



# 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](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

90/019,523

05/24/2024

7987285

OPT285

1919

109619 7590 03/27/2025

Citrix Systems, Inc./Finnegan

901 New York Avenue

NW

Washington, DC 20001

EXAMINER

ROSWELL, MICHAEL

ART UNIT

PAPER NUMBER

3992

MAIL DATE

DELIVERY MODE

03/27/2025

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.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**DO NOT USE IN PALM PRINTER**

(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

UNIFIED PATENTS, LLC  
4445 Willard Ave.  
Suite 600  
Chevy Chase, MD 20815

***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/019,523 .

PATENT UNDER REEXAMINATION 7987285 .

ART UNIT 3992 .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

<b>Notice of Intent to Issue Ex Parte Reexamination Certificate</b>	<b>Control No.</b> 90/019,523	<b>Patent Under Reexamination</b> 7987285	
	<b>Examiner</b> MICHAEL R ROSWELL	<b>Art Unit</b> 3992	<b>AIA (First Inventor to File) Status</b> No

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

1. ☒ Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. *Cf.* 37 CFR 1.313(a). A Certificate will be issued in view of
    - (a) ☒ Patent owner's communication(s) filed: 02/03/2025.
    - (b) ☐ Patent owner's failure to file an appropriate timely response to the Office action mailed: \_\_\_\_.
    - (c) ☐ Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
    - (d) ☐ The decision on appeal by the ☐ Board of Patent Appeals and Interferences ☐ Court dated \_\_\_\_
    - (e) ☐ Other: \_\_\_\_.
  2. The Reexamination Certificate will indicate the following:
    - (a) Change in the Specification: ☐ Yes ☒ No
    - (b) Change in the Drawing(s): ☐ Yes ☒ No
    - (c) Status of the Claim(s):
      - (1) Patent claim(s) confirmed: 6.
      - (2) Patent claim(s) amended (including dependent on amended claim(s)): \_\_\_\_
      - (3) Patent claim(s) canceled: 1,9-11 and 14-15.
      - (4) Newly presented claim(s) patentable: 17-19.
      - (5) Newly presented canceled claims: \_\_\_\_.
      - (6) Patent claim(s) ☐ previously ☐ currently disclaimed: \_\_\_\_
      - (7) Patent claim(s) not subject to reexamination: 2-5,7-8,12-13 and 16.
  3. ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on \_\_\_\_.
  4. ☒ Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
  5. ☐ Note attached NOTICE OF REFERENCES CITED (PTO-892).
  6. ☐ Note attached LIST OF REFERENCES CITED (PTO/SB/08 or PTO/SB/08 substitute).
  7. ☐ The drawing correction request filed on \_\_\_\_ is: ☐ approved ☐ disapproved.
  8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
    - a) ☐ All    b) ☐ Some\*    c) ☐ None of the certified copies have
      - ☐ been received.
      - ☐ not been received.
      - ☐ been filed in Application No. \_\_\_\_.
      - ☐ been filed in reexamination Control No. \_\_\_\_.
      - ☐ been received by the International Bureau in PCT Application No. \_\_\_\_.
- \* Certified copies not received: \_\_\_\_.
9. ☐ Note attached Examiner's Amendment.
  10. ☐ Note attached Interview Summary (PTO-474).
  11. ☐ Other: \_\_\_\_.

**All correspondence** relating to this reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Office action.

/MICHAEL ROSWELL/  
Primary Examiner, Art Unit 3992

cc: Requester (if third party requester)

### DETAILED ACTION

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

This Office Action is in response to the amendment to the claims and associated remarks filed 3 February 2025, and addresses claims 1, 6, 9-11, 14, and 15 of US Patent 7,987,285 to **Melnyk** et al. ("the '285 Patent"), for which it has been determined in the Order Granting *Ex Parte* Reexamination (hereafter the "Order") mailed 3 July 2024 that at least one substantial new question of patentability was raised in the Request for *Ex Parte* Reexamination filed on 24 May 2024 (hereafter the "Request"), as well as newly presented claims 17-19. This Office Action is a Notice of Intent to Issue *Ex Parte* Reexamination Certificate ("NIRC").

The status of the claims is as follows:

**Claim 6 is confirmed.**

**Claims 17-19 are determined to be patentable.**

**Claims 1, 9-11, 14, and 15 have been cancelled by amendment.**

**Claims 2-5, 7, 8, 12, 13, and 16 are not subject to reexamination.**

### ***References and Declarations Submitted by Requester***

Pursuant to the 3 February 2025 amendment to the claims, the following references, previously cited as establishing a substantial new question of patentability as discussed in the Order mailed 3 July 2024, and applied in various rejections as part of the 2 November 2024 Non-Final Office Action, are discussed below:

- **Yano** – US Publication 2003/0037158, published 20 February 2003
- **Ogawa** – US Publication 2006/0218264, published 28 September 2006
- **van Beek** – US Publication 2005/0071876, published 31 March 2005
- **Urzaiz** – US Publication 2005/0021830, published 27 January 2005
- **Gupta** – US Patent 7,734,800, filed 25 August 2003

The following declaration was cited to at least further explain the contents of the above listed references in more detail:

- **Declaration of Dr. Lina Karam**, executed 24 May 2024

### ***Response to Arguments***

The instant response includes remarks directed towards claims 6 and 17-19. As discussed in detail below, arguments relevant to the **Yano** reference are found to be persuasive, particularly those on pp. 15-17. **Ogawa**, while found to be pertinent to the claims, fails to cure the deficiencies of **Yano**, as set forth below. **van Beek**, **Urzaiz**, and **Gupta**, while not specifically argued by Patent Owner, are not found to be pertinent to the cited arguments.

### ***Confirmed/Patentable Subject Matter***

#### **Claim 6 is confirmed.**

Claim 6 was previously rejected under 35 USC 102(b), as being anticipated by **Yano**. See 2 November 2024 Non-Final Office Action at 9-11.

Claim 6 recites the limitations:

*determining stability criterion, wherein determining stability criterion comprises at least one of:*  
*comparing a media time in transit and a round trip time estimate; and*  
*comparing a bitrate received with a current bitrate session;*

The 2 November 2024 Non-Final Office Action rejected the limitation “*determining stability criterion, wherein determining stability criterion comprises at least one of: comparing a media time in transit and a round trip time estimate*” in view of [0089-0093] of **Yano**, which discloses a comparison of a measured round trip data transmission time against a previously measured and stored “base” round trip transmission time. As argued by Patent Owner at pages

15-17<sup>1</sup>, the cited portions of **Yano** disclose comparing two round trip times. The limitations of claim 6 require comparison between a media time in transit (MTT) and a round trip time estimate (RTTE). The '285 Patent defines Media Time in Transit at col. 6, lines 41-44 as being specifically "computed as the difference between the timestamp of the most recently sent RTP packet and the timestamp of the last RTP packet received by the player reported in RTCP receiver report". **Yano** fails to disclose the explicit comparison of an MTT with an RTTE, as claimed. **Yano**, at best, utilizes an MTT in the calculation of an RTTE (see [0113], for example), but does not directly compare an MTT and an RTTE. Similarly, **Ogawa** fails to disclose the explicit comparison of an MTT with an RTTE. **Ogawa** at [0070], for example, discusses the controlling of a bitrate on the basis of communication-bandwidth information "such as a round trip time", but is silent with respect to calculating an MTT or directly comparing an MTT to and RTTE.

As the limitations

*determining stability criterion, wherein determining stability criterion comprises at least one of:*  
*comparing a media time in transit and a round trip time estimate; and*  
*comparing a bitrate received with a current bitrate session;*

are presented in the alternative, the 2 November 2024 Non-Final Office Action did not explicitly rely on a citation from **Yano** or **Ogawa** to disclose "*comparing a bitrate received with a current bitrate session*". The '285 Patent discloses "bitrate received" as part of a group of network state estimators, including MTT and RTTE. At col. 6, lines 45-51, the '285 Patent explicitly defines bitrate received as "computed as the bits received between the current and previously received RTCP receiver reports, divided by the time elapsed between these two receiver reports. The bits received between receiver reports are computed by cross referencing sequence numbers in the receiver report with the history of bytes sent stored at adaptive bitrate manager 108".

---

<sup>1</sup> Pages 15-17 of the remarks are specifically directed towards new claim 17. However, the limitations at issue in claim 17 and claim 6 are analogous in scope.

**Yano** discusses calculating a “reception rate” ( $R_{recv}$ ) indicating the bits per second transferred during consecutive receiver reports, which may be calculated as described at [0117], as the total packet size of times  $(n-1)$  and  $n$  divided by the difference between reception times  $Ts_{2n}$  and  $(Ts_{2n-1})$  taken from consecutive RTCP receiver reports. **Ogawa** discloses a bitrate setter comparing a current transmission data bitrate with a maximum throughput calculated by a throughput calculator, at [0145]. At [0163], **Ogawa** discloses that maximum throughput may be calculated as the amount of data succeeding a pair of successive packets divided by a reception interval  $t$  between successive packets. However, neither **Yano** or **Ogawa** discuss “computing the bits received between receiver reports by cross referencing sequence numbers in the receiver report with the history of bytes sent” stored at an adaptive bitrate manager, as defined in the ‘285 Patent specification to be part of the “bitrate received” calculation.

**van Beek, Urzaiz, and Gupta**, previously applied in rejections relating to cancelled claims 9, 10, and 15, are not found to provide teachings relevant to the limitations at issue.

As a result, **claim 6 is confirmed.**

New claims 17-19 recite limitations analogous in scope to those discussed *supra*.  
Subsequently, **claims 17-19 are found to be patentable.**

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: “Comments on Statement of Reasons for Patentability and/or Confirmation” and will be placed into the reexamination file.

### ***Conclusion***

**All** correspondence relating to this *Ex Parte* reexamination proceeding should be directed:

Electronically: Registered users may submit via Patent Center at <https://patentcenter.uspto.gov/>.

By Mail to: Mail Stop *Ex Parte* Reexam  
Central Reexamination Unit  
Commissioner for Patents  
United States Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

By FAX to: (571) 273-9900  
Central Reexamination Unit

By hand: Customer Service Window  
Knox Building  
501 Dulany Street  
Alexandria, VA 22314

For Patent Center transmissions, 37 CFR 1.8(a)(1)(i)(C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the USPTO patent electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a certificate of transmission for each piece of correspondence stating the date of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication should be directed by telephone to Michael Roswell, at 571-272-4055.

/MICHAEL ROSWELL/  
Primary Examiner, Art Unit 3992

Conferees:

/ADAM L BASEHOAR/  
Primary Examiner, Art Unit 3992

/ALEXANDER J KOSOWSKI/  
Supervisory Patent Examiner, Art Unit 3992