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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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STEPHEN WREN POB 251 Waterloo, IL 62298			EXAMINER ZURITA, JAMES H	
			ART UNIT 3625	PAPER NUMBER
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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. 12/124,027	Applicant(s) WREN, STEPHEN COREY	
	Examiner JAMES ZURITA	Art Unit 3625	

-- 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 30 May 2008.
- 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) 1-6 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- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.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) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ 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) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Applicant's claims to priority are noted.

The Examiner notes that central facilities #2...#n first appear in Fig. 1 as amended on 03/29/1996 in application 08/268309 and in application 08/650834, Fig. 1 as filed 05/20/1996.

Claims that refer to a distributed network receive a priority date of 03/29/1996.

The Examiner also notes that claims 1-6 are identical to claims 40-45 of related application 10/217643. Claims 40-45 first appeared on 08/01/2005, were amended on 11/22/2006. See rejections of 08/01/2006 and 05/18/2007.

Pro-Se errors

An examination of this application reveals that applicant appears to be unfamiliar with patent prosecution procedure, although Applicant has related applications dating back to 1992.

While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent

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Roster.” Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450.

Applicant is responsible for reviewing his own work for errors. When possible, the Examiner cites particular errors as a courtesy and for convenience of the applicant. Ultimately, however, it is Applicant's responsibility to find and correct all errors, including errors not noticed by the Examiner. Please review all submissions carefully to avoid delays in prosecution and inappropriate charges of piecemeal prosecution.

Claim Rejections - 35 USC § 112 – First Paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 refers to computer, operator interface and [second] interface. There is no mention of an interface in the specifications. For purposes of this examination, prior art will be interpreted to read on applicant's limitation where prior art discloses the use of a user interface (such as a keyboard, an Internet browser, as in Bernard, Col. 15,

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lines 3-25, Col. 32, lines 44-55) via a computer. Prior Art will be interpreted to meet applicant's limitation *computer* where prior art discloses the use of computers (Figs. 4, 6 and others, for example).

In Claim 1 the limitation...*recommendations of goods or services based on operator input*... by itself, at first appears to find support in provisional application 60/311819, page 26, lines 24-27, copied for applicant's convenience:

These measurements could also include a recording and perhaps analysis of the customer's hair, eye, and skin tones as might be used at a future date to recommend clothing colors. For women these results could also be used to recommend makeup. [page 26, lines 24-27, emphasis added]

Applicant's recommendations are based on a **single** customer's interactions and the recommendations appear to be made to the **specific** customer based on the **specific** customer's input. However, interpreting the claim as a whole, applicant does not disclose, as claimed:

A ... system for assisting a potential **customer** in purchasing decisions...
information concerning goods or services,
recommendations of goods or services based on operator input;
 a database ...**information** pertaining ... purchasing history of previous **customers**;
 ...relevant history **information** regarding said inputted requests from said database;
 ... transmitting responsive **information** from said computer to said Operator interface;
 [a second] interface ... **information** corresponding to ... previous **customers** who have purchased ... requested by said potential **customers**
 ...transmitted ...for use by said potential **customers**.

It is not clear how many actors there are in the claim, which mention ...**potential customers...previous customers...single customer...multiple customers** and what the differences are and how a customer changes status. Similarly, it is unclear whether an ...**operator**... is also another type of customer. The term operator will be interpreted

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to refer to a customer. For purposes of examination, the term customer will be given its broadest reasonable interpretation to refer to one that purchases a commodity or service. MERRIAM WEBSTER'S Collegiate Dictionary. For purposes of Examination, the term recommendation(s) will be interpreted as referring to advertisements and promotions.

In Claim 1 the limitation...*a database maintained in said [client] computer*...is not disclosed by applicant. In Fig. 1, "Goods and Services Databases" appears to exist on a server, not in *computer 18*. A database is any aggregation of data; a file consisting of a number of records of table, each of which is construction of fields (columns) of a particular type, together with a collection of operations that facilitate searching, sorting, recombination and similar activities.¹ For purposes of examination, the phrase "...a *database maintained in said computer*..." will be given its broadest reasonable interpretation as referring to an aggregation of data that is accessible by a computer.

In Claim 1 the limitation...*purchasing history of previous customers*...is not disclosed by applicant. Applicant appears to describe a recommendation to a *single* customer based on that particular customer's action during a session, and *not* on a history of other customers] entry. There is no support for recommendations based on a history of multiple customers. For purposes of this examination, the term will be interpreted to refer to shopping history of customers.

In Claim 1 the limitation ...*a [second] interface [whereby]...information [is] transmitted to said [client-side computer 18]...for [...some intended use...]* is not

¹ Definition of *database*, MICROSOFT Computer Dictionary, 1993.

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disclosed by applicant. For purposes of this examination, the term will be interpreted as a server that sends data to a client. Prior art will be found to meet applicant's claimed limitation where prior art discloses sending information from a server to a customer computer.

In Claim 1 the limitation *...means for ... and [means] for filtering...relevant history information...* is not disclosed by applicant. There is no mention *filter[-ing]* in any of applicant's documents and there is no description of what constitutes *relevance* and to whom. For purposes of this examination, the term will be interpreted to refer to targeting advertisements and promotions to specific customers.

In claim 4, the limitation *...wherein customer use is used to build a provider or corporate profile...* appears based on the following paragraph:

To determine its corporate customer profile each provider of goods can use the system. Profiles of those customers who specifically request product information can be used by those providers to build general profiles of those customers who might have an interest or need in their goods. Thereafter those *provider profiles* can be used to help the system guide commercials to system users most likely to be interested in those goods. Commercials can then be shown to customers intermittently throughout the customer's session or at predetermined points such as when the customer is waiting for live assistance or in between queries. [US 6,055,514, col. 10, lines 44-54; PG-PUB US 2003/0036980 A1, paragraph 94, application 09/504374, page 18, lines 21-31, emphasis added].

For purposes of the Examination, the limitation *...wherein customer use is used to build a provider or corporate profile...* is interpreted as using statistics of customer use profiling customers according to statistics and using the profiling information to target or guide advertisements to customers most likely to be interested in particular types of goods.

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In claim 3, the limitation ...displayed items are displayed involuntarily... is not supported by the disclosures. Applicant mentions involuntarily three times, but does not provide a description.

Claim Rejections - 35 USC § 112 – Second Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-4 contain the term **or**. The term renders the claims indefinite, since it is not possible to determine the scope of the claim as requiring both items or only one of the items separated by the or. For purposes of this examination, examiner will give the term its broadest reasonable interpretation and consider that the particular condition is satisfied if one of the limitations is met.

Claims 1-3 contain the term goods and/or services, which renders the claims indefinite, since it is not possible to determine the scope of the claim as requiring both items or only one of the items separated by the or. For purposes of this examination, examiner will give the term its broadest reasonable interpretation and consider that the particular condition is satisfied if one of the limitations is met.

Claim 1 refers to potential customer and previous customer. Claims 2-6 refer to said customer. It is not possible to determine which customer is being referenced.

Claim 1 refers to an operator interface and a second interface. There is no mention of an interface in the specification and drawing. For purposes of this examination, the term interface will be given its broadest reasonable interpretation as a point at which a connection is made between two elements so that they can work with one another. Prior art will be interpreted to read on applicant's limitation where prior art discloses the use of a user interface or a computer (applicant's definition). Prior Art will be interpreted to meet applicant's limitation where prior art discloses the use of computers.

In claim 1, it is unclear how many computers are involved. For purposes of this examination, the term *interface* will be interpreted in line with applicant's definition as a computer. Prior art will be interpreted to read on applicant's limitation where prior art discloses the use of a user interface (such as a keyboard, an Internet browser, as in Bernard, Col. 15, lines 3-25, Col. 32, lines 44-55) via a computer. Prior Art will be interpreted to meet applicant's limitation *computer* where prior art discloses the use of computers (Figs. 4, 6 and others, for example).

Claim 1 refers to a distributed network, which is not shown in the drawing.

In claim 1, the phrase "means for" appear to be an attempt to invoke 35 U.S.C. 112, sixth paragraph, to recite claim element as a means for performing a specified function. However, since the disclosures provide insufficient structural support for the claims, it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). For purposes of this examination, the claim will be interpreted to not invoke the sixth

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paragraph. Prior art will be interpreted to read on applicant's claimed limitations where prior art discloses that the structure is reasonable capable of performing the recited functions.

Claim Rejections - 35 USC § 102

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

A person shall be entitled to a patent unless –

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

Claims 1-6, as best understood and as interpreted, are rejected under 35 U.S.C.102(e) as being anticipated by Bernard et al. (US 5,918,213), filed 22 December 1995, issued 29 January 1999.

As per claim 1, Bernard discloses a computer-implemented interactive system (see, for example, Col. 4, line 64-Col. 5, line 6) for assisting a potential customer in purchasing decisions (Col. 5, lines 28-40) from among a plurality of goods or services, the system comprising:

an operator interface (see, for example, Col. 4, line 64-Col. 5, line 40, Col. 15, lines 3-25, Col. 32, lines 44-55) for enabling potential customers to input requests to said computer (see computers in Figs. 4, 6, for example), including requests for:

- the purchase of goods or services, (see at least Col. 42, lines 1-18)

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- information concerning goods or services, (see at least Col. 40, lines 44-57)
- recommendations of goods or services based on operator input (see, for example, references to promotions and advertisements, as in Col. 51, line 18- Col. 52, line 26).

a database maintained in said computer (see at least Fig. 12 and related text), containing information pertaining to goods and/or services purchasing history of previous customers (see, for example, at least Col. 51, lines 19-42)

means for processing inputted requests and for filtering relevant history information regarding said inputted requests from said database (see, for example, at least Col. 51, lines 29-41, which discloses filtering relevant history information to indicate that a shopper is a particularly good customer).

a distributed network (see at least Fig. 6 and related text) for transmitting requests from said operator interface to said computer and for transmitting responsive information from said computer to said operator interface (see, for example, references to interactive purchasing, as in Col. 16, line 63-Col. 17, line 42);

[...] interface whereby goods and/or services identification information corresponding to goods and/or services purchased by previous customers who have purchased the goods and/or services requested by said potential customers are transmitted to said operator interface for use by said potential customers. See, for example, at least references to promotions and advertisements, Col. 51, lines 29-41, received and responded to via interfaces.

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As per claim 2, Bernard discloses that displayed goods and/or services are displayed at said customer's request. See, for example, at least Col. 3, lines 52-63, where a customer may input requests and the product information are displayed.

As per claim 3 Bernard discloses that displayed goods and/or services are displayed involuntarily. See, for example, references to displaying advertisements and promotions, as in Col. 51, lines 29-41, Col. 52, lines 46-54.

As per claim 4, Bernard discloses that customer use is used to build a provider or corporate profile. As noted previously, the limitation *...wherein customer use is used to build a provider or corporate profile...* is interpreted as using statistics of customer use profiling customers according to statistics and using the profiling information to target or guide advertisements to customers most likely to be interested in particular types of goods. See, for example, references to targeting specific customers, as in Col. 6, lines 31-49, profiling; see also Col. 31, lines 35-40, Col. 52, lines 46-54.

As per claim 5, Bernard discloses that a profile is built from a single customer's use. See, for example, references to profiling based on individual customers, as in Col. 31, lines 35-50.

As per claim 6, Bernard discloses that a profile is built from multiple customers' use. See, for example, references to profiling based on [multiple] customers in general, as in Col. 31, lines 35-50.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ZURITA whose telephone number is (571)272-6766. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Zurita/
Primary Examiner
Art Unit 3625
3 January 2009