



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

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes application details for Kenneth P. Weiss and examiner information for Immanuel, Isidora I.

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):

docketing@LALaw.com
CKent@LALaw.com

APPLE 1016

Page 1 of 20

Office Action Summary	Application No. 15/661,955	Applicant(s) Weiss, Kenneth P.	
	Examiner ISIDORA I IMMANUEL	Art Unit 3685	AIA 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 07/27/2017
 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) 1-28 is/are pending in the application.
5a) Of the above claim(s) 22-28 is/are withdrawn from consideration.
- 6) Claim(s) _____ is/are allowed.
- 7) Claim(s) 1-21 is/are rejected.
- 8) Claim(s) _____ is/are objected to.
- 9) Claim(s) See office action 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:
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) Notice of References Cited (PTO-892)
- 2) Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date 07/27/2017
- 3) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 4) Other: _____

Page 2 of 20

DETAILED ACTION

Acknowledgements

1. This office action is in response to the claims filed 07/27/2017.
2. Claims 1-21 are elected.
3. Claims 1-28 are pending.
4. Claims 22-28 are non-elected
5. Claims 1-21 have been examined.

Notice of Pre-AIA or AIA Status

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

Restriction/Election Acknowledgement

7. During a telephone conversation with Applicant's representative John Anastasi on 08/17/2017 a provisional election was made without traverse to prosecute the invention of Group 1, claims 1-21. Affirmation of this election must be made by applicant in replying to this Office action. Claims 22-28 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Examiner's Comments

8. Regarding claims 1, and 15, "code is generated... responsive to successful authentication...", and claim 10, "code is generated using..." are optional language because if there is no successful authentication the generating will not occur. The

limitations are optional language and therefore do not have patentable weight. *Ex parte Schulhauser*, Appeal No. 2013-007847 at 7-9 (P.T.A.B. April 28, 2016) See MPEP 2103(I)(c).

9. Regarding claim 1, with respect to claim language “interface configured to receive...”, “processors configured to retrieve...”, claims 6 and 20, “sensor is configured to capture...”, recites intended use and therefore does not have patentable weight. See MPEP 2114.

10. Regarding claims 2 and 16, “authentication code comprises a code...”, claims 8 and 15, “input comprising a personal...”, claim 9, “code comprises...”, and claim 10, “code is generated...” are nonfunctional descriptive material and therefore do not have patentable weight. See *In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2111.05.

11. Regarding claim 8, the language “code is generated...”, “input is received...”, claim 11, “account is communicated...”, and claim 12, “code are encrypted...”, does not disclose a positively recited step and therefore does not patentable weight. See MPEP 2103 (I) (C), MPEP 2114.

12. Regarding claim 13, the language “sensor is configured to capture...”, claim 14, “computer system comprises one or more...” is a structural limitation in a method claim and has no patentable weight. *Ex parte Pfeiffer*, 135 USPQ 31 (Bd. App. 1961).

Claim Rejections - 35 USC § 101

13. 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.

14. Claims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Subject Matter Eligibility Standard

15. When considering subject matter eligibility under 35 U.S.C. 101, it must be determined whether the claim is directed to one of the four statutory categories of invention, i.e., process, machine, manufacture, or composition of matter. If the claim does fall within one of the statutory categories, it must then be determined whether the claim is directed to a judicial exception (i.e., law of nature, natural phenomenon, and abstract idea), and if so, it must additionally be determined whether the claim is a patent-eligible application of the exception. If an abstract idea is present in the claim, any element or combination of elements in the claim must be sufficient to ensure that the claim amounts to significantly more than the abstract idea itself. Examples of abstract ideas include fundamental economic practices; certain methods of organizing human activities; an idea itself; and mathematical relationships/formulas. (*Alice Corporation Pty. Ltd. v. CLS Bank International, et al. US Supreme Court, No. 13-298, June 19, 2014*).

Analysis

16. In the instant case, claim 1 is directed to a system, claim 8 is directed to a method and claim 15 is directed to a storage medium.

17. The claims recite “receiving identification information...”, “retrieving account information...”, and “using the retrieved account information...” Additionally, the claim is directed towards a fundamental economic practice, in this case, authenticating a user

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.