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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. 12/096,933	Applicant(s) MCCUE ET AL.	
	Examiner Alicia Baturay	Art Unit 2446	

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

Period for Reply

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

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

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,10,12,13,17-20,22,25,28,30,32-34,40-42 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,10,12,13,17-20,22,25,28,30,32,33,40-42 and 45 is/are rejected.
- 7) ☒ Claim(s) 34 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 11 June 2008 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) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) ☐ Information Disclosure Statement(s) (PTO/SB/08) | 5) ☐ Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

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DETAILED ACTION

1. This Office Action is in response to the amendment filed 20 May 2010.
2. Claims 1, 12, 34, 41, 42 and 45 were amended.
3. Claims 2-4, 6-9, 11, 14-16, 21, 23, 24, 26, 27, 29, 31, 35-39, 43 and 44 are cancelled.
4. Claims 1, 5, 10, 12, 13, 17-20, 22, 25, 28, 30, 32-34, 40-42, and 45 are pending in this Office Action.

Response to Amendment

5. The objection to the specification regarding minor informalities was addressed and is withdrawn.
6. The rejection of claim 34 under 35 U.S.C. § 112, 2nd paragraph regarding indefiniteness was addressed and is withdrawn.
7. The rejection of claim 45 under 35 U.S.C. § 112, 2nd paragraph regarding indefiniteness was addressed and is withdrawn.
8. Applicant's amendments and arguments with respect to claims 1, 5, 10, 12, 13, 17-20, 22, 25, 28, 30, 32-34, 40-42, and 45 filed on 20 May 2010 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

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

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10. Claim 41 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The machine-or-transformation test is a two-branched inquiry; an applicant may show that a process claim satisfies § 101 either by showing that his claim is tied to a particular machine, or by showing that his claim transforms an article. *In re Bilski*, 545 F.3d 943, 961 (Fed. Cir. 2008). In claim 41, the language does not limit any process step to any specific machine or apparatus. Additionally, the claim does not transform an article. Applicant's process as claimed does not transform any article to a different state or thing. Purported transformations or manipulations simply of other abstractions cannot meet the test because they are not physical objects or substances, and they are not representative of physical objects or substances. Applicants' process at most incorporates only such ineligible transformations. Thus, claim 41 does not involve the transformation of any physical object or substance, or an electronic signal representative of any physical object or substance. Given its failure to meet the machine implementation part of the test as well, the claim entirely fails the machine-or-transformation test and is not drawn to patent-eligible subject matter. *In re Bilski*, 545 F.3d 943, 963-964 (Fed. Cir. 2008).

There is no recitation of the machine Applicant refers to on page 13 of the Remarks filed 20 May 2010. The examiner encourages Applicant to define within the claims the embodied features and limitations on computer readable media such as hard drives, disks, and other hardware elements.

Claim Rejections - 35 USC § 103

11. 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 negated by the manner in which the invention was made.

12. Claims 1, 5, 12, 13, 30, 33, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zuniga (U.S. 2005/0245243) and further in view of Arons (“SpeechSkimmer: A System for Interactively Skimming Recorded Speech”).

Zuniga teaches the invention substantially as claimed including techniques and systems for intelligent navigation of sequential media content are disclosed. The intelligent navigation is well suited to enable users to better control media playback with regards to a media playback application operating on a computing device (see Abstract).

13. With respect to claim 1, Zuniga teaches a method of providing files for storage in a network accessible library for use in transmission of digital audio data, the method comprising the steps of: a) segmenting an audio stream into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining at least one of a start time, an end time, and a play time of each small digital audio file within the audio stream; and c) creating a descriptor for identifying the audio stream and for ordering the plurality of small digital audio files, the descriptor including the at least one of a start time, an end time, and a play time of each small digital audio file within the audio stream (Zuniga,

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page 5, paragraph 55), and including at least one of a title, subtitle, author, theme, plot, performer, publisher, copyright holder, ISBN number, and 'Vchip' rating of the audio stream (Zuniga, page 4, paragraphs 48-51), the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

14. With respect to claim 5, Zuniga teaches the invention described in claim 1, including a network accessible library for use in transmission of digital audio data, the method comprising the steps of: a) segmenting an audio stream into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining at least one of a start time, an end time, and a play time of each small digital audio file within the audio stream; and c) creating a descriptor for identifying the audio stream and for ordering the

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plurality of small digital audio files, the descriptor including the at least one of a start time, an end time, and a play time of each small digital audio file within the audio stream (Zuniga, page 5, paragraph 55), and including at least one of a title, subtitle, author, theme, plot, performer, publisher, copyright holder, ISBN number, and 'Vchip' rating of the audio stream (Zuniga, page 4, paragraphs 48-51), the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1) and a method wherein step (a) includes searching for a frame, which when played, has a decibel level below a predetermined limit (Arons, page 8, 2.2.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

15. With respect to claim 12, Zuniga teaches a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and

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page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

16. With respect to claim 13, Zuniga teaches the invention described in claim 12, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small

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digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45); and e) transmitting a second small digital audio file in the plurality of small digital audio files from the server to the client while playing the first small digital audio file (Zuniga, page 6, paragraphs 70-71).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

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17. With respect to claim 30, Zuniga teaches the invention described in claim 12, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45); and a method wherein step (b) comprises using a unique identifier that is stored on a network based server to provide a list of network-based resources for providing the descriptor (Zuniga, page 5, paragraph 55).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to

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exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

18. With respect to claim 33, Zuniga teaches the invention described in claim 30, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45); and a method comprising the steps of: transmitting the unique identifier from the client to the network based server; and, receiving the list of network-based resources from the network based server, the network based server obtaining the list by searching a database to find a reference structure identified by the unique identifier (Zuniga, page 5, paragraph 55).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

19. With respect to claim 40, Zuniga teaches the invention described in claim 12, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

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Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting the audio stream bounded by natural language gaps (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1) and a method wherein the natural language gaps include gaps between words read from a same paragraph (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

20. Claims 10, 17-20, 22, 25, 28, 32, 41, 42, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zuniga in view of Arons and further in view of Madden et al. (U.S. 2007/0083911).

21. With respect to claim 10, Zuniga teaches a method of providing files for storage in a network accessible library for use in transmission of digital audio data, the method comprising the steps of: a) segmenting an audio stream into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining at least one of a start time, an end time, and a play time of each small digital audio file within the audio

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stream; and c) creating a descriptor for identifying the audio stream and for ordering the plurality of small digital audio files, the descriptor including the at least one of a start time, an end time, and a play time of each small digital audio file within the audio stream (Zuniga, page 5, paragraph 55), and including at least one of a title, subtitle, author, theme, plot, performer, publisher, copyright holder, ISBN number, and 'Vchip' rating of the audio stream (Zuniga, page 4, paragraphs 48-51), the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45); and wherein step (c) includes manually entering at least one of internal media marks and a network location of the plurality of the small digital audio files into the descriptor (Zuniga, page 5, paragraph 55).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a time offset.

However, Madden teaches the internal media marks including a label and a time offset into the audio stream corresponding to at least one of a table of contents, chapter markers, a content index, a list of figures, a list of illustrations, a list of tables, footnotes, quotations, and cross-references (Madden, page 16, paragraph 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

22. With respect to claim 17, Zuniga teaches the invention described in claim 12, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio

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stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark.

However, Madden teaches wherein step (a) comprises selecting the audio stream using a bookmark (Madden, page 16, paragraph 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

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23. With respect to claim 18, Zuniga teaches the invention described in claim 12, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark for the current position, the bookmark including the time offset.

However, Madden teaches wherein step (b) comprises the step of using a time offset from one of the descriptor and a bookmark (Madden, page 16, paragraph 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

24. With respect to claim 19, Zuniga teaches the invention described in claim 18, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio

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stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark for the current position, the bookmark including the time offset.

However, Madden teaches wherein step (d) comprises the step of using the time offset to determine a local time offset within the first small digital audio file from which to begin playback (Madden, page 16, paragraph 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

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25. With respect to claim 20, Zuniga teaches the invention described in claim 18, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45); and a method comprising the step of using another time offset to rewind or fast forward through the audio stream (Zuniga, page 7, paragraph 75).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to

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exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

26. With respect to claim 22, Zuniga teaches the invention described in claim 12, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream

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using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark for the current position, the bookmark including the time offset.

However, Madden teaches a method comprising the steps of: e) determining a numeric value representing a current time offset into the audio stream, while playing the small digital audio file; and f) creating a bookmark using the current time offset and information in the descriptor for identifying the audio stream (Madden, Fig. 25A, element 556; page 16, paragraphs 209 and 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

27. With respect to claim 25, Zuniga teaches the invention described in claim 22, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using

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a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark for the current position, the bookmark including the time offset.

However, Madden teaches a method wherein a predetermined value is subtracted from the current time offset (Madden, page 17, paragraph 216).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

28. With respect to claim 28, Zuniga teaches the invention described in claim 12, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45); and a method comprising the steps of: determining an amount of memory available (Zuniga, page 6, paragraph 70); obtaining a list of small digital audio files currently resident with the client (Zuniga, page 4, paragraph 50).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark for the current position, the bookmark including the time offset.

However, Madden teaches purging a plurality of small digital audio files in the list in dependence upon at least one of a current time offset in the audio stream and a bookmarked time offset (Madden, page 16, paragraph 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

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29. With respect to claim 32, Zuniga teaches the invention described in claim 30, including a method for transmission of digital audio data, the method comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55) segmented into a plurality of small digital audio files (Zuniga, page 2, paragraph 20; and page 4, paragraph 45); b) determining a first small digital audio file in the plurality of small digital audio files to be transmitted using a descriptor (Zuniga, page 2, paragraph 21), the descriptor including at least one of a start time, an end time, and a play time of each small digital audio file (Zuniga, page 5, paragraph 55); c) transmitting the first small digital audio file from a server to a client (Zuniga, page 4, paragraph 50); and d) using a media player, playing the first small digital audio file (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), wherein the descriptor for use with a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) for reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches segmenting using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark for the current position, the bookmark including the time offset.

However, Madden teaches and a method wherein the unique identifier is obtained from one of a bookmark structure, a card catalog structure, and an advertising structure (Madden, page 16, paragraph 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

30. With respect to claim 41, Zuniga teaches a method for creating a bookmark for use in transmission of digital audio data, comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55), the audio stream segmented into a plurality of small digital audio files (Zuniga, page 4, paragraph 45); b) using a descriptor of the audio stream (Zuniga, page 5, paragraph 55) and a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45), the descriptor including at least one of a start time, an end time, and a play time of the plurality of the small digital audio files (Zuniga, page 5, paragraph 55).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark for the current position, the bookmark including the time offset.

However, Madden teaches c) determining a current position within the audio stream (Madden, Fig. 25A, element 556; page 16, paragraph 209); d) determining a time offset from the start of the audio stream to the current position; and e) creating a bookmark for the current position, the bookmark including the time offset and reference to the descriptor (Madden, page 16, paragraph 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

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31. With respect to claim 42, Zuniga teaches the invention described in claim 41, including a method for creating a bookmark for use in transmission of digital audio data, comprising the steps of: a) selecting an audio stream (Zuniga, page 5, paragraph 55), the audio stream segmented into a plurality of small digital audio files (Zuniga, page 4, paragraph 45); b) using a descriptor of the audio stream (Zuniga, page 5, paragraph 55) and a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75), reproducing the audio stream using the plurality of small digital audio files without reconstruction of the audio stream (Zuniga, page 4, paragraph 45), the descriptor including at least one of a start time, an end time, and a play time of the plurality of the small digital audio files (Zuniga, page 5, paragraph 55); and a method comprising the steps of using the time offset and the descriptor to begin play of the audio stream from the bookmarked position (Zuniga, page 5, paragraph 55).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches using natural language gaps in the audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark for the current position, the bookmark including the time offset.

However, Madden teaches c) determining a current position within the audio stream (Madden, Fig. 25A, element 556; page 16, paragraph 209); d) determining a time offset from the start of the audio stream to the current position; and e) creating a bookmark for the current position, the bookmark including the time offset and reference to the descriptor (Madden, page 16, paragraph 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

32. With respect to claim 45, Zuniga teaches a computer readable storage medium including computer readable code, which when executed by a computer, causes said computer to: download at least part of a selected audio stream stored on a network accessible server (Zuniga, page 5, paragraph 55), the selected audio stream stored as a plurality of small digital audio files, each small digital audio file corresponding to a segment of the selected audio stream (Zuniga, page 4, paragraph 45); and begin playing the selected audio stream using a media player (Zuniga, page 1, paragraph 10; and page 7, paragraph 75) in less than about 5 seconds and such that the transition between successive small digital audio files is seamless

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to a user of the media player, wherein play is begun from a predetermined position within the selected audio stream (Zuniga, page 3, paragraph 31; and page 5, paragraph 55).

Zuniga does not explicitly teach segmenting an audio stream using natural language gaps in the audio stream.

However, Arons teaches bounded by natural language gaps in the selected audio stream (Arons, page 8, 2.2, 2.2.1 and page 9, 2.3.1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zuniga in view of Arons in order to enable segmenting an audio stream using natural language gaps in the audio stream. One would be motivated to do so in order to exploit acoustic cues to segment recorded speech into semantically meaningful chunks (Arons, page 4, 4th full paragraph).

The combination of Zuniga and Arons does not explicitly teach creating a bookmark for the current position, the bookmark including the time offset.

However, Madden teaches the predetermined position determined using a time offset in the selected audio stream, the time offset obtained from one of a bookmark, a catalog index, and an advertising structure (Madden, page 16, paragraph 211).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zuniga and Arons in view of Madden in order to enable creating a bookmark for the current position, the bookmark including the time offset. One would be motivated to do so in order to enable users to better control media playback with regards to a media playback application so that the user can decide to transition back to the initial transition point, or virtual chapter (Madden, page 1, paragraphs 10-11).

Reasons for Allowance

33. Claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

34. The following is an examiner's statement of reasons for allowance: claim 34 is objected to as being allowable over the prior art of record.

The examiner has found that the prior art of record does not teach, suggest, or render obvious, *inter alia*, the specific combination of a method for transmission of digital audio data, the method comprising the steps of: maintaining a list of servers for providing the plurality of small digital audio files and historical transfer rates thereof; comparing the historical transfer rate for each server; selecting a server in the list in dependence upon the compared historical transfer rates; initializing a floating average value representing transaction rate; monitoring transaction times for the selected server and updating the floating average transaction rate; increasing the floating average transfer rate by a predetermined large value in dependence upon an unavailability of the selected server; updating the historical transfer rate for the selected server in dependence upon the floating average transaction rate exceeding a predetermined value; and at arbitrary time intervals, calculating an average value of the historical transfer rates for all servers on the list of servers and subtracting a predetermined small value from the historical transfer rate for each server that has an historical value exceeding the calculated average (major difference in the claims not found in the prior art) as set forth in the specification as recited in dependent claim 34.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **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 Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Pwu can be reached on (571) 272-6798. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Alicia Baturay/
Examiner, Art Unit 2446

July 27, 2010

/Benjamin R Bruckart/
Primary Examiner, Art Unit 2446