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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/140,649	06/17/2008	Ronald Patrick Doyle	RSW920080047US1 8152-0086	3868
52023	7590	12/16/2014	EXAMINER	
Cuenot, Forsythe & Kim, LLC 20283 State Road 7 Ste. 300 Boca Raton, FL 33498			MCCORMICK, GABRIELLE A	
			ART UNIT	PAPER NUMBER
			3629	
			NOTIFICATION DATE	DELIVERY MODE
			12/16/2014	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ibmptomail@iplawpro.com

Office Action Summary

Application No.
12/140,649

Applicant(s)
DOYLE ET AL.

Examiner
Gabrielle McCormick

Art Unit
3629

AIA (First Inventor to File)
Status
No

-- 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 MONTHS 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 1/28/2013.
 A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.
- 4) 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*

- 5) Claim(s) 1, 9-11, 19 and 20 is/are pending in the application.
5a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 6) Claim(s) _____ is/are allowed.
- 7) Claim(s) 1, 9-11 and 19-20 is/are rejected.
- 8) Claim(s) _____ is/are objected to.
- 9) Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) The specification is objected to by the Examiner.
- 11) 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).

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).

Certified copies:

- a) All b) Some** c) None of the:
- Certified copies of the priority documents have been received.
 - Certified copies of the priority documents have been received in Application No. _____.
 - 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) Notice of References Cited (PTO-892)
- 2) Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date _____
- 3) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 4) Other: _____

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

DETAILED ACTION

Status of Claims

1. This action is in reply to the appeal brief filed on January 28, 2013.
2. Claims 1, 9-11 and 19-20 are currently pending and have been examined.

Claim Rejections - 35 USC § 112

3. The following is a quotation of 35 U.S.C. 112(b):
4. (b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.
5. The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:
6. 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.
7. Claims 1, 11 and 20 are rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor, or for pre-AIA the applicant regards as the invention.
8. Claims 1, 11 and 20 recite basing a greenness metric upon a combination, including a location. The specification states that location may be related to cities/places that have varying regulations regarding environmental requirements, but the specification does not recite how the location itself impacts the metric or how to calculate a metric based on a location, therefore, it is unclear how a greenness metric is determined using a location, for example, the name of a city.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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10. Claims 1, 9-11 and 19-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In the instant invention, the claims are directed towards the concept of determining a greenness metric for a service. Determining a greenness metric for a service is considered a fundamental economic practice and is simply a series of mathematical formulations, therefore the claims are drawn to an abstract idea. The claims do not recite limitations that are "significantly more" than the abstract idea because the claims do not recite an improvement to another technology or technical field, an improvement to the functioning of the computer itself, or meaningful limitations beyond generally linking the use of an abstract idea to a particular technological environment. It should be noted the limitations of the current claims are performed by the generically recited processor. The limitations are merely instructions to implement the abstract idea on a computer and require no more than a generic computer to perform generic computer functions that are well-understood, routine and conventional activities previously known to the industry. Therefore, claims 1, 9-11 and 19-20 are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

11. The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 1, 9-11 and 19-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Crosby et al. (US Pub. No. 2003/0028527, hereinafter referred to as "Crosby") in view of Palanchian et al. (US Pub. No. 2009/0125436, hereinafter referred to as "Palanchian").

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- 13. Claims 1, 9, 11, 19 and 20:** Crosby discloses obtaining greenness metrics for companies providing services (P[0030]: "Environment" category; P[027]: each social responsibility category has a score (i.e., metric)); selecting a service provider (Fig. 2 and 7). Crosby discloses that the environment score is associated with locations for the company (numbers of superfund sites are locations associated with the company) and amount of waste produced, including emissions (P[0036]). Crosby does not disclose that the greenness metric is based on a power consumption and location of a *service*, or carbon offset with the service provider.
- 14.** Palanchian, however, discloses carbon footprint calculators that use location information (P[0055-0056]) and power consumption (P[0053]). Palanchian further discloses that a carbon footprint can be calculated for a corporation's (i.e., a service provider) offices, factories and buildings (P[0057]) and specific product lines (P[0064]), thus the carbon footprint is associated with the service. Further, carbon offsets may be purchased to compensate for the carbon footprint (P[0060] and [0063]). Additionally, business entities can share this information with their customers (P[0065]) and ratings are developed to demonstrate environmental compliance. (P[0081]). Palanchian's system is used by the service provider to create carbon footprint calculations, thus the metric is obtained by querying a service provider.
- 15.** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included basing a greenness metric on a power consumption and location of a service, and carbon offset with the service provider, as disclosed by Palanchian in the system disclosed by Crosby, for the motivation of providing a method of representing a company's products as being carbon neutral to consumer because of the favorable marketing value associated with such representations. (Palanchian; P[0065]).
- 16. Claim 10:** Crosby discloses querying a third party. (P[0006]: the system is customized to the user's criteria, thus the scores will be based on the system's (i.e., a third party) data for the service provider.

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Response to Arguments

Applicant's arguments, see Appeal Brief, filed January 28, 2013, with respect to the rejection(s) of claim(s) 1 under Crosby have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Crosby in view of Palanchian.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is 571-270-1828. The examiner can normally be reached on 7:30-5:00 EST; alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571-272-6782. 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.

/Gabrielle McCormick/
Primary Examiner, Art Unit 3629