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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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11/542,281

10/03/2006

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EXAMINER

CHIUSANO, ANDREW TSUTOMU

ART UNIT

PAPER NUMBER

2174

MAIL DATE

DELIVERY MODE

03/11/2014

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.

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/542,281	Applicant(s) LEVIN ET AL.	
	Examiner ANDREW T. CHIUSANO	Art Unit 2174	AIA (First Inventor to File) Status No

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

THE REPLY FILED 26 February 2014 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

NO NOTICE OF APPEAL FILED

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. 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 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____ 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.

c) ☐ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires _____ months from the mailing date of the prior Advisory Action or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.

Examiner Note: If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE FIRST RESPONSE TO APPLICANT'S FIRST AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). 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) or (c) 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 amendments 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.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

9. ☐ The affidavit or other evidence filed after 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).

10. ☐ The affidavit or other evidence filed after the date of filing the 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 of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

11. ☐ 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

12. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see note below.

13. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____

14. ☐ Other: _____.

STATUS OF CLAIMS

15. The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 36-56.

Claim(s) withdrawn from consideration: _____.

/DOON CHOW/ Supervisory Patent Examiner, Art Unit 2174	/ANDREW T CHIUSANO/ Examiner, Art Unit 2174
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Note for 3(a): The amendments to claims 44 and 53, "flagging said element, wherein said element is said insufficiently-defined element, and flagging said connector, wherein said connector is said insufficiently-defined connector, and said flagging of said element and said connector permits completion of said insufficiently-defined element and said insufficiently-defined connector respectively," raises new issues that would require further consideration and search.

Note for 3(c): The amendments to claims 36, 46, 49, and 52, "wherein the technical user interface is configured to be used to complete said insufficiently-defined element and said insufficiently-defined connector," does not overcome the current rejection. The terms "insufficiently-defined element" and "insufficiently-defined connector" appear to refer to non-executable elements and connectors, such as in fig. 2, step 240 and para. 0044. Completing a non-executable element and connector using the technical user interface is also claimed in claim 43. The rejection of this claim limitation would use the same rationale as the rejection of claim 43 in the final rejection dated 12/26/2013. Also see the arguments concerning Dunn in the previous final rejection.

Note for 12: With respect to applicant's arguments on the 35 U.S.C. 112, first paragraph rejection of claims 36-56, examiner again notes that the terms "insufficiently defined element" and "insufficiently-defined connector" appear nowhere in the specification. Even interpreting "insufficiently defined" to mean "non-executable," paragraph 44 and fig. 2 of the specification do not support, "designing a process, wherein ... said designing is performed using an on-technical user interface, and ... receiving information, wherein said information is configured to allow said insufficiently defined element and said insufficiently defined connector to be completed." Identifying and flagging non-executable connectors and elements 240 only occurs after the user checks in the completed process from the non-technical user interface in step 235. Nowhere does the specification disclose receiving information from the non-technical user interface to allow said insufficiently defined element and said insufficiently defined connector to be completed.

Examiner further notes that page 17 of applicant's arguments states, "... after the insufficiently-defined elements and connectors are identified by the non-technical user." The specification does not disclose the non-technical user identifying insufficiently-defined elements and connectors; the identification is performed by the system itself after the non-technical user checks in the completed process.

With respect to applicant's arguments on the 35 U.S.C. 103(a) rejections and Lovell, it is noted that the features upon which applicant relies (i.e., technical and non-technical users) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner agrees that the process disclosed in the specification can be distinguished from Lovell, but the distinguishing features are not claimed.

With respect to applicant's arguments on the 35 U.S.C. 103(a) rejections and Dunn, Dunn teaches flagging and completing "insufficiently-defined" or non-executable connector, because the open-ended connectors in Dunn require additional input to be executable. Applicant seems to be arguing that Dunn's open-ended connectors are not equivalent to the "insufficiently defined connector" because the connectors are not identified by the non-technical user then completed by the technical user. Technical and non-technical users are not claimed, and the non-technical user identifying the insufficiently-defined connectors is not supported by the specification.

With respect to applicant's arguments on claim 52, "transfer and flagging logic" is non-functional descriptive material. There is no functional difference between claims 36 and 52.