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113264 U.S.PTO
60/723301
100305

Attorney Docket No.: AIRP-00800

Commissioner for Patents
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PROVISIONAL APPLICATION TRANSMITTAL

Sir:

Transmitted herewith for filing is the provisional patent application of Inventor: David B. Lockton et al.

Title: **CELL PHONE GAMES BASED UPON TELEVISION ARCHIVES**

CERTIFICATION UNDER 37 CFR § 1.10

I hereby certify that this New Application and the documents referred to as enclosed herein are being deposited with the United States Postal Service on this date, October 3, 2005, in an envelope bearing "Express Mail Post Office To Addressee" Mailing Label Number EV551129858US addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Francis Guerra
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Signature

Enclosed are:

1. The papers required for filing date under CFR § 1.53(b)(2):

   X Pages which includes
   7 Pages of Specification, including drawings

2. First and Joint Inventor Information:
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3. Fee Calculation

   X Applicants are entitled to small entity status

   Provisional Application Basic Fee: $200.00

   50% Filing Fee Reduction (if applicable)

   TOTAL FEES ENCLOSED **$ 100.00**

4. Payment of Fees

   X Check in the amount of $100.00 enclosed.

5. X Authorization to Charge Additional Fees

   The Commissioner is hereby authorized to charge any additional fees (or credit any overpayment) associated with this communication and which may be required under 37 CFR § 1.16 or § 1.17 to Account No. 08-1275. **An originally executed duplicate of this transmittal is enclosed for this purpose.**

6. X Return Receipt Postcard

7. Agent Information:

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8. This invention was not made by an agency of the U.S. Government nor under contract with an agency of the U.S. Government.

Dated: October 3, 2005

By: Jonathan O. Owens
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Registration No.: 37,902

FanDuel Ex. 1008-0001

Cell phone games based upon television archives

This invention describes systems and methodologies for creating, producing, distributing, and playing games on cell phones and other mobile devices based on archived video of previously broadcast television programming. The game play is very similar to games of skill based on live TV broadcasts described in prior patents by the current inventors. The Lockton patent #4,592,546 (expired in April 2004) teaches a methodology for conducting games of skill utilizing two separate mass media in connection with live and taped television broadcasts. Lockton patent #5,083,800 similarly applies a separate mass media to control computer and video games played simultaneously. Prior art developed at Interactive Network, in operation from 1989 until 1995 taught a methodology for producing large scale simultaneously played games of skill in conjunction with the broadcast of prerecorded game shows such as *Wheel of Fortune* and *Jeopardy*.

For *Jeopardy*, for example, the preproduction of three additional wrong answers were created with the cooperation of the producers of the television shows in advance of the airing of the telecast. These game data files were time synchronized with the video tape of the game show and stored on a broadcast server. A means of mass communication (data broadcasting) separate from the television broadcast, for example, a network of FM stations utilizing the SCA sub carrier, or the vertical blanking interval (VBI) of the television signal, were leased from broadcasters on a market by market basis. The separate mass media multicast the digital data files to a wireless data receiver in the participant's possession. Through the visual observation of the "live" telecast of the syndicated television show in each market, the game show pre-produced synchronized data files, usually a half hour in duration, were manually synchronized at the beginning of the telecast. The synchronization was monitored throughout the telecast, as the telecast paused for the insertion of local and national commercials and then resumed. These pre-produced data files contained "lock out" signals prohibiting answers post the revelation of the correct answers, which were utilized by the game software residing in the wireless data receiver. This software created an individual performance file, generally based on total point scores for each participant receiving the data files simultaneously within their TV market, precisely synchronized with a separately broadcast television signal.

In addition to television based games, Interactive Network utilized a methodology for conducting games of skill based upon classic card, dice, word, and trivia games. The production of these games involved the creation of a digital file for the game, including questions and then the correct answers to be revealed to the competitor after a "lock out" prohibited further response for a trivia game, for example. The entire files containing both questions and answers were broadcast prior to the start of the game to all subscribers who indicated their intention to participate. After the countdown to a prescheduled start time, all of the competitors games were launched with a one-way signal broadcast to the participants, and the files "played" for a duration of 10- to 15-minutes until their conclusion.

The current state-of-the-art in cell phone based entertainment includes downloadable games covering virtually every genre of game that can currently be enjoyed on the computer and video game platforms. In addition, new broadband transmission technology generally referred to in cellular telephony as "third generation" or 3G, has enabled viewing of video clips on the cell phone either by streaming the digital video files using the internet, or downloading compressed files and then "playing" them on the cell phone's LCD color display. Companies like Verizon Wireless and Qualcomm are utilizing these technologies in connection with content owners to download TV clips of news broadcasts, highlights of sporting events, and other television entertainment on an on demand basis to cellular subscribers. Qualcomm recently announced its Media Flo project which has the capability of broadcasting live televised events or clips from these events, such as NFL Football, for display and viewing on a cellular telephone color LCD display.

This invention describes a methodology and systems for providing games of skill and chance, playable either on demand or simultaneously by cellular subscribers, whereby the underlying event upon which the game play is based is archival video footage such as football, baseball, basketball, or other sporting events or game shows (*Wheel of Fortune* or *Jeopardy*), or other television entertainment which has already been broadcast.

Methodology

This invention utilizes the following methods in the production game play, and display.

Game Production – All television programmers maintain video taped archives of every program they have produced and aired dating back to at least 1960. Segments of suitable length of once televised sporting events or game shows, generally between 5- and 10-minutes, would be selected by the producers of such a game service. For example, in the case of football based cellphone games, a scoring drive from a 1980 Super Bowl Game between the Pittsburgh Steelers and LA Rams of a 10-minute duration might be selected. In the case of a game show, a 7-minute "round" from a *Jeopardy* telecast aired in the past, might be selected.

The analog video files are digitized utilizing a variety of standard methodologies in an appropriate format for broadcast utilizing a wireless cellular network. Game producers would create data files to support a competitive game of skill or chance which would be precisely synchronized with the digitized video files. In the case of football, these data files, as taught in the Interactive Network prior art and the Lockton patents, would contain "lockout" signals prohibiting further input, a determination of whether each play was a short or long pass, a run to the right, or left based on observation of the video file of the game. Point values are assessed for correct or incorrect answers, and the game play would be played similarly to that described as in the aforementioned prior art. In the case of a *Jeopardy* game show, three wrong answers would be created and the four multiple choices including the correct answer for each *Jeopardy* question selected would be produced.

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In the production process, the game data file is time synchronized precisely with the video file. The user would select answers 1, 2, 3, or 4 on his cell phone to answer the question before a time stamped "lockout" signal contained in the game file, precluding further input. When the correct answer is selected by the television contestant, then the point values for the correct answer would be incremented or decremented by software in the game file, depending on whether the competitor was right or wrong with their selection.

The digitized video files, and the separately produced overlying game play file would then either be combined for streaming or broadcast into a single data file, maintained as two data files, or utilize an alternate methodology, to ensure that both files are broadcast simultaneously on a single TCP, UDP, multicast, or other transmission, utilizing current data compression capabilities. The game data files would contain graphic information separate from the video of the game telecast, such as the selection options, for example "run," "pass," for a game based on a football telecast. Separate digital sound tracks, one for the television programming, and one for the game programming could also be combined for a single transmission. In other words, data can either be A) down-loaded in advance, or B) streamed or broadcast. The different types of data 1) digitized video, 2) game play data, 3) audio enhancements, can either be combined with each other or sent separately. Regardless of how these discreet pieces of information are delivered to the phone, the application will ensure that the game play data and audio are synchronized with the video archive.

Game Play – Under this methodology, a user on an ad hoc basis, or as a subscriber to a service utilizing a free trial, or charging the required fee to their cellular telephone bill, would indicate their desire to participate in a contest based upon the old television program. The contests would have a specific start time, displayed on the cell phone, such as, for example, "1980 Super Bowl game, 3:15 pm," or an alternative, the menu on the cell phone could describe a game played at any time by the cell phone owner by selecting it from a menu on the cell phone. Upon selecting this game from the menu, the underlying video and data files would be streamed or downloaded to the cell phone, and the video of the underlying telecast sporting event, game show, or other entertainment program, would be displayed on the cell phone utilizing software permanently or temporarily resident on a cell phone client designed to display full motion video. A record of what episodes of what games had been played for an individual subscriber would be maintained on the service's server to insure a subscriber always received a game they had not played before.

On Demand Games Against Friends – For games not played simultaneously in real time, a subscriber playing an on demand game would have the ability, utilizing the cell phone display, to add the telephone number, subscriber pseudo name, or other identification of friends who are also subscribers, with whom he wishes to match his score in the game about to be played. This information would be registered on a central game management server, and the subscribers selected would be immediately notified, notified when they accessed the game provider's main menu, or at some other time. When, for example a football game was played by the subscriber wishing to compare his score with friends,

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this specific game would be identified on the server so that when and if those friends who were challenged and notified, selected a football game for play, the identical game previously played and identified will be streamed or downloaded to their new competitors. At the conclusion of the game of the last player challenged, the scores of all the cohort players would be transmitted to all the competitor's cell phones, so that they can determine the relative ranking of their scores.

Additional Kinds of Content - In addition to games played with televised sports and game show footage utilizing the methods described, cellphone games could be based upon a unique repurposing of existing archival television footage from a variety of television genres. For example, a game based on a sitcom, such as the discontinued Seinfeld Show, might utilize short clips of a scene, and then ask viewers to answer questions related to the predicted resolution of the issue, problem, or situation seen in the short clip. People also might be shown historic, memorable sports plays, for example, football passes, runs, catches, or highlighted events from a variety of sports telecasts, and then asked to identify the participants, the year the clip was from, and the outcome. In each scenario, however, the video footage and the overlying game aspect would be pre-produced, combined, transmitted and then separated for display and game play.

Game Display - The data files which manage the game play, received simultaneously, would also utilize software resident on the client for managing the display on the phone's LCD. This game software could be a separate "gaming client" or an "all in one" application which addresses the video and game elements. This game data graphics could be presented to the player by overlaying the text and symbols over the television footage, or in the alternative, utilize a separate portion of the cell phone's display for this information, at the option of the producers. An example of this latter approach is the crawling information displayed at the bottom of a TV screen containing stock tickler information, or the way closed captioning information is displayed on TV screens. In the alternative, a picture in picture (PIP) approach could also be used to separately display game play information from the underlying television footage.

Under this invention, the subscriber would play along with the 10- to 15-minute TV segment of the game until its conclusion, and would be informed at the end, based upon software resident in the phone, what their total points earned are. By transmitting this game performance information to a central server for compilation, the competition would receive information on how their score relates to the scores achieved by other players of the game. Under this "on demand" game play format, prizes would generally not be awarded, since the person could play the game as many times as they desire, or obtain the answers from someone who had played.

Games Based on Simultaneous Broadcast – In the alternative, the combined video and game data files produced by the same methodology described above could be simultaneously broadcast to all participants at a specific time, such as every 15-minutes, to all of the players who have registered their intention to play a specific game. In this format, these files would be individually streamed, or in the alternative, digitally broadcast, precisely at the same time to all participants. Another approach is to download

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the data in advance. Under this approach the application would ensure that the video and game play started at the appropriate time. This could be done by broadcasting a "start" signal to all players. The games would unfold in precisely the same manner that the games described in Lockton #4,592,546 and the aforementioned prior art.

A significant difference in this invention and the prior art, is that all of the information utilized for the game is pre-produced and combined in a single data file, and received simultaneously by all participating cell phones broadcast, to be separated and displayed for simultaneous viewing on a cell phone by the methods described above. While the games would unfold to the participant in virtually the same manner as a game based upon a live telecast of a sporting event or game show, the cell phone is not utilized as a receiving device for a second mass media communications synchronized with the underlying telecast, but rather is receiving the single data file which contains both the video of the telecast and the game data information. The video and game data is then separated by applications software resident on the cell phone for simultaneous display on a single color LCD display.

Benefit

While there is a large potential demand for games of skill for prizes based upon the live telecast of sporting events and syndicated game shows, participation in these games is generally limited to prime time or near prime time viewing on week days, and sporting events on the weekends. The explosion in the popularity of cellular games of short duration indicates that the owners of cellular telephones often find 5-10 minutes during the day to participate in stimulating entertainment work breaks, while commuting to and from work, sometimes even when they are working, etc. The methodologies described herein provide a new and unique form of entertainment. While based on popular television programming, the games can be enjoyed either on demand or several times an hour with scheduled start times, since they are generated from TV archives. The games are ever changing and are based on programming with a proven huge fan audience. This invention provides the highest quality production value at a fraction of the cost of existing video, computer, and cell games. These games require the skills of graphic artists and designers, and extensive programming to create full motion 3D graphics in attempt to make games like *John Madden Football,* or Sony's *Jeopardy* games as close to the actual telecast as possible. This invention repurposes the actual television footage of these events at a fraction of the cost.

Games with a common start time might be played competitively for prizes. While all of these telecasts may have been viewed in the past by a potential competitor, it would be highly unlikely that anyone could specifically remember the details of an event seen 5 to 10 years ago. Even so, it is highly likely that these games would still be considered games of skill, in that the ability to remember the answers to trivia questions and other memory tests have been defined as legal games of skill. These games based on old TV footage could be played for prizes where laws permit.

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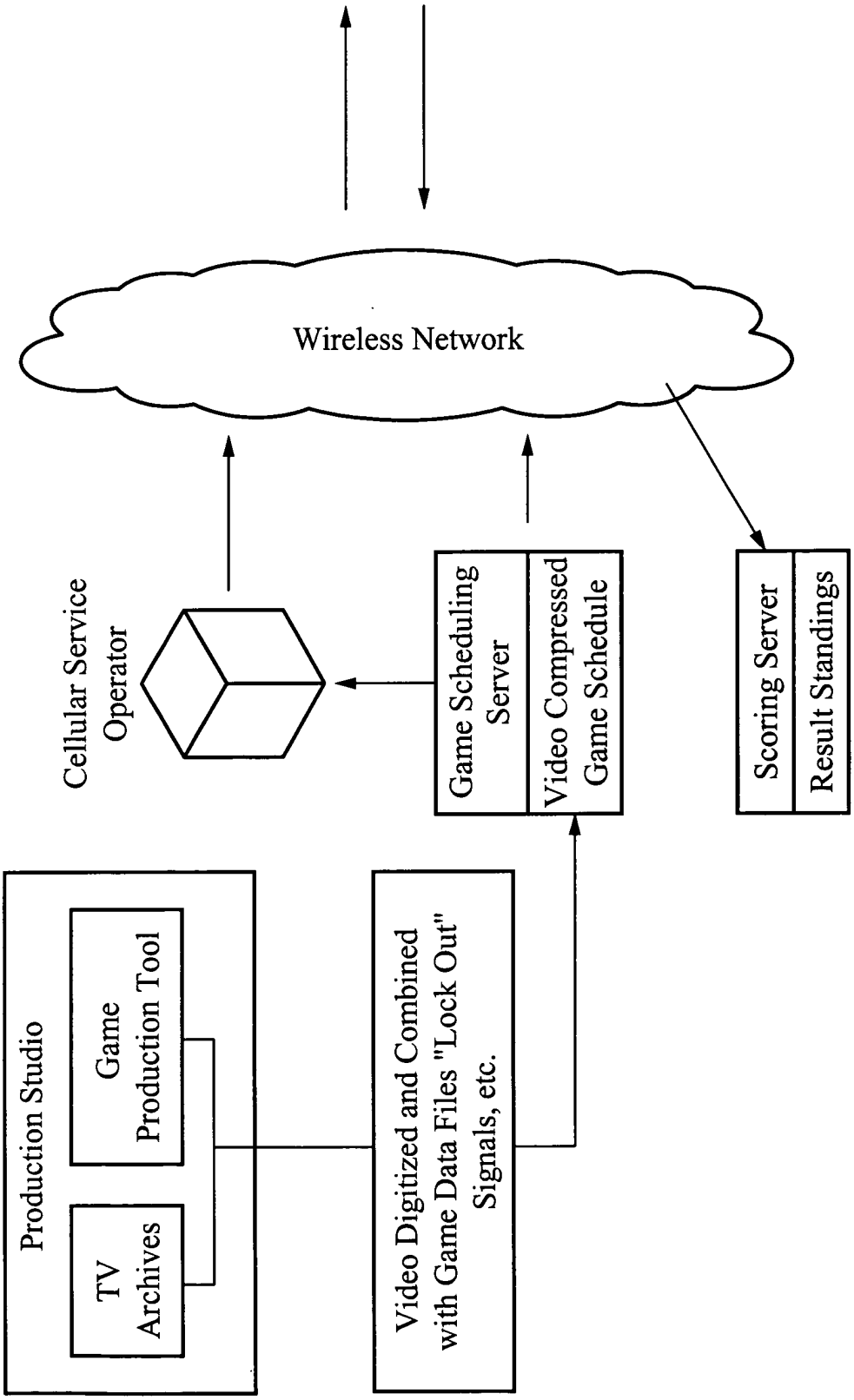

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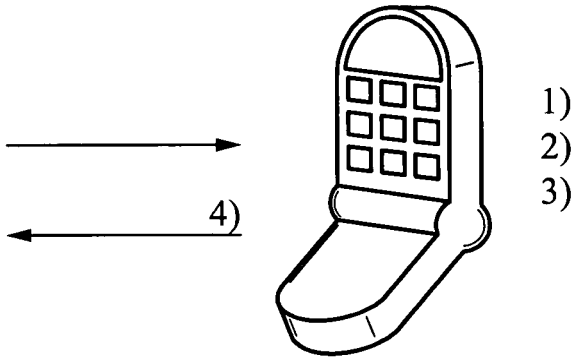

1) Receives video and game files either combined or separately
2) Operates cell based software to simultaneously display video and game data
3) Receives game start signal and starts game
4) Reports performance and receives standings back

Fig. 1

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PATENT APPLICATION SERIAL NO _____

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FEE RECORD SHEET

10/06/2005 MGEBREM1 00000091 60723301
01 FC:2005 100.00 OP

PTO-1556
(5/87)

U.S. Government Printing Office: 2002 — 466-247/69333