S30	29	accelerometer and S29	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S31	6	(US-20010048425-$ or US-20020090985-$ or US-20080108437-$ or US-20050033515-$ or US-20070060216-$).did. or (US-6850844-$).did.	US-PGPUB; USPAT	OR	ON	2017/04/19 12:35
S32	4	S31 and game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:35
S33	4467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:53
S34	26038705	@ay<"2003"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56

S35	32556162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S36	4467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S37	28	S36 and S35	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S38	2230685	(control$4 or movement or moving) with (player or character or user or avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
S39	22674	S38 same accelerometer	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
S40	32556162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S41	411	S40 and S39	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S42	93	S41 and (phone or cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S43	1659438	(mobile or cell) near2 (phone or device)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S44	46	S41 and S43	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S45	1006385	(mobile or cell) near2 phone	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S46	19	S41 and S45	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08

S47	897687	(GPS or (global near2 position$3))	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:32
S48	169065	(video near2 game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S49	33744	S47 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S50	10288	S47 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S51	29047398	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S52	185	S51 and S50	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S53	246883	S47 same (phone cell mobile)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:41
S54	81	S52 and S53	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:41
S55	21677	accelerometer same (phone cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:49
S56	279	S55 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S57	0	S56 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S58	2739	S55 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S59	24	S58 and S51	US-PGPUB;	OR	ON	2017/11/13

			USPAT; USOCR; EPO; JPO; DERWENT			14:02
S60	313085	(control$4 move moving) near4 (game character avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:41
S61	2154	S60 and S55	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42
S62	13	S61 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42

4/2/2018 11:25:28 AM
C:\Users\kkim4\Documents\EAST\Workspaces\11461761.wsp

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11461761	MULLEN, JEFFREY D
	Examiner	Art Unit
	ANDREW KIM	3716

CPC- SEARCHED		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

SEARCH NOTES		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK
EAST search refresh	4/19/2017	KK

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner
463	40-42	11/13/2017	KK
345	156	11/13/2017	KK

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	2	"20010048425".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:48
S2	2	"20020090985".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S3	848699	(mobile or cell or cellular or hand) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S4	2	(US-20010048425-$ or US-20020090985-$).did.	US-PGPUB	OR	ON	2014/07/15 12:50
S5	2	S3 and S4	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S6	0	accelerometer and S5	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S7	8782	(accelerometer and (GPS or (global near2 position$3)) and compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S8	5067	S3 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S9	24	S8 and 463/42.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:09
S10	29157454	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S11	1	S9 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S12	213	S8 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:18
S13	1	11/461761	US-PGPUB; USPAT; EPO;	OR	ON	2014/07/15 14:21

			JPO; DERWENT			
S14	1	S13 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S15	40157	S3 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S16	5453	S10 and S15	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S17	26	S16 and "463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S18	0	S17 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S19	62	S16 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S20	866261	(mobile or cell or cellular or hand or wireless) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S21	40845	S20 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S22	5616	S10 and S21	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S23	45540	"463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S24	28	S22 and S23	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S25	0	S24 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S26	62	S22 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:29
S27	929	n adj gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42

S28	10187	n-gage or n$gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S29	10732	S27 or S28	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S30	29	accelerometer and S29	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S31	6	(US-20010048425-$ or US-20020090985-$ or US-20080108437-$ or US-20050033515-$ or US-20070060216-$).did. or (US-6850844-$).did.	US-PGPUB; USPAT	OR	ON	2017/04/19 12:35
S32	4	S31 and game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:35
S33	4467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:53
S34	26038705	@ay<"2003"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S35	32556162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S36	4467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S37	28	S36 and S35	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S38	2230685	(control$4 or movement or moving) with (player or character or user or avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
S39	22674	S38 same accelerometer	US-PGPUB; USPAT; USOCR; EPO; JPO;	OR	ON	2017/04/19 13:06

			DERWENT			
S40	32556162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S41	411	S40 and S39	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S42	93	S41 and (phone or cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S43	1659438	(mobile or cell) near2 (phone or device)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S44	46	S41 and S43	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S45	1006385	(mobile or cell) near2 phone	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S46	19	S41 and S45	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S47	897687	(GPS or (global near2 position$3))	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:32
S48	169065	(video near2 game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S49	33744	S47 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S50	10288	S47 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S51	29047398	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40

S52	185	S51 and S50	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S53	246883	S47 same (phone cell mobile)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:41
S54	81	S52 and S53	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:41
S55	21677	accelerometer same (phone cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:49
S56	279	S55 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S57	0	S56 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S58	2739	S55 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S59	24	S58 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S60	313085	(control$4 move moving) near4 (game character avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:41
S61	2154	S60 and S55	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42
S62	13	S61 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42

EAST Search History (Interference)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp

S63	9919	345/156.ccls. 463/40-42.ccls.	USPAT	OR	ON	2017/11/13 16:09
S64	0	((wireless near2 telephone) and (locating near2 device) and accelerometer).clm.	USPAT	OR	ON	2017/11/13 16:10

3/8/2018 11:27:23 AM
C:\Users\kkim4\Documents\EAST\Workspaces\11461761.wsp

Notice of References Cited	Application/Control No. 11/461,761	Applicant(s)/Patent Under Reexamination MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	CPC Classification	US Classification
*	A	US-6,641,482 B2	11-2003	Masuyama; Iwao	A63F13/422	463/43
	B	US-				
	C	US-				
	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	CPC 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.

Meta Exhibit 1004
Meta v. Mullen - Page 00613

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 04/06/2018

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
04/06/2018	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. 11/461,761	Applicant(s) MULLEN, JEFFREY D	
	Examiner Kevin Y. Kim	Art Unit 3716	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 *10/19/2017*.

☐ 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) *19-34* 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) *1-934* 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 *8/1/2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

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: _____.

Meta Exhibit 1004
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DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 2/20/2018 has been entered.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 2/20/2018 was filed after the mailing date of the Notice of Allowance on 12/07/2017. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

4. The abstract of the disclosure is objected to because it is more than one paragraph. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

5. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

6. 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, 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 negatived by the manner in which the invention was made.

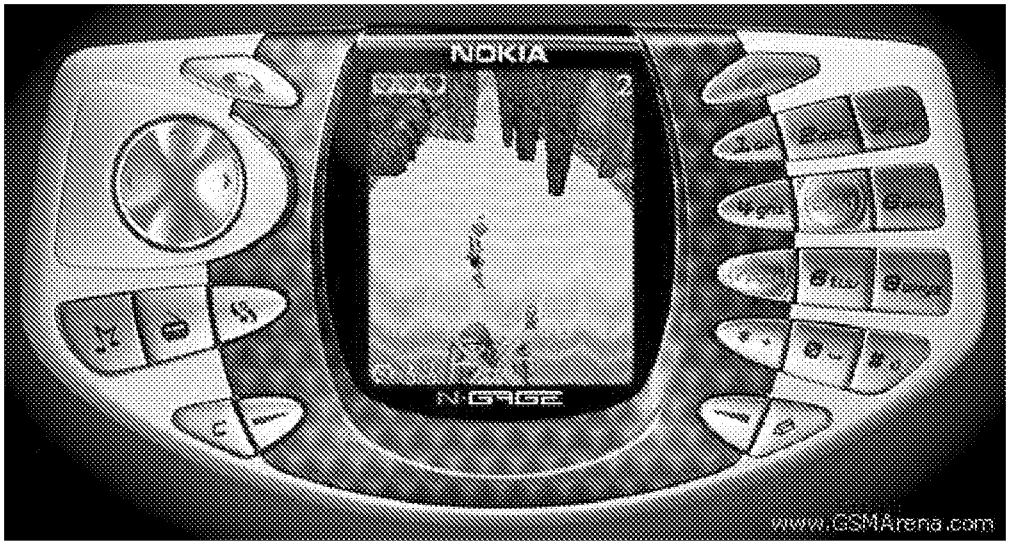
7. Claims 19-34 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device)) in view of IGN http://www.ign.com/articles/2004/09/28/call-of-duty-6), Walters et al (US 6,850,844 B1), and Masuyama et al (US 6,641,482 B2).

8. Re claim 19, N-Gage discloses a system comprising:

a wireless telephone having a display, see below:



wherein a video game is operable to be played on said wireless telephone:



said first control signals are operable to be utilized, at least in part, to control a video game character in staid video game (utilizing the controls on the face of the phone), a manual control is operable to cause said video game character to perform an

action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display (see below image, where the player controls the main character and shoots enemy AI characters):



IGN is relied upon to show that Call of Duty, the game illustrated above, contains a game with AI characters (“From our limited play experience, the AI appears to be quite good and there is a great variety in level design, with plenty of foxholes to dip into").

The N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480,

wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Furthermore, Masuyama is relied upon to teach the knowledge of utilizing accelerometers in mobile gaming devices (such as the Nokia N-Gage) to control video game characters (fig. 3, game card 30 includes an acceleration sensor which is coupled to the mobile gaming device 10 to provide accelerometer-controlled gaming (see at least figs. 17-20).

It would have been obvious to implement an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as the N-Gage, while also allowing games to utilize the accelerometer for novel game controls (e.g. twisting and rotating the device to drive a car or roll balls on a simulated 3D surface, as taught by Masuyama).

9. Re claim 20, the accelerometer of Walters is considered a positioning device.

10. Re claim 21, N-Gage has disclosed a direction device (see the arrow buttons on the left side of the device).

11. Re claim 22, see the rejection to claim 19. As indicated by IGN, the N-Gage can support a multiplayer experience, and therefore, a second wireless telephone (i.e. a second N-Gage) using Bluetooth to support connectivity (“Through Bluetooth, up to four players can play either standard deathmatch or team battles, and the N-Gage Arena can be used to download new weapons, power-ups, cheats and hints”). Walters has taught the accelerometer as discussed in claim 19.

12. Re claims 23 and 24, see the rejection to claims 20 and 21.

13. Re claims 27, 31, 33, and 34, as shown in the image in the rejection of claim 19, the N-Gage has a plurality of manual input controls.

14. Re claims 28 and 32, the cited article for N-Gage contains a list of video games available for the N-Gage.

15. Re claim 29, as Call of Duty for N-Gage has been cited to support at least four players in a multiplayer session, therefore, there is at least a third video game character.

16. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the N-Gage in view of Walters and Masuyama as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

17. Re claims 26 and 30, N-Gage substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person" face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify a video game with character selection to improve the realism of video

games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify N-Gage with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y. Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday.

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, Dmitry Suhol can be reached on (571) 272-4430. 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.

/Kevin Y Kim/
Primary Examiner, Art Unit 3716

Electronic Acknowledgement Receipt

EFS ID:	33961572
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	09-OCT-2018
Filing Date:	01-AUG-2006
Time Stamp:	19:08:12
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	$700
RAM confirmation Number	101018INTEFSW00006429503855
Deposit Account	503855
Authorized User	Jeffrey Mullen

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

37 CFR 1.16 (National application filing, search, and examination fees)

37 CFR 1.17 (Patent application and reexamination processing fees)

37 CFR 1.19 (Document supply fees)

37 CFR 1.20 (Post Issuance fees)

37 CFR 1.21 (Miscellaneous fees and charges)

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Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		JDM-005C2--Reply.pdf	177282 66583b964e033df12f899cb3d33cd02379e46269	yes	11
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Amendment/Req. Reconsideration-After Non-Final Reject		1	1	
	Abstract		2	2	
	Claims		3	6	
	Applicant Arguments/Remarks Made in an Amendment		7	11	
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30730 cd245060053cfe7535a0fa4c86fd9cb91d874409	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	208012		

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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.

JDM/005 CON2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
October 9, 2018

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated April 6, 2018. A three-month extension of time is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Abstract being on page 2 of this paper;

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (previously presented) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is operable to be played on said wireless telephone, first control signals are operable to be utilized, at least in part, to control a video game character in said video game, a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

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22. (previously presented) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner objected to the abstract for being more than one paragraph in length.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device) (hereinafter "N-Gage") in view of IGN (http://www.ign.com/articles/2004/09/28/call-of-duty-6) (hereinafter "IGN") and further view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters") and Masuyama et al. U.S. Patent No. 6,641,482 (hereinafter "Musayama").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage and in view of Walters and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable

over N-Gage and IGN and further in view of Walters and Masuyama.

The N-Gage and IGN References

The references do not appear to be prior art. The references appear to be a recent document that spans a recent perspective of particulars of N-Gage through time. Thus, the applicant respectfully requests that the Examiner remove the reference from the rejection as they appear to occur after the priority date of the present application.

Claim 19

The Examiner admits that N-Gage is silent on providing control signals in the form of an accelerometer. *See* Office Action, page 5.

N-Gage, however, is also silent on first control signals provided by a locating device operable to be utilized, at least in part, to control a video game character in the video game.

N-Gage shows a character controlled by manual input. A character controlled by manual input is not a character controlled by a location device. Thus, N-gage does not show a locating device for controlling a video game character.

Walters does not correct for this deficiency. Walters merely alleges GPS navigation. There is no mention by Walters in any game or video game character. Thus, Walters does not show a locating device for controlling a video game character.

As it is clear that N-Gage does not show a locating device for controlling a video game character and Walters does not show a locating device for controlling a

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video game character then no combination of N-Gage and Walters show or suggest a locating device for controlling a video game character.

The Examiner stated:

> "Masuyama is relied upon to teach the knowledge of using accelerometers in mobile gaming devices (such as the Nokia N-Gage) to control video game characters (fig. 3, game card 30 includes an acceleration sensor which is coupled to mobile gaming device 10 to provide accelerometer-controlled gaming (see at least figs. 17-20)." (Office Action, page 6)

Masuyama does not discuss the Nokia N-Gage or any type of device related to a Nokie N-gage.

Masuayam teaches directly away from the Nokia N-Gage because, among many things, the Nokia N-Gage is a telephone and Masuyama is not. Applicant's claimed invention of claim 19 includes not just a telephone – but a wireless telephone having a locating device and a video game is operable to be played on said wireless telephone.

Masuyama does not include such features and Masuyama and the other references (noting applicant's contention that a Wikipedia page drafted after applicant's invention of claim 16 is not, in and upon itself, prior art) cannot be combined. Both references would be made inoperable with any combination of the other and both references directly teach away from one another.

Accordingly, applicant respectfully submits that claim 16 is patentable and the Examiner re-issue a Notice of Allowance.

Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19.

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In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage in view of Walters and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

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.

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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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

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Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
			Total in USD ($)	**700**

Amendments to Specification

Applicant hereby replaces the abstract of the specification with the following paragraph showing amendments.

-- A location-based game system is provided. Such a system may take the form of any device (e.g., a wireless telephone) that includes a locating device (e.g., a GPS system).——————————————————————————————————————One such location-based game may operate such that the actual, physical location of a user on a physical playfield corresponds to the location of a virtual character on a virtual playfield. Such location based games are referred to herein as actuality games.——————————————————In one multiplayer actuality embodiment, two game devices may communicate location, and other, information to a remote database such that the two user's may interact on different physical playfields, but play on the same virtual playfield.——————————————————————————————————————A number of wireless communications protocols, self-configuration, and auto-download software applications are also provided to optimize integration with, for example, a wireless telephone.--

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PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☑ SMALL ☐ MICRO

APPLICATION AS FILED - PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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 $25 =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*		x $ 100 =	
☐ 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	10/09/2018	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0		x $ 50 =	0
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0		x $ 230 =	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 $ 0 =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=		x $ 0 =	
	☐ 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.	LIE
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".	Moliki I May
*** 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.

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	Art Unit
	Kevin Y Kim	3716

CPC - Searched*		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC Combination Sets - Searched*		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US Classification - Searched*			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK
EAST search refresh	4/19/2017	KK

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner
463	40-42	11/13/2017	KK
345	156	11/13/2017	KK

/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 11/28/2018

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3716	

MAIL DATE	DELIVERY MODE
11/28/2018	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. 11/461,761	Applicant(s) Mullen, Jeffrey D	
	Examiner Kevin Y Kim	Art Unit 3716	AIA 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 10/9/18.

☐ 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) 19-32 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) 19-32 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 _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

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

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

4) ☐ Other: _____.

DETAILED ACTION

Specification

1. The amendments to the specification with respect to the abstract has been received and is acknowledged.

Claim Rejections - 35 USC § 103

2. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

3. 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, 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 negatived by the manner in which the invention was made.

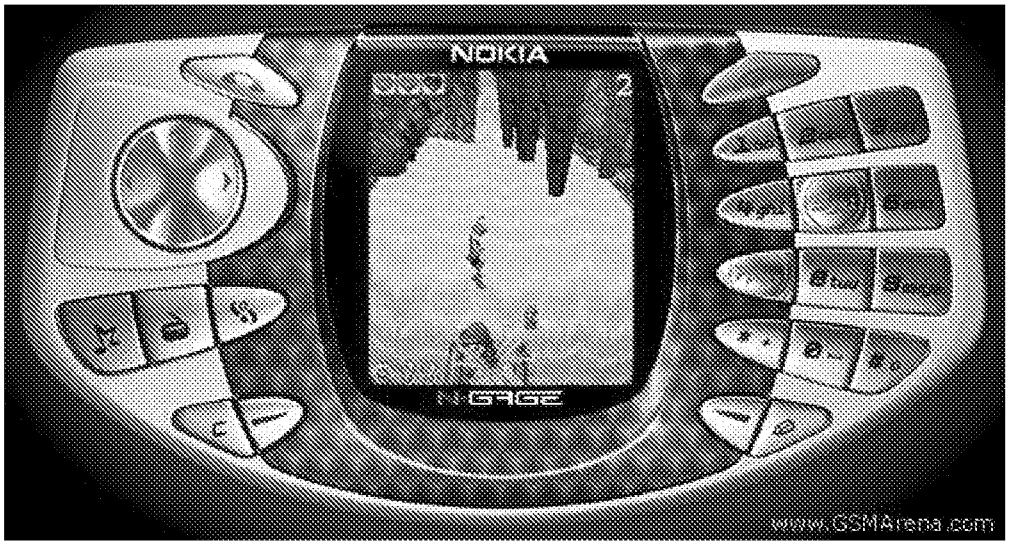
4. Claims 19-34 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device)) in view of IGN http://www.ign.com/articles/2004/09/28/call-of-duty-6), Walters et al (US 6,850,844 B1), and Masuyama et al (US 6,641,482 B2).

5. Re claim 19, N-Gage discloses a system comprising:

a wireless telephone having a display, see below:



wherein a video game is operable to be played on said wireless telephone:



said first control signals are operable to be utilized, at least in part, to control a video game character in staid video game (utilizing the controls on the face of the phone), a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second

video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display (see below image, where the player controls the main character and shoots enemy AI characters):



IGN is relied upon to show that Call of Duty, the game illustrated above, contains a game with AI characters ("From our limited play experience, the AI appears to be quite good and there is a great variety in level design, with plenty of foxholes to dip into").

The N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a

wireless telephone.

Furthermore, Masuyama is relied upon to teach the knowledge of utilizing accelerometers in mobile gaming devices (such as the Nokia N-Gage) to control video game characters (fig. 3, game card 30 includes an acceleration sensor which is coupled to the mobile gaming device 10 to provide accelerometer-controlled gaming (see at least figs. 17-20).

It would have been obvious to implement an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as the N-Gage, while also allowing games to utilize the accelerometer for novel game controls (e.g. twisting and rotating the device to drive a car or roll balls on a simulated 3D surface, as taught by Masuyama).

6. Re claim 20, the accelerometer of Walters is considered a positioning device.

7. Re claim 21, N-Gage has disclosed a direction device (see the arrow buttons on the left side of the device).

8. Re claim 22, see the rejection to claim 19. As indicated by IGN, the N-Gage can support a multiplayer experience, and therefore, a second wireless telephone (i.e. a second N-Gage) using Bluetooth to support connectivity ("Through Bluetooth, up to four players can play either standard deathmatch or team battles, and the N-Gage Arena can be used to download new weapons, power-ups, cheats and hints"). Walters has taught the accelerometer as discussed in claim 19.

9. Re claims 23 and 24, see the rejection to claims 20 and 21.

10. Re claims 27, 31, 33, and 34, as shown in the image in the rejection of claim 19, the N-Gage has a plurality of manual input controls.

11. Re claims 28 and 32, the cited article for N-Gage contains a list of video games available for the N-Gage.

12. Re claim 29, as Call of Duty for N-Gage has been cited to support at least four players in a multiplayer session, therefore, there is at least a third video game character.

13. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the N-Gage in view of Walters and Masuyama as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

14. Re claims 26 and 30, N-Gage substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person'' face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify a video game with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time

of the invention to modify N-Gage with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

15. Applicant's arguments filed 10/9/2018 have been fully considered but they are not persuasive. Applicant alleges that the N-Gage reference (i.e. the Wikipedia article) is not prior art, and instead is a "recent document that spans a recent perspective of particulars of N-Gage through time." The Examiner reminds Applicant that any perspective or analysis of historical events and products will be the same no matter when observed. That is, the hardware present in the N-Gage, its layout, and when it was released will forever remain the same, regardless if an article discussing it is released today or the day after the N-Gage was released. Furthermore, as Wikipedia extensively cites its statements (see "References" at the bottom of the article), all of said historical observations are available for examination by Applicant, and therefore, is considered incorporated by reference.

16. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). While Walters does not disclose a game or video game character, the Nokia N-Gage was a gaming system which allowed players to play games and control video game characters. The obviousness of the combination has been discussed above.

Similarly, Masuyama does not explicitly disclose all of the features missing, but these other features were previously already known and taught by the other references.

Conclusion

17. **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.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Friday.

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, Dmitry Suhol can be reached on (571) 272-4430. 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.

/KEVIN Y KIM/
Primary Examiner, Art Unit 3716

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
RCE- 2ND AND SUBSEQUENT REQUEST	2820	1	950	950
		Total in USD ($)		**1650**

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being anticipated by the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device) (hereinafter "N-Gage") in view of IGN (http://www.ign.com/articles/2004/09/28/call-of-duty-6) (hereinafter "IGN") and further view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters") and Masuyama et al. U.S. Patent No. 6,641,482 (hereinafter "Musayama").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage and in view of Walters and Masuyama and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable over N-Gage and IGN and further in view of Walters and Masuyama.

The N-Gage and IGN References

The references do not appear to be prior art.

The Examiner stated "any perspective or analysis of historical events and products will be the same no matter when observed." (Office Action, page 7).

Applicant respectfully disagrees. No modern perspective or analysis of any kind is prior art. A historical perspective or historical analysis is prior art. A modern perspective and analysis is merely a perspective and analysis in hindsight. A website that includes a photocopy scan of a document could potentially be considered prior art (if the authenticity of the photocopy can be validated). However, applicant respectfully submits that a self-moderated Wikipedia entry composed entirely of socially submitted content is not prior art.

Applicant respectfully requests that the Examiner provide appropriate art (e.g., a prior art instruction manual or patent directed to the product). Applicant envokes applicant's right for documentary evidence as the references appear to be a recent document that spans a recent perspective of particulars of N-Gage.

Claim 19

The Examiner stated:

> "the N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer."
> (Office Action, page 4)

Without prejudice, and solely in order to expedite prosecution, applicant previously amended claim 19 to include this feature.

The Examiner stated "Walters teaches a portable device … wherein a dead reckoning component

may comprise an accelerometer." (Office Action, page 4). The Examiner also references Tochner and Masuyama. *See* Office Action, page 5.

Waleters, however, merely alleges a "navigational device" and discusses associated various dead reckoning techniques. *See* Walters, col. 5.

General navigation, however, is not associated with applicant's invention of claim 19.

Both N-Gage and Walters, is silent on first control signals provided by a locating device operable to be utilized, at least in part, to control a video game character in the video game. Accordingly, none of the prior art, used either alone or in combination, show or suggest applicant's feature of claim 19.

The Examiner's alleges:

> "It would have been obvious to implement an accelerometer in order to provide enhanced security in determining the position, orientation, and movement of a wireless, handheld device such as the N-Gage, while also allowing games to utilize the accelerometer for novel game controls…" (Office Action, page 5).

No disclosure in N-Gage supports the Examiner's position. N-Gage appears to have at least 22 manual input buttons on the front surface of the N-Gage alone. Nothing is provided in the N-Gage to provide any level of interactivity – the novelty of which is taught by the Applicant (not N-Gage). The N-Gage, in fact, directly teaches away from such interactivity by only providing manual inputs. The Examiner cannot eviscerate the spirit of N-Gage when making a combination with the N-Gage. In a combination that eviscerates the spirit of a system,

the combination is merely determined to have been made inoperable.

Accordingly, N-Gage merely shows what N-Gage shows – that if additional controls are needed, additional buttons would be added. N-Gage is limited by both its hardware and software choices so any integrations of applicant's teachings of claim 19 would need to include material disclosure on how applicant's features of claim 19 could be integrated into an architecture with 22 allegedly binary state manual input sensors.

The inclusion of Masuyama's non-telephonic device and Tochner's device does not change, in any way, shape, or form, the disclosure of N-Gage. Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage in view of Walters and Masuyama and further in view of Stamper.

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As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

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/005 CON2.

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

Meta Exhibit 1004
Meta v. Mullen - Page 00658

Electronic Acknowledgement Receipt

EFS ID:	36134601
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	28-MAY-2019
Filing Date:	01-AUG-2006
Time Stamp:	19:28:56
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	$1650
RAM confirmation Number	052919INTEFSW00007996503855
Deposit Account	503855
Authorized User	Jeffrey Mullen

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

37 CFR 1.16 (National application filing, search, and examination fees)

37 CFR 1.17 (Patent application and reexamination processing fees)

37 CFR 1.19 (Document supply fees)

37 CFR 1.20 (Post Issuance fees)

37 CFR 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)	JDM-005CON2--RCE.pdf	697801 6c24afa9c744a96b0d80d840cb4051f8d0f875e7	no	3
Warnings:					
Information:					
2		JDM-005C2--Reply.pdf	176429 e3662e4e5289eb3c9fa4e12feb59224219a30c50	yes	10

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Applicant Arguments/Remarks Made in an Amendment	6	10
	Claims	2	5
	Amendment Submitted/Entered with Filing of CPA/RCE	1	1

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	32776 de68c2e290a0e9ef78882a7a78497831aa3b0c6c	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	907006		

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.

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

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

Application Number	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Patent Practitioner Signature

X Applicant Signature

EFS - Web 2.1.6

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2019-05-28
Name	Jeffrey D. Mullen		
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 t
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
estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Tim
will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo
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.

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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (previously presented) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is operable to be played on said wireless telephone, first control signals are operable to be utilized, at least in part, to control a video game character in said video game, a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

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22. (previously presented) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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Meta v. Mullen - Page 00668

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
May 28, 2019

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated November 28, 2019. A three-month extension of time is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☑ SMALL ☐ MICRO

APPLICATION AS FILED - PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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 $25 =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*		x $ 100 =	
☐ 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	05/28/2019	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0		x $ 50 =	0
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0		x $ 230 =	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 $ 0 =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=		x $ 0 =	
	☐ 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.	LIE
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".	/ANGELONA D JONES/
*** 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.

Notice of References Cited	Application/Control No. 11/461,761	Applicant(s)/Patent Under Reexamination Mullen, Jeffrey D	
	Examiner Kevin Y Kim	Art Unit 3715	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	CPC Classification	US Classification
	A					
	B					
	C					
	D					
	E					
	F					
	G					
	H					
	I					
	J					
	K					
	L					
	M					

FOREIGN PATENT DOCUMENTS

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

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Nokia, "Let the sales begin! Nokia N-GageTM game deck sales to start," October 06, 2003, https://web.archive.org/web/20081210124611/http://www.nokia.com/A4136002?newsid=919619
	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.

Meta Exhibit 1004
Meta v. Mullen - Page 00671

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 07/16/2019

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3715	

MAIL DATE	DELIVERY MODE
07/16/2019	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.

Office Action Summary	Application No. 11/461,761	Applicant(s) Mullen, Jeffrey D	
	Examiner Kevin Y Kim	Art Unit 3715	AIA (FITF) 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 5/28/2019.

☐ 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) 19-34 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) 19-34 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 _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

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

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☑ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

4) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/28/2019 has been entered.

Claim Rejections - 35 USC § 103

2. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

3. 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, 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 negatived by the manner in which the invention was made.

4. Claims 19-34 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device) and reliance on

https://web.archive.org/web/20081210124611/http://www.nokia.com/A4136002?newsid=919619) in view of IGN http://www.ign.com/articles/2004/09/28/call-of-duty-6), Walters et al (US 6,850,844 B1), and Masuyama et al (US 6,641,482 B2).

5. Re claim 19, N-Gage discloses a system comprising:

a wireless telephone having a display, see below:



wherein a video game is operable to be played on said wireless telephone:



said first control signals are operable to be utilized, at least in part, to control a video game character in staid video game (utilizing the controls on the face of the phone), a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display (see below image, where the player controls the main character and shoots enemy AI characters):



IGN is relied upon to show that Call of Duty, the game illustrated above, contains a game with AI characters ("From our limited play experience, the AI appears to be quite good and there is a great variety in level design, with plenty of foxholes to dip into"). Nokia discloses that the above-pictured Nokia N-Gage was released October 06, 2003.

The N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65). The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Furthermore, Masuyama is relied upon to teach the knowledge of utilizing

accelerometers in mobile gaming devices (such as the Nokia N-Gage) to control video game characters (fig. 3, game card 30 includes an acceleration sensor which is coupled to the mobile gaming device 10 to provide accelerometer-controlled gaming (see at least figs. 17-20).

It would have been obvious to implement an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as the N-Gage, while also allowing games to utilize the accelerometer for novel game controls (e.g. twisting and rotating the device to drive a car or roll balls on a simulated 3D surface, as taught by Masuyama).

6. Re claim 20, the accelerometer of Walters is considered a positioning device.

7. Re claim 21, N-Gage has disclosed a direction device (see the arrow buttons on the left side of the device).

8. Re claim 22, see the rejection to claim 19. As indicated by IGN, the N-Gage can support a multiplayer experience, and therefore, a second wireless telephone (i.e. a second N-Gage) using Bluetooth to support connectivity ("Through Bluetooth, up to four players can play either standard deathmatch or team battles, and the N-Gage Arena can be used to download new weapons, power-ups, cheats and hints"). Walters has taught the accelerometer as discussed in claim 19.

9. Re claims 23 and 24, see the rejection to claims 20 and 21.

10. Re claims 27, 31, 33, and 34, as shown in the image in the rejection of claim 19, the N-Gage has a plurality of manual input controls.

11. Re claims 28 and 32, the cited article for N-Gage contains a list of video games available for the N-Gage.

12. Re claim 29, as Call of Duty for N-Gage has been cited to support at least four players in a multiplayer session, therefore, there is at least a third video game character.

13. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the N-Gage in view of Walters and Masuyama as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

14. Re claims 26 and 30, N-Gage substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person" face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify a video game with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual (Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify N-Gage with Stamper to improve the realism of video games

by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

15. Applicant's arguments filed 5/28/2019 have been fully considered but they are not persuasive. The N-Gage is indeed prior art, despite Applicant's statements to the contrary. However, for the purposes of expediting prosecution, the Examiner has included a press release from Nokia that was issued in October 06, 2003, that details the release of the Nokia N-Gage. Therefore, the N-Gage is prior art and the arguments claiming it is not are moot.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The argument that the mere existence of manual input buttons teaches away from including the use of an accelerometer is not persuasive as Applicant fails to include any arguments that the combination would not be obvious that are not merely attacking the references individually.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Friday.

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, Dmitry Suhol can be reached on 571-272-4430. 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.

/KEVIN Y KIM/
Primary Examiner, Art Unit 3715

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	Art Unit
	Kevin Y Kim	3715

CPC - Searched*		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC Combination Sets - Searched*		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US Classification - Searched*			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK
EAST search refresh	4/19/2017	KK
EAST search confirming prior art status	07/15/2019	KK

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner
463	40-42	11/13/2017	KK
345	156	11/13/2017	KK

/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	

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PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☑ SMALL ☐ MICRO

APPLICATION AS FILED - PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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 $25 =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*		x $ 100 =	
☐ 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	01/16/2020	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0		x $ 50 =	0
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0		x $ 230 =	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 $ 0 =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=		x $ 0 =	
	☐ 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.	LIE
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".	/CHERYL A CLARK/
*** 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.

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
			Total in USD ($)	**700**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
January 16, 2020

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated July 16, 2019. A three-month extension of time is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

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

Listing of Claims:

1-18. (cancelled)

19. (previously presented) A system comprising:

a wireless telephone having a locating device and a display, wherein a video game is operable to be played on said wireless telephone, first control signals are operable to be utilized, at least in part, to control a video game character in said video game, a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display, and said first control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

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22. (previously presented) A system comprising:

a first wireless telephone having a first locating device, wherein a video game is played on said first wireless telephone, first control signals are utilized to control a first video game character in said video game, a manual control that is operable to cause said first video game character to perform an action, and said first control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second control signals are utilized to control a second video game character in said video game, said first video game character and said second video game character is displayed on said display, said second control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

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26. (previously presented) The system of claim 22, wherein said first video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (previously presented) The system of claim 22, wherein said video game is selected from a list of video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (previously presented) The system of claim 19, wherein said video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

32. (previously presented) The system of claim 19, wherein said video game is selected from a list of video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

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34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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Electronic Acknowledgement Receipt

EFS ID:	38317722
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	16-JAN-2020
Filing Date:	01-AUG-2006
Time Stamp:	15:32:42
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	$700
RAM confirmation Number	E20201FF33276507
Deposit Account	503855
Authorized User	Jeffrey Mullen

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

37 CFR 1.16 (National application filing, search, and examination fees)

37 CFR 1.17 (Patent application and reexamination processing fees)

37 CFR 1.19 (Document supply fees)

37 CFR 1.20 (Post Issuance fees)

37 CFR 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		JDM-005C2--Reply.pdf	113263 bdebf8129969244e10851c58b2a1a44bab9e59db	yes	10
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Amendment/Req. Reconsideration-After Non-Final Reject		6	10	
	Claims		2	5	
	Amendment/Req. Reconsideration-After Non-Final Reject		1	1	
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30731 56706820b07c642c7b3013ec89440903a35415a7	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	143994		

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.

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-34 were under 35 U.S.C. 103(a) as being anticipated by the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device) (hereinafter "N-Gage") in view of IGN (http://www.ign.com/articles/2004/09/28/call-of-duty-6) (hereinafter "IGN") and further view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters") and Masuyama et al. U.S. Patent No. 6,641,482 (hereinafter "Musayama").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage and in view of Walters and Masuyama and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable over N-Gage and IGN and further in view of Walters and Masuyama.

N-Gage and IGN References Are Inadequate

The Examiner alleges the N-Gage is prior art, however, the documents provided are not the N-Gage. A crowd-sourced article with an alleged marketing picture cannot be relied on to adequately or accurately show the design, operations, limitations, structure, etc. of the N-Gage device. Thus, the Examiner is not relying on N-Gage but Wikipedia with an alleged marketing picture of a portion of a surface of an alleged device.

The Examiner's alleged marketing picture just shows a marketing picture. Functional, structural, and operational combinations cannot be be done with a portion of an alleged marketing picture of an alleged operational version of an alleged device.

Applicant invokes his right under MPEP that the Examiner provide documentary evidence of the functional and structural elements of the Examiner's assertions.

However, as shown below, the references do now show or suggest applicant's features regardless of the various allegations of N-Gage.

Claim 19

The Examiner stated:

> "the N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer."
> (Office Action, page 4)

If the N-Gage does not provide a locating device, the N-Gage is no different than any other handheld, manual-entry gaming device.

Hand-held manual entry gaming devices have been around for decades – if not hundreds or thousands of years.

A hand-held, manual-entry gaming device does not show or suggest applicant's invention of claim 19 of a locating device providing control signals.

A hand-held, manual entry gaming device does not show or suggest applicant's invention of claim 19 of a locating device including an accelerometer.

Putting aside the notion that the Examiner cannot combine any hand-held manual entry device over the last few decades with Walters to create something neither shown, nor suggestion, nor operable – the examiner also cannot do it with a marketing picture of a surface of an alleged device.

That said, the marketing picture is irrelevant –as the N-Gage device is merely a hand-held device with manual controls.

Without the manual controls, the N-Gage device would not provide any relevant use of any kind.

Accordingly, removing the manual controls would eviscerate the alleged functionality and structure of the device and would render N-Gage inoperable and alien to any device in that class.

Accordingly, Walters can no more be combined with the N-Gage marketing picture than Walters can be combined with an umbrella.

Additional arguments were previously presented and provide additional reasons for allowance. All references – Masuyama, Tochner, etc. – cannot in any way change the disclosure of a hand-held manually operated device – let alone a marketing picture of a part of a surface of an alleged operational N-Gage device.

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Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19.

In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

The Dependent Claims

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage in view of Walters and Masuyama and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

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.

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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/005 CON2.

Respectfully Submitted,

/Jeffrey D. Mullen/

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PTO/SB/06 (09-11)
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☑ SMALL ☐ MICRO

APPLICATION AS FILED - PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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 $25 =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*		x $ 100 =	
☐ 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	01/16/2020	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0		x $ 50 =	0
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0		x $ 230 =	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 $ 0 =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=		x $ 0 =	
	☐ 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.	LIE
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".	/CHERYL A CLARK/
*** 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.

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	Art Unit
	Kevin Y Kim	3715

CPC - Searched*		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC Combination Sets - Searched*		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US Classification - Searched*			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK
EAST search refresh	4/19/2017	KK
EAST search confirming prior art status	07/15/2019	KK

/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	

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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	Art Unit
	Kevin Y Kim	3715

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner
463	40-42	11/13/2017	KK
345	156	11/13/2017	KK

/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 01/29/2020

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EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3715	

MAIL DATE	DELIVERY MODE
01/29/2020	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. 11/461,761	Applicant(s) Mullen, Jeffrey D	
	Examiner Kevin Y Kim	Art Unit 3715	AIA (FITF) 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 1/16/2020.

☐ 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) 19-32 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) 19-32 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 _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

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

Certified copies:

a)☐ All b)☐ Some** c)☐ None of the:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

4) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

2. 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, 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 negatived by the manner in which the invention was made.

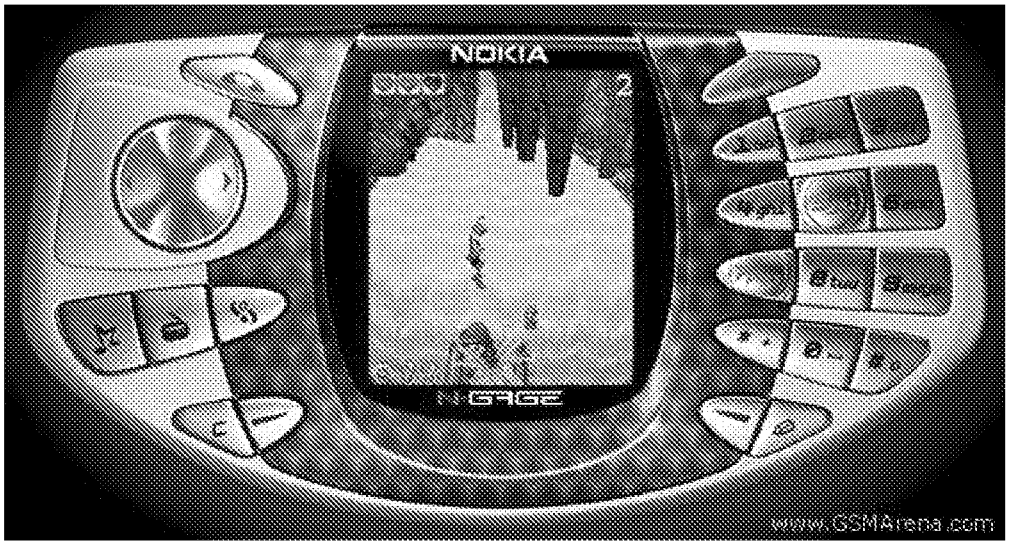
3. Claims 19-34 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device) and reliance on https://web.archive.org/web/20081210124611/http://www.nokia.com/A4136002?newsId=919619) in view of IGN http://www.ign.com/articles/2004/09/28/call-of-duty-6), Walters et al (US 6,850,844 B1), and Masuyama et al (US 6,641,482 B2).

4. Re claim 19, N-Gage discloses a system comprising:

a wireless telephone having a display, see below:



wherein a video game is operable to be played on said wireless telephone:



said first control signals are operable to be utilized, at least in part, to control a video game character in staid video game (utilizing the controls on the face of the phone), a manual control is operable to cause said video game character to perform an action, said video game character is operable to be displayed on said display, a second

video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display (see below image, where the player controls the main character and shoots enemy AI characters):



IGN is relied upon to show that Call of Duty, the game illustrated above, contains a game with AI characters ("From our limited play experience, the AI appears to be quite good and there is a great variety in level design, with plenty of foxholes to dip into"). Nokia discloses that the above-pictured Nokia N-Gage was released October 06, 2003.

The N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer. Walters teaches a portable device that includes cellular antennae, similar to Tochner, as well as an accelerometer (fig. 4B, 480, wherein a dead reckoning component may comprise an accelerometer col. 5, 61-65).

The device shown in fig. 4B is a PDA with cellular antennae, and thus is considered a wireless telephone.

Furthermore, Masuyama is relied upon to teach the knowledge of utilizing accelerometers in mobile gaming devices (such as the Nokia N-Gage) to control video game characters (fig. 3, game card 30 includes an acceleration sensor which is coupled to the mobile gaming device 10 to provide accelerometer-controlled gaming (see at least figs. 17-20).

It would have been obvious to implement an accelerometer in order to provide enhanced accuracy in determining the position, orientation, and movement of a wireless, handheld device such as the N-Gage, while also allowing games to utilize the accelerometer for novel game controls (e.g. twisting and rotating the device to drive a car or roll balls on a simulated 3D surface, as taught by Masuyama).

5. Re claim 20, the accelerometer of Walters is considered a positioning device.

6. Re claim 21, N-Gage has disclosed a direction device (see the arrow buttons on the left side of the device).

7. Re claim 22, see the rejection to claim 19. As indicated by IGN, the N-Gage can support a multiplayer experience, and therefore, a second wireless telephone (i.e. a second N-Gage) using Bluetooth to support connectivity ("Through Bluetooth, up to four players can play either standard deathmatch or team battles, and the N-Gage Arena can be used to download new weapons, power-ups, cheats and hints"). Walters has taught the accelerometer as discussed in claim 19.

8. Re claims 23 and 24, see the rejection to claims 20 and 21.

9. Re claims 27, 31, 33, and 34, as shown in the image in the rejection of claim 19, the N-Gage has a plurality of manual input controls.

10. Re claims 28 and 32, the cited article for N-Gage contains a list of video games available for the N-Gage.

11. Re claim 29, as Call of Duty for N-Gage has been cited to support at least four players in a multiplayer session, therefore, there is at least a third video game character.

12. Claims 26 and 30 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over the N-Gage in view of Walters and Masuyama as applied to claim 22 above, and further in view of Stamper et al (US 2002/0082082 A1).

13. Re claims 26 and 30, N-Gage substantially discloses the invention as claimed but fails to explicitly teach that the video game character is selected from a list of characters. However in an analogous reference, Stamper teaches a game machine that maps external images onto animated game players in a game program and includes an image editor to facilitate the mapping. Using Stamper, an image of a person'' face may be mapped onto the head of an animated game player (Stamper, paragraph [0010]). Specifically, Stamper teaches that the player selects the head of the character from a list of other character heads (Stamper, paragraphs [0072, 0073]).

One of ordinary skill in the art at the time of the invention would have found it obvious to modify a video game with character selection to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual

(Stamper, paragraph [0010]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify N-Gage with Stamper to improve the realism of video games by enabling individuals to create animated game players that have features, e.g., a facial image, of the individual or that were selected and imported by the individual.

Response to Arguments

14. Applicant's arguments filed 1/16/2020 have been fully considered but they are not persuasive. The attached press release details the N-Gage in words what is pictured in the Wikipedia article, which itself is sourced heavily and firmly places the N-Gage as prior art. In particular, the "About N-Gage" section of the press release discloses that "The Nokia N-Gage game deck is an innovative mobile device that is creating an entirely new market for the games industry. Built for active and hardcore gamers, the Nokia N-Gage is the first mobile and connected game deck to feature online high-quality 3D multiplayer gameplay over Bluetooth wireless technology and GPRS."

The Wikipedia article cites numerous other sources for its information that definitively define the N-Gage as a mobile telephone that also allows for play of video games with the advantages of being mobile while still affording buttons and controls familiar to gamers. The Examiner respectfully disagrees with Applicant that pictures and press releases cannot be used as prior art. Functional, structural, and operational combinations can indeed be utilized with pictures and articles, despite Applicant's arguments to the contrary. Pictures clearly show buttons, screens, and games, while the

article clearly states that the N-Gage is a mobile telephone that supports gaming. As such, the combination as discussed above would indeed be obvious to one of ordinary skill in the art.

Conclusion

2. **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.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Friday.

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, Dmitry Suhol can be reached on 571-272-4430. 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.

/KEVIN Y KIM/
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:

1-18. (cancelled)

19. (currently amended) A system comprising:

a wireless telephone having a locating device and a display, wherein a location-based video game is operable to be played on said wireless telephone, first location-based control signals are operable to be utilized, at least in part, to control a location-based video game character in said location-based video game, a manual control is operable to cause said location-based video game character to perform an action, said location-based video game character is operable to be displayed on said display, a second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display, and said first location-based control signals are provided by said locating device, wherein said locating device includes an accelerometer.

20. (previously presented) The system of claim 19, wherein further comprising a second locating device that includes a positioning device.

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21. (previously presented) The system of claim 19, further comprising a directional device for determining direction.

22. (currently amended) A system comprising:

a first wireless telephone having a first locating device, wherein a location-based video game is played on said first wireless telephone, first location-based control signals are utilized to control a first location-based video game character in said location-based video game, a manual control that is operable to cause said first location-based video game character to perform an action, and said first location-based control signals are provided by said first locating device, wherein said first locating device includes an accelerometer; and

a second wireless telephone having a second locating device and a display, wherein second location-based control signals are utilized to control a second location-based video game character in said location-based video game, said first location-based video game character and said second location-based video game character is displayed on said display, said second location-based control signals are provided by said second locating device, and a third game character displayed on said display that is controlled via artificial intelligence and is not controlled by manual-input.

23. (previously presented) The system of claim 22, further comprising a second locating device that includes a positioning device.

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24. (previously presented) The system of claim 22, further comprising a directional device for determining direction.

25. (previously presented) The system of claim 22, further comprising a fourth video game character, wherein said fourth video game character is controlled via artificial intelligence.

26. (currently amended) The system of claim 22, wherein said first location-based video game character is selected from a list of characters.

27. (previously presented) The system of claim 22, wherein said first wireless telephone includes a second manual input control.

28. (currently amended) The system of claim 22, wherein said location-based video game is selected from a list of location-based video games.

29. (previously presented) The system of claim 19, further comprising a third video game character.

30. (currently amended) The system of claim 19, wherein said location-based video game character is selected from a list of characters.

31. (previously presented) The system of claim 19, wherein said wireless telephone includes a second manual input control.

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32. (currently amended) The system of claim 19, wherein said location-based video game is selected from a list of location-based video games.

33. (previously presented) The system of claim 19, wherein said wireless telephone includes a plurality of manual input controls.

34. (previously presented) The system of claim 22, wherein said first wireless telephone includes a plurality of manual input controls.

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Electronic Acknowledgement Receipt

EFS ID:	40144265
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	29-JUL-2020
Filing Date:	01-AUG-2006
Time Stamp:	20:49:33
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	$1650
RAM confirmation Number	E20207SK50011676
Deposit Account	503855
Authorized User	Jeffrey Mullen

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

37 CFR 1.16 (National application filing, search, and examination fees)

37 CFR 1.17 (Patent application and reexamination processing fees)

37 CFR 1.19 (Document supply fees)

37 CFR 1.20 (Post Issuance fees)

37 CFR 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)	JDM-005CON2--RCE.pdf	697793 c3d401a7de20c1d56642ac2bc2f58d291632cbf7	no	3
Warnings:					
Information:					
2		JDM-005C2--Reply.pdf	117474 39c28918c3160a5c38b1b7319c92cc6efc31b472	yes	10

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment Submitted/Entered with Filing of CPA/RCE	1	1
	Claims	2	5
	Applicant Arguments/Remarks Made in an Amendment	6	10

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	32776 3aa89cefbf5492aa11ef9389974e02b770b390ab	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	848043	

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3714
Examiner	:	Andrew Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
July 29, 2020

REPLY TO OFFICE ACTION

Sir:

This is in response to the Office Action dated January 29, 2020. A three-month extension of time and a Request for Examination is applicable hereto and is being submitted herewith. In response to the Office Action, applicant amends the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
RCE- 2ND AND SUBSEQUENT REQUEST	2820	1	950	950
		Total in USD ($)		**1650**

REMARKS/ARGUMENTS

Summary of Office Action

Claims 19-32 are pending in the application.

The Examiner rejected claims 19-34 were under 35 U.S.C. 103(a) as being anticipated by the Nokia N-Gage (with reference to https://en.wikipedia.org/wiki/N-Gage_(device) (hereinafter "N-Gage") in view of IGN (http://www.ign.com/articles/2004/09/28/call-of-duty-6) (hereinafter "IGN") and further view of Walters et al. U.S. Patent No. 6,850,844 (hereinafter "Walters") and Masuyama et al. U.S. Patent No. 6,641,482 (hereinafter "Musayama").

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage and in view of Walters and Masuyama and further in view of Stamper U.S. Publication No. 2002/0082082 (hereinafter "Stamper").

Summary of Applicant's Amendments

Without prejudice and solely in order to expedite prosecution applicant has amended claims 19, 22, 26, 28, 30, and 32.

Applicant traverses the Examiner's rejections. Applicant reserves the right to claim any subject matter lost by any claim amendment or cancellation, or any subject matter included in the present application, in one or more continuation or divisional applications.

Applicant's Response to the
Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19-24, 27-29, and 31-34 were under 35 U.S.C. 103(a) as being unpatentable

over N-Gage and IGN and further in view of Walters and Masuyama.

Claim 19

The Examiner stated that:

> "the attached press release discloses that 'The Nokia N-Gage game deck is an innovative mobile device that is creating an entirely new market for the games industry. Built for active and hardcore gamers, the Nokia N-Gage is the first mobile and connected game deck to feature online high-quality 3D multiplayer gameplay over Bluetooth wireless technology and GPRS." (Office Action, page 7)

General Packet Radio Service (GPRS) and Bluetooth however, do not show – in any way, shape, or form – applicant's invention of amended claim 19 of a location-based game, location-based video game character, location control signals provided by a locating device, and location-based control signals that are operable to be utilized to control a location-based video game character, or location control signals provided by locating device that includes an accelerometer.

Accordingly, N-Gage is irrelevant. N-Gage is just a device with alleged connectivity. Nothing more. The N-Gage does not show any location-based game, location-based character, location-based control signal, location-based control signal provided by a locating device, or location-based control signal provided by a locating device that includes an accelerometer.

A device with alleged connectivity does not show any of these features and, in fact, directly teaches away. N-Gage has well over twenty alleged manual buttons – it is difficult to determine where else manual buttons could even be added to the device. Yet, N-Gage does not having any

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location device or location-based control signals or location-based character or location-based game, etc.

The Examiner stated N-Gage alleges:

> "first control signals are operable to be utilized, at least in part, to control a video game character in said video game (utilizing the controls on the face of the phone)."
> (Office Action, page 3)

Applicant's location-based control signals are provided by a locating device. Applicant's location-based control signals are provided by a locating device that includes an accelerometer. The Examiner's manual "controls on the face of the phone" is not a locating device. N-Gage does not show or suggest his element – as well as any location-based element. Accordingly, N-gage does not show or suggest this feature – or any associated feature – in any way, shape, or form.

Furterhmore, the Examiner stated:

> "the N-Gage, however, does not disclose the use of a locating device providing control signals in the form of an accelerometer."
> (Office Action, page 4)

As N-Gage does not provide a locating device, the N-Gage is no different than any other handheld, manual-entry gaming device. Hand-held manual entry gaming devices have been around for decades – if not longer and are irrelevant to applicant's claim 19.

A hand-held, manual entry gaming device does not show or suggest numerous features of applicant's invention of claim 19 of a location-based character or location-based game or location based control signals or location-based control signals provided by a

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locating device or location based control signals provided by a locating device that includes an accelerometer.

Walters does not correct for the deficiency of N-Gage in any way, shape, or form. Without the manual controls, the N-Gage device would not provide any relevant use of any kind. Furthermore, N-Gage alleges well over twenty manual inputs. Yet, N-Gage shows essentially none of the features of applicant's claim 19. Accordingly, removing the manual controls of N-Gage would go against the core nature of the N-Gage device and would be non-obvious and render the N-Gage completely inoperable. All references – Masuyama, Tochner, etc. – cannot in any way completely destroy N-Gage and build it up into something that would be completely alien and unrecognizable to N-Gage.

Accordingly, none of the references, used either alone or in combination, show or suggest applicant's invention of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 19, and any claims dependent therefrom, be withdrawn.

Claim 22

As shown above, claim 19 is patentable. Claim 22 includes patentable features similar to patentable features of claim 19. In light of the foregoing, applicant respectfully requests that the Examiner's rejection of claim 22, and any claims dependent therefrom, be withdrawn.

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The Dependent Claims

The Examiner rejected claims 26 and 30 under 35 U.S.C. 103(a) as being unpatentable by N-Gage in view of Walters and Masuyama and further in view of Stamper.

As shown above, claims 19 and 22 are patentable. Claims 25, 26, and 30 depend from either claim 19 or 22. Accordingly, claims 25, 26, and 30 are patentable for depending from a patentable base claim.

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/005 CON2.

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

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

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

Application Number	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3714
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Andrew Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Patent Practitioner Signature

X Applicant Signature

EFS - Web 2.1.6

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Applicant Signature			
Applicant 1		Remove	
Signature	/Jeffrey D. Mullen/	Date (YYYY-MM-DD)	2020-07-29
Name	Jeffrey D. Mullen		
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 t
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
estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Tim
will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions fo
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.

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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 informatio 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 the Freedom of Information Act requires disclosure of these record s.

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 ma 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 inspections 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.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 11/461,761	Filing Date 08/01/2006	☐ To be Mailed

ENTITY: ☐ LARGE ☑ SMALL ☐ MICRO

APPLICATION AS FILED - PART I

FOR	(Column 1) NUMBER FILED	(Column 2) 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 $25 =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*		x $ 100 =	
☐ 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	07/29/2020	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 16	Minus	** 20	= 0		x $50 =	0
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0		x $230 =	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 $0 =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=		x $0 =	
	☐ 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.	LIE
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".	/CHERYL A CLARK/
*** 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.

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	Art Unit
	Kevin Y Kim	3715

CPC - Searched*		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC Combination Sets - Searched*		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US Classification - Searched*			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK
EAST search refresh	4/19/2017	KK
EAST search confirming prior art status	07/15/2019	KK
EAST class/text search refresh for location-based gaming	08/25/2020	KK

/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	

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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	Art Unit
	Kevin Y Kim	3715

Interference Search			
US Class/CPC Symbol	**US Subclass/CPC Group**	**Date**	**Examiner**
463	40-42	11/13/2017	KK
345	156	11/13/2017	KK
	See attached search report	08/25/2020	KK

/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	

Meta Exhibit 1004
Meta v. Mullen - Page 00732

Bibliographic Data

Application No: 11/461,761

Foreign Priority claimed: ○ Yes ◉ No

35 USC 119 (a-d) conditions met: ☐ Yes ☑ No ☐ Met After Allowance

Verified and Acknowledged: /KEVIN Y KIM/ KK

Examiner's Signature Initials

Title: SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
08/01/2006	345	3715	JDM/005 CON2
RULE			

APPLICANTS

INVENTORS

Jeffrey D Mullen, New York, NY, UNITED STATES

CONTINUING DATA

This application is a CON of 10932536 09/01/2004

10932536 has PRO of 60603481 08/20/2004

10932536 has PRO of 60499810 09/02/2003

FOREIGN APPLICATIONS

IF REQUIRED, FOREIGN LICENSE GRANTED**

08/15/2006

** SMALL ENTITY **

STATE OR COUNTRY

UNITED STATES

ADDRESS

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116
UNITED STATES

FILING FEE RECEIVED

$425

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UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

32733 7590 08/26/2020

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER
KIM, KEVIN Y

ART UNIT	PAPER NUMBER
3715	

DATE MAILED: 08/26/2020

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

TITLE OF INVENTION: SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	$500	$0.00	$0.00	$500	11/27/2020

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: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PTOL-85 (Rev. 02/11)

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via EFS-Web.

By mail, send to: Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By fax, send to: (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)

32733 7590 08/26/2020

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

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 transmitted to the USPTO via EFS-Web or by facsimile to (571) 273-2885, on the date below.

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

TITLE OF INVENTION: SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	$500	$0.00	$0.00	$500	11/27/2020

EXAMINER	ART UNIT	CLASS-SUBCLASS
KIM, KEVIN Y	3715	345-156000

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 03-09 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 _____
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 must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). 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. Fees submitted: ❑ Issue Fee ❑ Publication Fee (if required) ❑ Advance Order - # of Copies _____

4b. Method of Payment: *(Please first reapply any previously paid fee shown above)*

❑ Electronic Payment via EFS-Web ❑ Enclosed check ❑ Non-electronic payment by credit card (Attach form PTO-2038)

❑ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

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. _____

Meta Exhibit 1004
Meta v. Mullen - Page 00735

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.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 08/26/2020

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER	
KIM, KEVIN Y	
ART UNIT	PAPER NUMBER
3715	

DATE MAILED: 08/26/2020

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.

PTOL-85 (Rev. 02/11)

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 30 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. 11/461,761	Applicant(s) Mullen, Jeffrey D	
	Examiner Kevin Y Kim	Art Unit 3715	AIA (FITF) 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 claims filed 7/29/2020.
   ☐ 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 19/34 . 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)
2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____.
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material _____.
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date. _____.
5. ☐ Examiner's Amendment/Comment
6. ☑ Examiner's Statement of Reasons for Allowance
7. ☐ Other _____.

/KEVIN Y KIM/
Primary Examiner, Art Unit 3715

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DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/29/2020 has been entered.

Allowable Subject Matter

3. Claims 19-34 are allowed.

4. The following is an examiner's statement of reasons for allowance: there is no teaching or suggestion in the prior art of a system comprising:

a wireless telephone having a locating device and a display, wherein a location-based video game is operable to be played on said wireless telephone, first location-based control signals are operable to be utilized, at least in part, to control a location-based video game character in said location-based video game, a manual control is operable to cause said location-based video game character to perform an action, said location-based video game character is operable to be displayed on said display, a

second video game character that is operable to be controlled via artificial intelligence, and is not controlled by manual-input, is operable to be displayed on said display, and said first location-based control signals are provided by said locating device, wherein said locating device includes an accelerometer.

In the Final Rejection mailed 1/29/2020, the Examiner previously rejected the claims under 35 U.S.C. 103(a) in view of the Nokia N-Gage and Masuyama et al. While the N-Gage was a mobile telephone capable of playing games, and Masuyama disclosed the use of an accelerometer to provide control signals, there is no suggestion that either the N-Gage or Masuyama, alone or in combination, would teach that the games supported would be location-based. Consequently, the Examiner cannot find a teaching or suggestion that location-based gaming on a wireless telephone would be taught by any prior art.

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."

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Friday.

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, Dmitry Suhol can be reached on 571-272-4430. 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 https://ppair-my.uspto.gov/pair/PrivatePair. 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.

/KEVIN Y KIM/
Primary Examiner, Art Unit 3715

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	2	"20010048425".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:48
S2	2	"20020090985".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S3	848,699	(mobile or cell or cellular or hand) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S4	2	(US-20010048425-$ or US-20020090985-$).did.	US-PGPUB	OR	ON	2014/07/15 12:50
S5	2	S3 and S4	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S6	0	accelerometer and S5	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S7	8,782	(accelerometer and (GPS or (global near2 position$3)) and compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S8	5,067	S3 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S9	24	S8 and 463/42.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:09
S10	29,157,454	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S11	1	S9 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17

S12	213	S8 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:18
S13	1	11/461761	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S14	1	S13 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S15	40,157	S3 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S16	5,453	S10 and S15	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S17	26	S16 and "463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S18	0	S17 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S19	62	S16 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S20	866,261	(mobile or cell or cellular or hand or wireless) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S21	40,845	S20 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S22	5,616	S10 and S21	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S23	45,540	"463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28

S24	28	S22 and S23	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S25	0	S24 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S26	62	S22 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:29
S27	929	n adj gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S28	10,187	n-gage or n$gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S29	10,732	S27 or S28	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S30	29	accelerometer and S29	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S31	6	(US-20010048425-$ or US-20020090985-$ or US-20080108437-$ or US-20050033515-$ or US-20070060216-$).did. or (US-6850844-$).did.	US-PGPUB; USPAT	OR	ON	2017/04/19 12:35
S32	4	S31 and game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:35
S33	4,467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:53

S34	26,038,705	@ay<"2003"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S35	32,556,162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S36	4,467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S37	28	S36 and S35	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S38	2,230,685	(control$4 or movement or moving) with (player or character or user or avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
S39	22,674	S38 same accelerometer	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
S40	32,556,162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S41	411	S40 and S39	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S42	93	S41 and (phone or cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S43	1,659,438	(mobile or cell) near2 (phone or device)	US-PGPUB; USPAT; USOCR; EPO;	OR	ON	2017/04/19 13:07

			JPO; DERWENT			
S44	46	S41 and S43	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S45	1,006,385	(mobile or cell) near2 phone	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S46	19	S41 and S45	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S47	897,687	(GPS or (global near2 position$3))	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:32
S48	169,065	(video near2 game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S49	33,744	S47 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S50	10,288	S47 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S51	29,047,398	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S52	185	S51 and S50	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S53	246,883	S47 same (phone cell mobile)	US-PGPUB; USPAT; USOCR; EPO;	OR	ON	2017/11/13 13:41

			JPO; DERWENT			
S54	81	S52 and S53	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:41
S55	21,677	accelerometer same (phone cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:49
S56	279	S55 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S57	0	S56 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S58	2,739	S55 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S59	24	S58 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S60	313,085	(control$4 move moving) near4 (game character avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:41
S61	2,154	S60 and S55	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42
S62	13	S61 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42

S65	6,534	(accelerometer gyroscope gyro) with ((wireless cell mobile) near3 (phone telephone))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:53
S66	3,663	(game gaming) and S65	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:54
S67	29,047,516	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:55
S68	25	S67 and S66	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:55
S69	2	"6641482".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 11:01
S70	187	nokia and n$gage	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2019/07/12 17:24
S71	179	S70 and (phone telephone)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2019/07/12 17:24
S72	4	accelerometer and S71	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2019/07/12 17:26
S73	71,464	(location$based geocentric geofenc$3)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/20 15:04
S74	7	(US-20010048425-$ or US-20020090985-$ or US-20080108437-$ or US-20050033515-$ or US-20070060216-$).did. or (US-6850844-$ or US-6641482-$).did.	US-PGPUB; USPAT	OR	ON	2020/08/20 15:08

S75	1	S73 and S74	US-PGPUB; USPAT; EPO; JPO	OR	ON	2020/08/20 15:08
S76	2,132,597	(wireless mobile cell handheld portable) near2 (phone telephone)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 10:56
S77	32,560,522	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2020/08/25 11:22
S78	71,553	(location$based geocentric geofenc$3)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 11:22
S79	453	S76 and S77 and S78	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 11:43
S80	1,504,754	game gaming	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 12:01
S81	77	S79 and S80	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 12:01

EAST Search History (Interference)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L7	7,227	(A63F13/65 or A63F13/216 or A63F13/79 or A63F13/332 or A63F13/42 or A63F2300/204 or A63F2300/205 or A63F2300/406 or A63F2300/408 or A63F2300/5573 or A63F2300/8082 or A63F13/12).cpc.	USPAT	OR	ON	2020/08/25 16:07
L8	0	(((location near2 based) same (wireless near2 telephone)) and accelerometer).clm.	USPAT	OR	ON	2020/08/25 16:15
S63	9,919	345/156.ccls. 463/40-42.ccls.	USPAT	OR	ON	2017/11/13 16:09
S64	0	((wireless near2 telephone) and (locating near2 device) and accelerometer).clm.	USPAT	OR	ON	2017/11/13 16:10

8/25/2020 4:53:33 PM
C:\Users\kkim4\Documents\EAST\Workspaces\11461761.wsp

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	**Art Unit**
	Kevin Y Kim	3715

CPC						
Symbol					**Type**	**Version**
A63F	/	13	/	65	F	2014-09-02
A63F	/	13	/	216	I	2014-09-02
A63F	/	13	/	79	I	2014-09-02
A63F	/	13	/	332	I	2014-09-02
A63F	/	13	/	42	I	2014-09-02
A63F	/	2300	/	204	A	2013-01-01
A63F	/	2300	/	205	A	2013-01-01
A63F	/	2300	/	406	A	2013-01-01
A63F	/	2300	/	408	A	2013-01-01
A63F	/	2300	/	5573	A	2013-01-01
A63F	/	2300	/	8082	A	2013-01-01

CPC Combination Sets							
Symbol					**Type**	**Set**	**Ranking**	**Version**
	/		/					

NONE		Total Claims Allowed:	
(Assistant Examiner)	(Date)	16	
/KEVIN Y KIM/ Primary Examiner, Art Unit 3715	25 August 2020	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

U.S. Patent and Trademark Office — Part of Paper No.: 20200825

Meta Exhibit 1004
Meta v. Mullen - Page 00751

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	**Art Unit**
	Kevin Y Kim	3715

INTERNATIONAL CLASSIFICATION				
CLAIMED				
G09G	/	5	/	00
A63F	/	9	/	24
A63F	/	13	/	00
G06F	/	17	/	00
G06F	/	19	/	00

NON-CLAIMED				
	/		/	

US ORIGINAL CLASSIFICATION	
CLASS	**SUBCLASS**
345	156

CROSS REFERENCES(S)						
CLASS	**SUBCLASS (ONE SUBCLASS PER BLOCK)**					
463	40	41	42			

NONE		**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	16	
/KEVIN Y KIM/ Primary Examiner, Art Unit 3715	25 August 2020	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

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Meta Exhibit 1004
Meta v. Mullen - Page 00752

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	**Art Unit**
	Kevin Y Kim	3715

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

CLAIMS

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		10		19		28								
	2		11		20		29								
	3		12		21		30								
	4		13		22		31								
	5		14		23		32								
	6		15		24		33								
	7		16		25		34								
	8		17		26										
	9		18		27										

NONE (Assistant Examiner)	(Date)	**Total Claims Allowed:** 16	
/KEVIN Y KIM/ Primary Examiner, Art Unit 3715 (Primary Examiner)	25 August 2020 (Date)	O.G. Print Claim(s) 1	O.G. Print Figure 1

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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Sheet 1 of 5

Complete if known	
Application Number	11/461,761
Filing Date	August 1, 2006
First Named Inventor	Jeffrey D. Mullen
Art Unit	3715
Examiner Name	Kim, Kevin
Attorney Docket Number	JDM/005 CON2

U.S. PATENT DOCUMENTS

Examiner initials*	Cite No.[1]	Document Number: Number – Kind Code[2] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		5,991,085	11-1999	Rallison	
		6,184,847	02-2001	Fateh	
		6,561,809	05-2003	Lynch	
		6,612,925	09-2003	Forsberg	
		6,716,103	04-2004	Eck	
		20010010541	08-2001	Fernandez	
		20020072418	06-2002	Masuyama	
		20020193080	12-2002	Komsi	
		20040041822	03-2004	Lizuka	

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Examiner initials*	Cite No.[1]	Foreign Patent Document: Country Code[3] - Number[4] - Kind Code[5] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]

NON PATENT LITERATURE DOCUMENTS

Examiner initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T[2]
		Information Filtering For Mobile Augmneted Reality, Simon Julier et al., pages 3-11, IEEE 0-7695-0846-4/00, 2000.	
		A Wearable Augmented Reality Testbed for Navigation and Control, Built Solely with Commercial-Off-The-Shelf (COTS) Hardware, Reinhold Behringer et al., pages 12-19, IEEE 0-7695-0846-4/00, 2000.	

Examiner Signature		Date Considered	

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				Application Number	11/461,761
				Filing Date	August 1, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	3715
				Examiner Name	Kim, Kevin
Sheet	2	of	5	**Attorney Docket Number**	JDM/005 CON2

NON PATENT LITERATURE DOCUMENTS			
Examiner initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T[2]
		Bridging Multiple User Interface Dimensions with Augmented Reality, Deiter Schmalsteig et al., pages 20 to 29, IEEE 0-7695-0846-4/00, 2000.	
		The Augmented Man, Didier Stricker et al, pages 30-36, IEEE 0-7695-0846-4/00, 2000.	
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		Augmneted Workspace: Designing an AR testbed, ,pages 47-53, Frank Sauer et al., IEEE 0-7695-0846-4/00, 2000.	
		Development of te Varioscope AR; A See-Through HMD for Computer-Aided Strategy, Wolfgang Birkfellner, pages 54-59, IEEE 0-7695-0846-4/00, 2000.	
		An Optical See-through Display for Mutual Occulsion of Real and Virtual Environments, Kiyoshi Kiyokawa et al., pages 60-67, IEEE 0-7695-0846-4/00, 2000.	
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		A Stereo Vision-based Augmented reality System with an Inertial Sensor, Masayuki Kanbara et al., pages 97-100, IEEE 0-7695-0846-4/00, 2000.	
		Virtual Property Lines Drawing on the Monitor for Observation of Unmanned Dam Construction Sides, Nobuyuki et al., pages 101 to 104, IEEE 0-7695-0846-4/00, 2000.	
		View-Independent Scene Acquisition for Tele-Presence, Jane Mulligan, pages 105-108, IEEE 0-7695-0846-4/00, 2000.	

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Substitute for form 1449A/PTO **SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT BY APPLICANT** (use as many sheets as necessary)				***Complete if known***	
				Application Number	11/461,761
				Filing Date	August 1, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	3715
				Examiner Name	Kim, Kevin
Sheet	3	of	5	**Attorney Docket Number**	JDM/005 CON2

NON PATENT LITERATURE DOCUMENTS			
Examiner initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T[2]
		Virtual Object Manipulation on a Table-Top AR Environment, H. Kato et al., pages 111-119, IEEE 0-7695-0846-4/00, 2000.	
		Markerless Tracking using Planar Structures in the Scene, Gilles Simon et al., pages 120-128, IEEE 0-7695-0846-4/00, 2000.	
		Weakly Calibrated Video-based Augmented Reality: Embedding and Rendering through Virtual Camera, pages 129-136, IEEE 0-7695-0846-4/00, 2000.	
		Handling Occlusion in Augmented Reality Systems: A Smi-Automated Method, Vincent Lepetit, pages 137-146, IEEE 0-7695-0846-4/00, 2000.	
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		Autocalibration of an Electronic Compass in an Outdoor Augmented Reality System, Bruce Hoff et al., pages 159-164, IEEE 0-7695-0846-4/00, 2000.	
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		Microscope Assisted Guided Interventions (MAGI) - An Application of Augmented reality in Image Guided Surgery, David Hawkes et al., page 3, IEEE 0-7695-1375-1/01, 2001.	
		Dynamic Superimpositionof Synthetic Objects on Rigid and Simple-deformable Real Objects, Yann Argotti, pages 5-10, IEEE 0-7695-1375-1/01, 2001.	
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		Augmented Reality Visualization of Ultrasound Images: System Description, Calibration, and Features, Frank Sauer et al., pages 30-39, IEEE 0-7695-1375-1/01, 2001.	
		AR Out of the Box, Ulrich Neumann, page 40, IEEE 0-7695-1375-1/01, 2001.	

Examiner Signature		Date Considered	

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				Filing Date	August 1, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	3715
				Examiner Name	Kim, Kevin
Sheet	4	of	5	**Attorney Docket Number**	JDM/005 CON2

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		Design of a Component-Based Augmented Reality Framework, Martin Bauer et al., pages 45-54, IEEE 0-7695-1375-1/01, 2001.	
		Finger tracking for interaction in augmented environmnets, Klaus Dorfmuller-Ulhaas, pages 55-64, IEEE 0-7695-1375-1/01, 2001.	
		A Hybrid Registration Method for Outdoor Augmented Reality, Kiyohide Satoh et al., pages 67-76, IEEE 0-7695-1375-1/01, 2001.	
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		Markerless Augmented Reality with a Real-time Affine Region Tracker, V. Ferrari, pages 87-96, IEEE 0-7695-1375-1/01, 2001.	
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		Inertial proprioceptive devices: self-motion-sensing toys and tools - MIT Media Lab, Christopher Verplsetse, http://www.finarticles.com/p/articles/mi_m0ISI/is_n-3-4_v35/ni_18891269/print, 09/05/2004.	
		The Role of Internal Models in Motion Planning and Control: Evidence from Grip Force Adjustments during Movements of Hnad-Held Loads, J. Randall Flanagan et al., The Journal of Neurosciences, February 15, 1997, 17(4):1519-1528	
		Presettable Micromachined MEMS Accelerometers, Scott Valoff et al., University of California	
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		Distributed Low-latency Rendering for Mobile AR, W. Pasmas et al., pages 107-113, IEEE 0-7695-1371-1/01, 2001.	
		Mobile Collaborative Augmented Reality, Gerhard Reitmayr et al., pages 114-123, IEEE 0-7695-1371-1/01, 2001.	
		Augmented maintenance of powerplants: A prototyping case study of a mobile AR system, Gudrun Klinkar, pages 124-133, IEEE 0-7695-1371-1/01, 2001.	

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This collection of information is required by 37 CFR 1.97 and 1.98. 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 2 hours 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.**

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Substitute for form 1449A/PTO **SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT BY APPLICANT** (use as many sheets as necessary)				***Complete if known***	
				Application Number	11/461,761
				Filing Date	August 1, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	3715
				Examiner Name	Kim, Kevin
Sheet	5	of	5	**Attorney Docket Number**	JDM/005 CON2

NON PATENT LITERATURE DOCUMENTS			
Examiner initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T[2]
		Dynamic Virtual Convergence for Video See-through Head-mounted Displays: Maintaining Maximum Stereo Overlap throughout a Close-range Work Space, Andrei State et al, pages 137-146, IEEE 0-7695-1371-1/01, 2001.	
		Optical See-Through Calibration with Vision-Based Trackers: Propagation of Projection Matrices, Yakup Gene et al, pages 147-156, IEEE 0-7695-1371-1/01, 2001.	
		A New System for Online Quantitative Evaluation of Optical See-Through Augmentation, Erin McGarrity, pages 157-166, IEEE 0-7695-1371-1/01, 2001.	
		MR2 (MR Square): A mixed-Reality Meeting Room, Kiyoshi Kiyokawa et al., pages 169-170, IEEE 0-7695-1371-1/01, 2001.	
		Testing Information Delivery Methods Using Augmented Reality, Dr. Paul Jackson, pages 171-172, IEEE 0-7695-1371-1/01, 2001.	
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		Mobile AR5ALL, Christian Geiger, pages 181-182, IEEE 0-7695-1371-1/01, 2001.	
		Linear Solutions for Visual Augmented Reality Registration, Adnan Ansar, pages 183-184, IEEE 0-7695-1371-1/01, 2001.	
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		Illuminating the Mixed Reality Stage; Applying Complex Lighting Conditions to AR, Michael Wittkamper et al., pages 187-188, IEEE 0-7695-1371-1/01, 2001.	

Examiner Signature		Date Considered	

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Sheet	6	of	5	**Attorney Docket Number**	JDM/005 CON2

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EFS ID:	41237358
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	27-NOV-2020
Filing Date:	01-AUG-2006
Time Stamp:	18:20:32
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	$1000
RAM confirmation Number	E2020AQI21093411
Deposit Account	503855
Authorized User	Jeffrey Mullen

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Warnings:					
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2	Transmittal Letter	JDM-005CON2-IDS.pdf	114157 f36adc53eb6f3c7e56cc58e3e83b4383e6ce189b	no	10
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17	Non Patent Literature	JDM-005--References8-1.pdf	4820614 b957d5cb743bea27371ece89da7692f28f65f28c	no	27
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Information:					
18	Non Patent Literature	JDM-005--References8-2.pdf	5288871 08644d548010c3f1266ec85c6e3829700b810320	no	30
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Information:					
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Warnings:					
Information:					
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New International Application Filed with the USPTO as a Receiving Office

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Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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($)
Miscellaneous:				
RCE- 2ND AND SUBSEQUENT REQUEST	2820	1	1000	1000
		Total in USD ($)		**1000**

JDM/005 CON2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Jeffrey D. Mullen
Application No.	:	11/461,761
Confirmation No.	:	4152
Filed	:	August 1, 2006
For	:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
Group Art Unit	:	3715
Examiner	:	Kevin Kim

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Pittsburgh, PA 15116
November 27, 2020

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Sir:

A Request for Continued Examination is applicable hereto and being submitted herewith. In accordance with 37 C.F.R. §§ 1.56 and 1.97, applicant wishes to call the attention of the Examiner to the following documents:

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Mobile AR5ALL, Christian Geiger, pages 181-182, IEEE 0-7695-1371-1/01, 2001.

Linear Solutions for Visual Augmented Reality Registration, Adnan Ansar, pages 183-184, IEEE 0-7695-1371-1/01, 2001.

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3D reconstruction of the operating field for image overlay in 3D-endoscopic surgery, Dabien Mourgues, pages 191-192, IEEE 0-7695-1371-1/01, 2001.

Living in a Computer Augmented Environment, Jun Rekimoto, pages 193, IEEE 0-7695-1371-1/01, 2001.

Augmented Reality as a New Media Experience, Blair McIntyre et al., pages 197-206, IEEE 0-7695-1371-1/01, 2001.

Dynamic Shader Lamps: Painting on Movable Objects: Deepak Bandyopadhyay, pages 207-216, IEEE 0-7695-1371-1/01, 2001.

Using a head-Mounted Projective Display in Interactive Augmented Environments, pages 217-223, IEEE 0-7695-1371-1/01, 2001.

It is respectfully requested that these documents be (1) fully considered by the Patent and Trademark Office during examination of this application; and (2) printed on any patent which may issue on this application. Applicant requests that a copy of Form PTO/SB/08A, as considered and initialed by the Examiner, be returned with the next communication.

Documents above marked with a (1) were cited in Application No. No. 10/932,536. Applicant respectfully requests the Examiner review the prosecution history of Application No. 10/932,536, including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (2) were cited in Application No. 11/486,756. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (3) were cited in Application No. 11/461,761. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United

Meta Exhibit 1004
Meta v. Mullen - Page 00773

States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (4) were cited in Application No. 11/461,827. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (5) were cited in Application No. 11/775,227. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (6) were cited in Application No. 11/778,047. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (7) were cited in Application No. 11/841,889. Applicant respectfully requests the Examiner review the prosecution history of this

application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Documents above marked with a (8) were cited in Application No. 11/842,019. Applicant respectfully requests the Examiner review the prosecution history of this application including all communications from the United States Patent and Trademark Office contained therein (e.g., the Office Actions contained therein).

Applicant hereby submits that not all of the patent documents and non-patent literature submitted herein may be, in fact, prior art to the present application. Applicant reserves the right to dispute whether references, or subject matter within references, are prior art to the present application (e.g., continuation-in-part subject matter filed after the filing date of the present application).

Applicant respectfully submits that this application, including the pending claims, is in condition for allowance. A favorable action is respectfully requested.

This Statement is being submitted with a Request for Continued Examination.

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Meta v. Mullen - Page 00775

The Director is hereby authorized to charge any fees associated with this filing, or credit any overpayment of the same, to Deposit Account No. 50-3855.

Respectfully Submitted,

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

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

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

Application Number	11461761	Filing Date	2006-08-01	Docket Number (if applicable)	JDM/005 CON2	Art Unit	3715
First Named Inventor	Jeffrey D. Mullen			Examiner Name	Kevin Kim		

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 orde 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 503855

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Patent Practitioner Signature

X Applicant Signature

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Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

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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 informatio 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:

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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 ma 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 inspections or an issued patent.

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				Application Number	11/461,761
				Filing Date	August 1, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	3715
				Examiner Name	Kim, Kevin
Sheet	1	of	5	**Attorney Docket Number**	JDM/005 CON2

U.S. PATENT DOCUMENTS

Examiner initials*	Cite No.[1]	Document Number Number – Kind Code[2] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		5,991,085	11-1999	Rallison	
		6,184,847	02-2001	Fateh	
		6,561,809	05-2003	Lynch	
		6,612,925	09-2003	Forsberg	
		6,716,103	04-2004	Eck	
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		20020072418	06-2002	Masuyama	
		20020193080	12-2002	Komsi	
		20040041822	03-2004	Lizuka	

FOREIGN PATENT DOCUMENTS

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		Information Filtering For Mobile Augmneted Reality, Simon Julier et al., pages 3-11, IEEE 0-7695-0846-4/00, 2000.	
		A Wearable Augmented Reality Testbed for Navigation and Control, Built Solely with Commercial-Off-The-Shelf (COTS) Hardware, Reinhold Behringer et al., pages 12-19, IEEE 0-7695-0846-4/00, 2000.	

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		Bridging Multiple User Interface Dimensions with Augmented Reality, Deiter Schmalsteig et al., pages 20 to 29, IEEE 0-7695-0846-4/00, 2000.	
		The Augmented Man, Didier Stricker et al, pages 30-36, IEEE 0-7695-0846-4/00, 2000.	
		Distributed User Tracking Concepts for Augmented Reality Applications, Gudrun Klinker, pages 20 to 29, pages 37-44, IEEE 0-7695-0846-4/00, 2000.	
		Augmneted Workspace: Designing an AR testbed, ,pages 47-53, Frank Sauer et al., IEEE 0-7695-0846-4/00, 2000.	
		Development of te Varioscope AR; A See-Through HMD for Computer-Aided Strategy, Wolfgang Birkfellner, pages 54-59, IEEE 0-7695-0846-4/00, 2000.	
		An Optical See-through Display for Mutual Occulsion of Real and Virtual Environments, Kiyoshi Kiyokawa et al., pages 60-67, IEEE 0-7695-0846-4/00, 2000.	
		Development of a Stereo Video See-through HDM for AR Systems, Akinari Takagi et al., pages 68-77, IEEE 0-7695-0846-4/00, 2000.	
		A mobile Passive Augmented Reality Device - mPARD, H. T. Regenbrecht et al, pages 81 to 84, IEEE 0-7695-0846-4/00, 2000.	
		Adapting to Dynamic Registration Errors Using Level of Error (LOE) Filtering, Blair MacIntyre et al., pages 85 to 88, IEEE 0-7695-0846-4/00, 2000.	
		Matching Buildings: Pose estimation in an urban environment, Volker Coors et al., pages 89 to 92, IEEE 0-7695-0846-4/00, 2000.	
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		Virtual Property Lines Drawing on the Monitor for Observation of Unmanned Dam Construction Sides, Nobuyuki et al., pages 101 to 104, IEEE 0-7695-0846-4/00, 2000.	
		View-Independent Scene Acquisition for Tele-Presence, Jane Mulligan, pages 105-108, IEEE 0-7695-0846-4/00, 2000.	

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				First Named Inventor	Jeffrey D. Mullen
				Art Unit	3715
				Examiner Name	Kim, Kevin
Sheet	3	of	5	**Attorney Docket Number**	JDM/005 CON2

NON PATENT LITERATURE DOCUMENTS			
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		Virtual Object Manipulation on a Table-Top AR Environment, H. Kato et al., pages 111-119, IEEE 0-7695-0846-4/00, 2000.	
		Markerless Tracking using Planar Structures in the Scene, Gilles Simon et al., pages 120-128, IEEE 0-7695-0846-4/00, 2000.	
		Weakly Calibrated Video-based Augmented Reality: Embedding and Rendering through Virtual Camera, pages 129-136, IEEE 0-7695-0846-4/00, 2000.	
		Handling Occlusion in Augmented Reality Systems: A Smi-Automated Method, Vincent Lepetit, pages 137-146, IEEE 0-7695-0846-4/00, 2000.	
		Single point active alignment method (SPAAM) for optical see-through HMD calibration for HR, Mibran Thenryan et al., pages 149-158, IEEE 0-7695-0846-4/00, 2000.	
		Autocalibration of an Electronic Compass in an Outdoor Augmented Reality System, Bruce Hoff et al., pages 159-164, IEEE 0-7695-0846-4/00, 2000.	
		Optical See-Through HMD Calibration: A Stereo Method Validated with a Video See-Through System, Yakup Gene et al., pages 165-174, IEEE 0-7695-0846-4/00, 2000.	
		Microscope Assisted Guided Interventions (MAGI) - An Application of Augmented reality in Image Guided Surgery, David Hawkes et al., page 3, IEEE 0-7695-1375-1/01, 2001.	
		Dynamic Superimpositionof Synthetic Objects on Rigid and Simple-deformable Real Objects, Yann Argotti, pages 5-10, IEEE 0-7695-1375-1/01, 2001.	
		Real Time Tomograpic Reflection: Phantoms for Calibration and Biopsy, George Steffen et al., pages 11-19, IEEE 0-7695-1375-1/01, 2001.	
		Current status of the Varioscope AR, a head-mounted operating microscope for computer-aided surgery, M Figl et al., pages 20-29, IEEE 0-7695-1375-1/01, 2001.	
		Augmented Reality Visualization of Ultrasound Images: System Description, Calibration, and Features, Frank Sauer et al., pages 30-39, IEEE 0-7695-1375-1/01, 2001.	
		AR Out of the Box, Ulrich Neumann, page 40, IEEE 0-7695-1375-1/01, 2001.	

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		Design of a Component-Based Augmented Reality Framework, Martin Bauer et al., pages 45-54, IEEE 0-7695-1375-1/01, 2001.	
		Finger tracking for interaction in augmented environmnets, Klaus Dorfmuller-Ulhaas, pages 55-64, IEEE 0-7695-1375-1/01, 2001.	
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		Augmented Realtiy in Wide Area Sentient Environment, Joseph Newman et al., pages 77-86, IEEE 0-7695-1375-1/01, 2001.	
		Markerless Augmented Reality with a Real-time Affine Region Tracker, V. Ferrari, pages 87-96, IEEE 0-7695-1375-1/01, 2001.	
		Extendible Tracking by Line Auto-Calibration, Bolan Jiang et al., pages 97-103, IEEE 0-7695-1375-1/01, 2001.	
		Inertial proprioceptive devices: self-motion-sensing toys and tools - MIT Media Lab, Christopher Verplsetse, http://www.finarticles.com/p/articles/mi_m0ISI/is_n-3-4_v35/ni_18891269/print, 09/05/2004.	
		The Role of Internal Models in Motion Planning and Control: Evidence from Grip Force Adjustments during Movements of Hnad-Held Loads, J. Randall Flanagan et al., The Journal of Neurosciences, February 15, 1997, 17(4):1519-1528	
		Presettable Micromachined MEMS Accelerometers, Scott Valoff et al., University of California	
		MEMS Sensors in Virtual Reality, Harvey Weinberg et. al., August 2002,	
		Inertial Navigation - Forty Years of Evolution, A. D. King et. al, GEC Review Vol 13, No. 3, 1998	
		A Tri-Axial Accelerometer Interface For The Transmissionof Impact Measurements, Heather Marandola et al. Sunfest, 2000.	
		Distributed Low-latency Rendering for Mobile AR, W. Pasmas et al., pages 107-113, IEEE 0-7695-1371-1/01, 2001.	
		Mobile Collaborative Augmented Reality, Gerhard Reitmayr et al., pages 114-123, IEEE 0-7695-1371-1/01, 2001.	
		Augmented maintenance of powerplants: A prototyping case study of a mobile AR system, Gudrun Klinkar, pages 124-133, IEEE 0-7695-1371-1/01, 2001.	

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Substitute for form 1449A/PTO **SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT BY APPLICANT** (use as many sheets as necessary)				**Complete if known**	
				Application Number	11/461,761
				Filing Date	August 1, 2006
				First Named Inventor	Jeffrey D. Mullen
				Art Unit	3715
				Examiner Name	Kim, Kevin
Sheet	5	of	5	**Attorney Docket Number**	JDM/005 CON2

NON PATENT LITERATURE DOCUMENTS			
Examiner initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T[2]
		Dynamic Virtual Convergence for Video See-through Head-mounted Displays: Maintaining Maximum Stereo Overlap throughout a Close-range Work Space, Andrei State et al, pages 137-146, IEEE 0-7695-1371-1/01, 2001.	
		Optical See-Through Calibration with Vision-Based Trackers: Propagation of Projection Matrices, Yakup Gene et al, pages 147-156, IEEE 0-7695-1371-1/01, 2001.	
		A New System for Online Quantitative Evaluation of Optical See-Through Augmentation, Erin McGarrity, pages 157-166, IEEE 0-7695-1371-1/01, 2001.	
		MR2 (MR Square): A mixed-Reality Meeting Room, Kiyoshi Kiyokawa et al., pages 169-170, IEEE 0-7695-1371-1/01, 2001.	
		Testing Information Delivery Methods Using Augmented Reality, Dr. Paul Jackson, pages 171-172, IEEE 0-7695-1371-1/01, 2001.	
		A Quick Method for Synthesizing Photorealistic Color Images under Various Illumination Conditions, Li Shen et al., pages 173-174, IEEE 0-7695-1371-1/01, 2001.	
		Real-Time 3D Object Recognition for Automatic Tracker Initialization, Gabor Blasco et al, pages 175-176, IEEE 0-7695-1371-1/01, 2001.	
		Tinmith-evo5 - An Architecture for Supporting Mobile Augmented Reality Environments, Wayne Piekarski et al., pages 177-178, IEEE 0-7695-1371-1/01, 2001.	
		Taking AR into Large Scale Industrial Environments: Navigation and Information Access with Mobile Computers, pages 179-180, IEEE 0-7695-1371-1/01, 2001.	
		Mobile AR5ALL, Christian Geiger, pages 181-182, IEEE 0-7695-1371-1/01, 2001.	
		Linear Solutions for Visual Augmented Reality Registration, Adnan Ansar, pages 183-184, IEEE 0-7695-1371-1/01, 2001.	
		Augmented Reality (AR) for Assembly Processes - An Experimental Evaluation, S. Wiedenmaier, pages 185-186, IEEE 0-7695-1371-1/01, 2001.	
		Illuminating the Mixed Reality Stage; Applying Complex Lighting Conditions to AR, Michael Wittkamper et al., pages 187-188, IEEE 0-7695-1371-1/01, 2001.	

Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.
1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.
This collection of information is required by 37 CFR 1.97 and 1.98. 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 2 hours 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.**

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /K.Y.K/

PTO/SB/08A (10-01)
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				Examiner Name	Kim, Kevin
Sheet	6	of	5	**Attorney Docket Number**	JDM/005 CON2

NON PATENT LITERATURE DOCUMENTS			
Examiner initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T[2]
		Real-time and Markerless Vision-Based Tracking for Outdoor Augmented Reality Applications, Didler Stricker et al., pages 189-90, IEEE 0-7695-1371-1/01, 2001.	
		3D reconstruction of the operating field for image overlay in 3D-endoscopic surgery, Dabien Mourgues, pages 191-192, IEEE 0-7695-1371-1/01, 2001.	
		Living in a Computer Augmented Environment, Jun Rekimoto, pages 193, IEEE 0-7695-1371-1/01, 2001.	
		Augmented Reality as a New Media Experience, Blair McIntyre et al., pages 197-206, IEEE 0-7695-1371-1/01, 2001.	
		Dynamic Shader Lamps: Painting on Movable Objects: Deepak Bandyopadhyay, pages 207-216, IEEE 0-7695-1371-1/01, 2001.	
		Using a head-Mounted Projective Display in Interactive Augmented Environments, pages 217-223, IEEE 0-7695-1371-1/01, 2001.	

Examiner Signature	/KEVIN Y KIM/	Date Considered	12/02/2020

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.
1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.
This collection of information is required by 37 CFR 1.97 and 1.98. 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 2 hours 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.**

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /K.Y.K/

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	**Art Unit**
	Kevin Y Kim	3715

CPC						
Symbol					**Type**	**Version**
A63F	/	13	/	65	F	2014-09-02
A63F	/	13	/	216	I	2014-09-02
A63F	/	13	/	79	I	2014-09-02
A63F	/	13	/	332	I	2014-09-02
A63F	/	13	/	42	I	2014-09-02
A63F	/	2300	/	204	A	2013-01-01
A63F	/	2300	/	205	A	2013-01-01
A63F	/	2300	/	406	A	2013-01-01
A63F	/	2300	/	408	A	2013-01-01
A63F	/	2300	/	5573	A	2013-01-01
A63F	/	2300	/	8082	A	2013-01-01

CPC Combination Sets							
Symbol					**Type**	**Set**	**Ranking**	**Version**
	/		/					

NONE		Total Claims Allowed:	
(Assistant Examiner)	(Date)	16	
/KEVIN Y KIM/ Primary Examiner, Art Unit 3715	02 December 2020	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

U.S. Patent and Trademark Office — Part of Paper No.: 20201202

Meta Exhibit 1004
Meta v. Mullen - Page 00786

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	**Art Unit**
	Kevin Y Kim	3715

INTERNATIONAL CLASSIFICATION				
CLAIMED				
G09G	/	5	/	00
A63F	/	9	/	24
A63F	/	13	/	00
G06F	/	17	/	00
G06F	/	19	/	00
A63F13/65	/	13	/	65
A63F13/216	/	13	/	216
A63F13/79	/	13	/	79
A63F13/332	/	13	/	332
A63F13/42	/	13	/	42

NON-CLAIMED				
	/		/	

US ORIGINAL CLASSIFICATION	
CLASS	**SUBCLASS**
345	156

CROSS REFERENCES(S)						
CLASS	**SUBCLASS (ONE SUBCLASS PER BLOCK)**					
463	40	41	42			

NONE (Assistant Examiner) (Date)	**Total Claims Allowed:** 16	
/KEVIN Y KIM/ Primary Examiner, Art Unit 3715 (Primary Examiner) 02 December 2020 (Date)	O.G. Print Claim(s) 1	O.G. Print Figure 1

Meta Exhibit 1004
Meta v. Mullen - Page 00787

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	**Art Unit**
	Kevin Y Kim	3715

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

CLAIMS

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		10		19		28								
	2		11		20		29								
	3		12		21		30								
	4		13		22		31								
	5		14		23		32								
	6		15		24		33								
	7		16		25		34								
	8		17		26										
	9		18		27										

NONE		**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	16	
/KEVIN Y KIM/ Primary Examiner, Art Unit 3715	02 December 2020	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

U.S. Patent and Trademark Office — Part of Paper No.: 20201202

Meta Exhibit 1004
Meta v. Mullen - Page 00788

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	2	"20010048425".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:48
S2	2	"20020090985".pn.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S3	848,699	(mobile or cell or cellular or hand) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:49
S4	2	(US-20010048425-$ or US-20020090985-$).did.	US-PGPUB	OR	ON	2014/07/15 12:50
S5	2	S3 and S4	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S6	0	accelerometer and S5	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 12:50
S7	8,782	(accelerometer and (GPS or (global near2 position$3)) and compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S8	5,067	S3 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 13:12
S9	24	S8 and 463/42.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:09
S10	29,157,454	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17
S11	1	S9 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:17

S12	213	S8 and S10	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:18
S13	1	11/461761	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S14	1	S13 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:21
S15	40,157	S3 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S16	5,453	S10 and S15	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S17	26	S16 and "463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:22
S18	0	S17 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S19	62	S16 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:23
S20	866,261	(mobile or cell or cellular or hand or wireless) near2 phone	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S21	40,845	S20 with (accelerometer or (GPS or (global near2 position$3)) or compass)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S22	5,616	S10 and S21	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S23	45,540	"463".clas.	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28

S24	28	S22 and S23	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S25	0	S24 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:28
S26	62	S22 and S7	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2014/07/15 14:29
S27	929	n adj gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S28	10,187	n-gage or n$gage	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S29	10,732	S27 or S28	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S30	29	accelerometer and S29	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/10/05 14:42
S31	6	(US-20010048425-$ or US-20020090985-$ or US-20080108437-$ or US-20050033515-$ or US-20070060216-$).did. or (US-6850844-$).did.	US-PGPUB; USPAT	OR	ON	2017/04/19 12:35
S32	4	S31 and game	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:35
S33	4,467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:53

S34	26,038,705	@ay<"2003"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S35	32,556,162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:56
S36	4,467	accelerometer same ((game with (control$4 or movement or moving)))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S37	28	S36 and S35	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 12:57
S38	2,230,685	(control$4 or movement or moving) with (player or character or user or avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
S39	22,674	S38 same accelerometer	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:06
S40	32,556,162	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S41	411	S40 and S39	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S42	93	S41 and (phone or cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:07
S43	1,659,438	(mobile or cell) near2 (phone or device)	US-PGPUB; USPAT; USOCR; EPO;	OR	ON	2017/04/19 13:07

			JPO; DERWENT			
S44	46	S41 and S43	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S45	1,006,385	(mobile or cell) near2 phone	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S46	19	S41 and S45	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/04/19 13:08
S47	897,687	(GPS or (global near2 position$3))	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:32
S48	169,065	(video near2 game)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S49	33,744	S47 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:39
S50	10,288	S47 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S51	29,047,398	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S52	185	S51 and S50	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:40
S53	246,883	S47 same (phone cell mobile)	US-PGPUB; USPAT; USOCR; EPO;	OR	ON	2017/11/13 13:41

			JPO; DERWENT			
S54	81	S52 and S53	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:41
S55	21,677	accelerometer same (phone cell)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 13:49
S56	279	S55 same S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S57	0	S56 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S58	2,739	S55 and S48	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S59	24	S58 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:02
S60	313,085	(control$4 move moving) near4 (game character avatar)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:41
S61	2,154	S60 and S55	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42
S62	13	S61 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/11/13 14:42

S65	6,534	(accelerometer gyroscope gyro) with ((wireless cell mobile) near3 (phone telephone))	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:53
S66	3,663	(game gaming) and S65	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:54
S67	29,047,516	@ad<"20040820"	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:55
S68	25	S67 and S66	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 10:55
S69	2	"6641482".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2018/04/02 11:01
S70	187	nokia and n$gage	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2019/07/12 17:24
S71	179	S70 and (phone telephone)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2019/07/12 17:24
S72	4	accelerometer and S71	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2019/07/12 17:26
S73	71,464	(location$based geocentric geofenc$3)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/20 15:04
S74	7	(US-20010048425-$ or US-20020090985-$ or US-20080108437-$ or US-20050033515-$ or US-20070060216-$).did. or (US-6850844-$ or US-6641482-$).did.	US-PGPUB; USPAT	OR	ON	2020/08/20 15:08

S75	1	S73 and S74	US-PGPUB; USPAT; EPO; JPO	OR	ON	2020/08/20 15:08
S76	2,132,597	(wireless mobile cell handheld portable) near2 (phone telephone)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 10:56
S77	32,560,522	@pd<"20030902"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2020/08/25 11:22
S78	71,553	(location$based geocentric geofenc$3)	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 11:22
S79	453	S76 and S77 and S78	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 11:43
S80	1,504,754	game gaming	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 12:01
S81	77	S79 and S80	US-PGPUB; USPAT; EPO; JPO; DERWENT	OR	ON	2020/08/25 12:01

EAST Search History (Interference)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S63	9,919	345/156.ccls. 463/40-42.ccls.	USPAT	OR	ON	2017/11/13 16:09
S64	0	((wireless near2 telephone) and (locating near2 device) and accelerometer).clm.	USPAT	OR	ON	2017/11/13 16:10
S82	7,227	(A63F13/65 or A63F13/216 or A63F13/79 or A63F13/332 or A63F13/42 or A63F2300/204 or A63F2300/205 or A63F2300/406 or A63F2300/408 or A63F2300/5573 or A63F2300/8082 or A63F13/12).cpc.	USPAT	OR	ON	2020/08/25 16:07
S83	0	(((location near2 based) same (wireless near2 telephone)) and accelerometer).clm.	USPAT	OR	ON	2020/08/25 16:15

12/2/2020 11:42:14 AM
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Bibliographic Data

Application No: 11/461,761

Foreign Priority claimed: ○ Yes ◉ No

35 USC 119 (a-d) conditions met: ☐ Yes ☑ No ☐ Met After Allowance

Verified and Acknowledged: /KEVIN Y KIM/ KK

Examiner's Signature Initials

Title: SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
08/01/2006	345	3715	JDM/005 CON2
RULE			

APPLICANTS

INVENTORS

Jeffrey D Mullen, New York, NY, UNITED STATES

CONTINUING DATA

This application is a CON of 10932536 09/01/2004ABN

10932536 has PRO of 60603481 08/20/2004

10932536 has PRO of 60499810 09/02/2003

FOREIGN APPLICATIONS

IF REQUIRED, FOREIGN LICENSE GRANTED**

08/15/2006

** SMALL ENTITY **

STATE OR COUNTRY

UNITED STATES

ADDRESS

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116
UNITED STATES

FILING FEE RECEIVED

$425

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	Art Unit
	Kevin Y Kim	3715

CPC - Searched*		
Symbol	Date	Examiner
A63F 2300/5573	11/27/2013	AK

CPC Combination Sets - Searched*		
Symbol	Date	Examiner
A63F 2300/8082	11/27/2013	AK

US Classification - Searched*			
Class	Subclass	Date	Examiner
463	1, 7, 40	11/27/2013	AK

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
EAST Text search of PGPUB, USPAT, USOCR, EPO, JPO, DERWENT. See attached search results.	11/27/2013	
EAST search for mobile phones with GPS, accelerometer, and compass sensors	7/15/14	KK
NPL Search	10/7/16	KK
EAST search refresh	4/19/2017	KK
EAST search confirming prior art status	07/15/2019	KK
EAST class/text search refresh for location-based gaming	08/25/2020	KK

/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	

Meta Exhibit 1004
Meta v. Mullen - Page 00799

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11/461,761	Mullen, Jeffrey D
	Examiner	Art Unit
	Kevin Y Kim	3715

Interference Search			
US Class/CPC Symbol	**US Subclass/CPC Group**	**Date**	**Examiner**
463	40-42	11/13/2017	KK
345	156	11/13/2017	KK
	See attached search report	08/25/2020	KK

/KEVIN Y KIM/ Primary Examiner.Art Unit 3716	

Meta Exhibit 1004
Meta v. Mullen - Page 00800

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

32733 7590 12/07/2020

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER
KIM, KEVIN Y

ART UNIT	PAPER NUMBER
3715	

DATE MAILED: 12/07/2020

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

TITLE OF INVENTION: SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	$600	$0.00	$0.00	$600	03/08/2021

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: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PTOL-85 (Rev. 02/11)

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via EFS-Web.

By mail, send to: Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By fax, send to: (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)

32733 7590 12/07/2020

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

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 transmitted to the USPTO via EFS-Web or by facsimile to (571) 273-2885, on the date below.

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

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nonprovisional	SMALL	$600	$0.00	$0.00	$600	03/08/2021

EXAMINER	ART UNIT	CLASS-SUBCLASS
KIM, KEVIN Y	3715	345-156000

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 03-09 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 _____
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 must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). 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. Fees submitted: ❑ Issue Fee ❑ Publication Fee (if required) ❑ Advance Order - # of Copies _____

4b. Method of Payment: *(Please first reapply any previously paid fee shown above)*

❑ Electronic Payment via EFS-Web ❑ Enclosed check ❑ Non-electronic payment by credit card (Attach form PTO-2038)

❑ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

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. _____

Meta Exhibit 1004
Meta v. Mullen - Page 00802

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey D Mullen	JDM/005 CON2	4152

32733 7590 12/07/2020

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

EXAMINER	
KIM, KEVIN Y	
ART UNIT	PAPER NUMBER
3715	

DATE MAILED: 12/07/2020

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.

PTOL-85 (Rev. 02/11)

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 30 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. 11/461,761	Applicant(s) Mullen, Jeffrey D	
	Examiner Kevin Y Kim	Art Unit 3715	AIA (FITF) 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 the IDS filed 11/27/2020.
   ☐ 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 19-34 . 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)
2. ☑ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____.
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material _____.
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date. _____.
5. ☑ Examiner's Amendment/Comment
6. ☐ Examiner's Statement of Reasons for Allowance
7. ☐ Other _____.

/KEVIN Y KIM/
Primary Examiner, Art Unit 3715

Meta Exhibit 1004
Meta v. Mullen - Page 00805

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 11/27/2020 has been entered.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 11/27/2020 was filed after the mailing date of the Notice of Allowance on 8/26/2020. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Allowable Subject Matter

4. Claims 19-34 are allowed.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y Kim whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Friday.

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, Dmitry Suhol can be reached on 571-272-4430. 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 https://ppair-my.uspto.gov/pair/PrivatePair. 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.

/KEVIN Y KIM/
Primary Examiner, Art Unit 3715

Electronic Patent Application Fee Transmittal

Application Number:	11461761
Filing Date:	01-Aug-2006
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Filer:	Jeffrey David Mullen
Attorney Docket Number:	JDM/005 CON2

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

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	600	600

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension-of-Time:				
Miscellaneous:				
			Total in USD ($)	**600**

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)

JEFFREY D. MULLEN
2212 Hassinger Lane
Glenshaw, PA 15116

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.

Jeffrey D. Mullen	(Depositor's name)
/Jeffrey D. Mullen/	(Signature)
03/08/2021	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	08/01/2006	Jeffrey David Mullen	JDM/005 CON2	4152

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$600	$0	$600	03/08/2021

EXAMINER	ART UNIT	CLASS-SUBCLASS

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 enclosed:

☑ Issue Fee

☑ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☑ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 503855 .

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

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature /Jeffrey D. Mullen/ Date 03/08/2021

Typed or printed name Jeffrey D. Mullen Registration No. 52,056

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Electronic Acknowledgement Receipt

EFS ID:	42115762
Application Number:	11461761
International Application Number:	
Confirmation Number:	4152
Title of Invention:	SYSTEMS AND METHODS FOR LOCATION BASED GAMES AND EMPLOYMENT OF THE SAME ON LOCATION ENABLED DEVICES
First Named Inventor/Applicant Name:	Jeffrey D Mullen
Customer Number:	32733
Filer:	Jeffrey David Mullen
Filer Authorized By:	
Attorney Docket Number:	JDM/005 CON2
Receipt Date:	08-MAR-2021
Filing Date:	01-AUG-2006
Time Stamp:	14:46:22
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	$600
RAM confirmation Number	E202138E46533301
Deposit Account	503855
Authorized User	Jeffrey Mullen

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37 CFR 1.16 (National application filing, search, and examination fees)

37 CFR 1.17 (Patent application and reexamination processing fees)

37 CFR 1.19 (Document supply fees)

37 CFR 1.20 (Post Issuance fees)

37 CFR 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)	JDM-005CON2--IF.pdf	232030 5fc938b8ce296a3583570a798df9c29712a826c7	no	2
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30170 57c06416fe79d9dada6b452f4f5fa20e2b9c3247	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	262200		

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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

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New International Application Filed with the USPTO as a Receiving Office

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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/461,761	04/13/2021	10974151	JDM/005 CON2	4152

32733 7590 03/24/2021

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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 0 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):

Jeffrey D Mullen, New York, NY;

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