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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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11/512,782

08/30/2006

Brenda Dietrich

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26263 7590 08/21/2009
SONNENSCHN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606-1080

EXAMINER

THIAW, CATHERINE B

ART UNIT

PAPER NUMBER

2458

MAIL DATE

DELIVERY MODE

08/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 11/512,782</p>	<p>Applicant(s) DIETRICH, BRENDA</p>	
	<p>Examiner CATHERINE THIAW</p>	<p>Art Unit 2458</p>	

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

THE REPLY FILED 30 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: arguments presented are not persuasive (see continuation sheet).
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: See Continuation Sheet.

/Joseph E. Avellino/
Supervisory Patent Examiner, Art Unit 2458

Continuation of 13. Other: Applicants arguments dated 08/07/2009 have been fully considered but are not persuasive.

Applicants argue that Clark does not teach a conversion date, and that the combination of Clark and Gilberto would not teach or suggest Applicants claimed invention. The examiner respectfully disagrees:

Clark does not specify the activity associated with the date, used to sort emails in folders; Clark states "all folder which contain messages selected by date and time could be contain within a "date" sub-root folder at shown in Fig. 17" (col. 14, table 56). The names of folders "today", "yesterday" in Fig. 17 are merely an example of organizing emails. Clark also teaches that any content located in emails header, body, attachments can be used to sort emails into folders (col. 10, lines 4-19); Criteria related to keywords or related to dates could also be used in sorting emails (col. 14, bottom of table 56: ftKeyword, ftDate). Dates do not exclusively mean dates emails are received or sent, Clark teaches that a message summary associated with a folder can include shortcuts to messages, the shortcuts are identified by keys, for instance, a "TriggerDateTime" key is used to implement timed shortcuts that cause an action to be executed when the TriggerDate Time is reached (col. 15, lines 36-61). The dates as taught by Clark encompass any dates included in the messages, such as a conversion date.

Gilberto teachings are directed to submitting orders and tracking shipments status electronically. Users submit an order form, including fields related to date, such as date ordered, date requested (Fig. 14 and paragraph [0063], lines 1-5). Gilberto teaches that orders can be chronologically sorted by order date (Fig. 11A). It would have been obvious to a person with ordinary skills in the art at the time of the invention to combine the teachings of Clark and Gilberto by sorting the mail orders using the technique of Clark, and selecting the "requested date" of Gilberto as a criteria to organize the mails.

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

Clark teachings regarding sorting emails using keywords related to date (col. 14, bottom of table 56: ftDate) , and the teachings of Gilberto to sort emails according to the the date of order, as stated above, make it obvious for a person with ordinary skills in the art who would have known the teachings of Clark and the teachings of Gilberto to implement a method of tracking service orders according to the activity date, as disclosed in the present application.