



APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/271,801	03/01/2011	7900229	5266-03800	9386

44015 7590 02/09/2011
OPTV/MEYERTONS
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 947 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Vincent Dureau, Palo Alto, CA;



NOTICE OF ALLOWANCE AND FEE(S) DUE

44015 7590 11/02/2010

OPTV/MEYERTONS
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
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EXAMINER: HUYNH, SON P
ART UNIT: 2424
PAPER NUMBER:
DATE MAILED: 11/02/2010

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.

TITLE OF INVENTION: CONVERGENCE OF INTERACTIVE TELEVISION AND WIRELESS TECHNOLOGIES

Table with 7 columns: APPLN. TYPE, SMALL ENTITY, ISSUE FEE DUE, PUBLICATION FEE DUE, PREV. PAID ISSUE FEE, TOTAL FEE(S) DUE, DATE DUE

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

44015 7590 11/02/2010

**OPTV/MEYERTONS
 MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
 P.O. BOX 398
 AUSTIN, TX 78767-0398**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/271,801	10/15/2002	Vincent Dureau	5266-03800	9386

TITLE OF INVENTION: CONVERGENCE OF INTERACTIVE TELEVISION AND WIRELESS TECHNOLOGIES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	02/02/2011

EXAMINER	ART UNIT	CLASS-SUBCLASS
HUYNH, SON P	2424	725-046000

<p>1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).</p> <p><input type="checkbox"/> Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.</p> <p><input type="checkbox"/> "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.</p>	<p>2. For printing on the patent front page, list</p> <p>(1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____</p> <p>(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____</p> <p>3 _____</p>
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3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE _____ (B) RESIDENCE: (CITY AND STATE OR COUNTRY) _____

Please check the appropriate assignee category or categories (will not be printed on the patent) : Individual Corporation or other private group entity Government

<p>4a. The following fee(s) are submitted:</p> <p><input type="checkbox"/> Issue Fee</p> <p><input type="checkbox"/> Publication Fee (No small entity discount permitted)</p> <p><input type="checkbox"/> Advance Order - # of Copies _____</p>	<p>4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)</p> <p><input type="checkbox"/> A check is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).</p>
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5. Change in Entity Status (from status indicated above)

a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Table with columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO., EXAMINER, ART UNIT, PAPER NUMBER. Includes application details for Vincent Dureau and examiner HUYNH, SON P.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 947 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 947 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/271,801

Examiner

SON P. HUYNH

Applicant(s)

DUREAU, VINCENT

Art Unit

2424

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1. This communication is responsive to 3/6/08 and 6/9/08.
- 2. The allowed claim(s) is/are 1-32 that have been renumbered as 1-32.
- 3. 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 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)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

- 4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 - 5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
- 6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1. Notice of References Cited (PTO-892)
- 2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
- 4. Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 5. Notice of Informal Patent Application
- 6. Interview Summary (PTO-413), Paper No./Mail Date _____.
- 7. Examiner's Amendment/Comment
- 8. Examiner's Statement of Reasons for Allowance
- 9. Other _____.

/Son P Huynh/
Primary Examiner, Art Unit 2424

Allowable Subject Matter

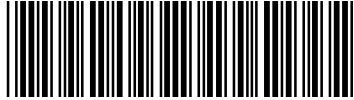
1. Claims 1-32 are allowed in view of the Board's decision on Appeal (pages 2-5) mailed 8/25/2010.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. 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.

/Son P Huynh/
Primary Examiner, Art Unit 2424

October 18, 2010

Index of Claims 	Application/Control No. 10271801	Applicant(s)/Patent Under Reexamination DUREAU, VINCENT
	Examiner Huynh, Son P	Art Unit 2424

✓	Rejected
=	Allowed

-	Cancelled
÷	Restricted

N	Non-Elected
I	Interference

A	Appeal
O	Objected

Claims renumbered in the same order as presented by applicant
 CPA
 T.D.
 R.1.47

CLAIM		DATE							
Final	Original	12/19/2006	05/17/2007	03/27/2008	10/18/2010				
1	1	✓	✓	A	=				
2	2	✓	✓	A	=				
5	3	✓	✓	A	=				
9	4	✓	✓	A	=				
10	5	✓	✓	A	=				
3	6	✓	✓	A	=				
4	7	✓	✓	A	=				
6	8	✓	✓	A	=				
11	9	✓	✓	A	=				
7	10	✓	✓	A	=				
12	11	✓	✓	A	=				
8	12	✓	✓	A	=				
13	13	✓	✓	A	=				
14	14	✓	✓	A	=				
15	15	✓	✓	A	=				
20	16	✓	✓	A	=				
16	17	✓	✓	A	=				
17	18	✓	✓	A	=				
19	19	✓	✓	A	=				
21	20	✓	✓	A	=				
18	21	✓	✓	A	=				
22	22	✓	✓	A	=				
24	23	✓	✓	A	=				
23	24	✓	✓	A	=				
25	25	✓	✓	A	=				
26	26	✓	✓	A	=				
27	27	✓	✓	A	=				
29	28	✓	✓	A	=				
30	29	✓	✓	A	=				
31	30	✓	✓	A	=				
28	31	✓	✓	A	=				
32	32	✓	✓	A	=				



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes sub-tables for EXAMINER, ART UNIT, PAPER NUMBER, NOTIFICATION DATE, and DELIVERY MODE.

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):

- patent_docketing@intprop.com
ptomhkg@gmail.com
rrankin@intprop.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VINCENT DUREAU

Appeal 2009-007211
Application 10/271,801
Technology Center 2400

Before ROBERT E. NAPPI, KENNETH W. HAIRSTON, and
MAHSHID D. SAADAT, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” shown on the PTOL-90A cover letter attached to this decision.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. §§ 6(b) and 134 from the final rejection of claims 1 to 32. We will reverse.

The disclosed invention relates to a method and system for using a user profile in an interactive television system. During a first user activity, a first device is used to update a user profile. A second user activity is initiated via a second device that is different from the first device. The user profile is accessed in response to the second user activity, and the first user activity affects a content of data transmitted to a user responsive to the second user activity (Figs. 1-3; Spec. 3-5, 13, 14, 21, 22, 24; Abstract).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A method for utilizing a user profile in an interactive television system, the method comprising:

updating a user profile responsive to a first user activity, the first user activity being initiated via a first device;

initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either

(i) the first user activity is related to television viewing and the second user activity is unrelated to television viewing, or

(ii) the first user activity is unrelated to television viewing and the second user activity is related to television viewing;

accessing the user profile in response to the second user activity; and

transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.

The prior art² relied upon by the Examiner in rejecting the claims on appeal is:

Herz	US 6,571,279 B1	May 27, 2003
Ellis	US 2005/0028208 A1	Feb. 3, 2005

The Examiner rejected claims 26 to 32 under 35 U.S.C. § 101 for non-statutory subject matter.

The Examiner rejected claims 1, 3, 4, 8, 12 to 14, 16, 20, 24 to 27, 29, 31, and 32 under 35 U.S.C. § 102(e) based upon the teachings of Ellis.

The Examiner rejected claims 2, 5 to 7, 9, 15, 17 to 19, 21, and 28 under 35 U.S.C. § 103(a) based upon the teachings of Ellis.

The Examiner rejected claims 10, 11, 22, 23, and 30 under 35 U.S.C. § 103(a) based upon the teachings of Ellis and Herz.

Turning first to the non-statutory subject matter rejection, the Examiner contends (Final Rej. 6) that the claimed subject matter is directed to a signal which is neither a process, machine, manufacture, nor composition of matter. Appellant argues (App. Br. 12) that the amended claim recites a “computer readable storage medium,” and that “a signal is not a storage medium.” We agree with Appellant that the amended claim is statutory because it is now directed to a tangible computer readable *storage* medium, and not to an intangible signal. Thus, the non-statutory subject matter rejection of claims 26 to 32 is reversed.

Turning next to the anticipation rejection, the Examiner contends (Final Rej. 7-9) that Ellis describes a first user activity (e.g., updating a user profile) that is initiated by a first device, and a second user activity (e.g.,

² The filing dates of the applied references are prior to the filing date of the subject application.

participating in a chat application) that is initiated by a second device, whereas, Appellant argues *inter alia* that

The interaction between the disparate activities is clear from the claims – the first activity affects the content received by the user in response to the second activity. Ellis nowhere discloses such a common profile and interaction between these two different types of activities as recited.

(App. Br. 12).

Thus, we have to determine whether Ellis describes any interaction between the first user activity and the second user activity.

Although Ellis describes updating a user profile responsive to a first user activity related to television viewing via a first device (e.g., a remote) (¶¶ 0024, 0123-0126, 0160, 0161), and initiating a second user activity unrelated to television viewing by participating in a chat application via a second device (e.g., a set top box) that differs from the first device (¶¶ 0020, 0179), Ellis is completely silent as to accessing “the user profile in response to the second user activity” (i.e., chat application) as required by all of the claims on appeal. Ellis is equally silent as to whether the first user activity of updating a user profile “affects a content of” data transmitted to a user “responsive to the second user activity” (i.e., chat application) as required by all of the claims on appeal. Thus, Appellant correctly argued that Ellis lacks a description of any interaction between the first user activity and the second user activity.

In summary, the anticipation rejection is reversed because each and every limitation in claims 1, 3, 4, 8, 12 to 14, 16, 20, 24 to 27, 29, 31, and 32 is not found either expressly or inherently in the cited reference to Ellis. *In re Crush*, 393 F.3d 1253, 1256 (Fed. Cir. 2004).

Appeal 2009-007211
Application 10/271,801

The obviousness rejections are reversed because Ellis and Herz, whether considered individually or in combination, neither teach nor suggest the inventions set forth in claims 2, 5 to 7, 9 to 11, 15, 17 to 19, 21 to 23, 28, and 30.

The decision of the Examiner is reversed.

REVERSED

babc

OPTV/MEYERTONS
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

I. REAL PARTY IN INTEREST

As evidenced by the assignment recorded at Reel/Frame 013412/0955, the subject application is owned by OpenTV, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware, and having its principal place of business at 275 Sacramento Street, San Francisco, CA 94111.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences known to Appellant.

III. STATUS OF CLAIMS

Claims 1-32 are pending. Claims 1-4, 6-9, 12-17, 19-21, 24-27, 29, and 31-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication 2005/0028208 (hereinafter "Ellis"). In addition, claims 2, 5-7, 9, 15, 17-19, 21 and 28 stand rejected under 35 U.S.C. § 103(a) over Ellis, and claims 10-11, 22-23, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of U.S. Patent 6,571,279 (hereinafter "Herz"). Finally, claims 26-32 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The following clear errors in the Examiner's rejection are noted.

The rejection of these claims is being appealed. A copy of claims 1-32 is included in the Claims Appendix attached hereto.

IV. STATUS OF AMENDMENTS

No unentered amendment to the claims has been filed after final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is directed to the use of a user profile in an interactive television system. The method includes updating a user profile in response to a first user activity initiated via a first device. A second user activity is then initiated via a second device that is different from the first device (e.g., page 14, first paragraph; FIG. 5 and related text beginning page 21). Only one of the first or second user activities is related to television viewing, either the first or the second, but not both. In response to the second user activity, the same user profile is accessed. Data is then transmitted to the user in response to the second user activity based at least in part on the user profile. Additionally, the first user activity affects a content of the data transmitted in response to the second user activity. (e.g., page 3, first paragraph; FIG. 6, and related text beginning page 22).

Independent claim 14 is directed to an interactive television system. The claimed system includes at least a remote unit (305), set-top box (12), and broadcast station (16). The claimed system is configured to update a user profile in response to a first user activity initiated via either the remote unit or the set-top box. A second user activity initiated via the other device (of the remote unit or the set-top box) (e.g., page 14, first paragraph; FIG. 5 and related text beginning page 21).. Only one of the first or second user activities is related to television viewing, either the first or the second, but not both. The system is further configured to access same user profile in response to the second user activity. Data is then transmitted to the user in response to the second user activity based at least in part on the user profile. Additionally, the first user activity affects a content of the data transmitted in response to the second user activity. (e.g., page 3, first paragraph; FIG. 6, and related text beginning page 22).

Independent claim 26 is directed to a computer readable storage medium comprising program instructions which are executable by a computing device to update a

user profile in response to a first user activity initiated via a first device. Detect a second user activity initiated via a second device that is different from the first device (e.g., page 14, first paragraph; FIG. 5 and related text beginning page 21). Only one of the first or second user activities is related to television viewing, either the first or the second, but not both. In response to the second user activity, the same user profile is accessed. Data is then transmitted to the user in response to the second user activity based at least in part on the user profile. Additionally, the first user activity affects a content of the data transmitted in response to the second user activity. (e.g., page 3, first paragraph; FIG. 6, and related text beginning page 22).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1, 3-4, 8, 12-14, 16, 20, 24-27, 29, and 31-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication 2005/0028208 (hereinafter “Ellis”).
2. Claims 2, 5-7, 9, 15, 17-19, 21 and 28 stand rejected under 35 U.S.C. § 103(a) over Ellis.
3. Claims 10-11, 22-23, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of U.S. Patent 6,571,279 (hereinafter “Herz”).
4. Claims 26-32 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

VII. ARGUMENT

1. Rejection of claims 1, 3-4, 8, 12-14, 16, 20, 24-27, 29, and 31-32 under 35 U.S.C. § 102(e).

In order for there to be anticipation, each and every element of the claimed invention must be present in a single prior reference. Applicant respectfully submits that each of the claims 1, 14 and 26 recite elements which are not taught, suggested, or implied by Ellis. Applicant's presently claimed invention recites features wherein a user's activities within one sphere may affect content received by the user while acting in another, unrelated, sphere. In particular, claim 1 recites a method which includes:

“updating a user profile responsive to a first user activity, the first user activity being initiated via a first device;
initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either
(i) the first user activity is related to television viewing and the second user activity is unrelated to television viewing, or
(ii) the first user activity is unrelated to television viewing and the second user activity is related to television viewing;
accessing the user profile in response to the second user activity; and
transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.”

As seen from the claim, both a first and second activity are recited. Only one of the recited activities relates to television viewing and the other is not related to television viewing. A given user profile is updated in response to the first activity. A second user activity is then initiated (from a different device) and the same user profile is accessed. Given the claim language, one of two things must be true. Either the first activity is related to television viewing and the second is not, or vice-versa. Finally, in response to the second user activity, data is transmitted to the user and the data is based at least in part

on the accessed user profile. However, the first user activity affects a content of the data transmitted to the user responsive to the second user activity. In other words, a user's prior activity in an unrelated sphere of activity via a different device may affect the data content received at a later time while engaged in an unrelated activity (where one is related to television viewing and the other is not). The cited art clearly does not disclose such features.

In the Final Office Action dated May 24, 2007, Ellis is cited as disclosing all of the features of claim 1. In the rejections, the examiner cites portions of Ellis which describe television and non-television related activities, and updating settings for each of these activities. For example, updating a television program guide's parental settings. Alternatively, updating settings of a chat application. However, Ellis nowhere discloses activities in one sphere affect content in another.

In Applicant's response dated August 9, 2006, Applicant pointed out that claim 1 recites a user profile is updated in response to one type of activity and the same profile is accessed in response to a second type of activity, etc., as discussed above. In the Office Action (paragraph 2) dated December 22, 2006, the examiner disagreed that such features are recited and simply cited the various portions of Ellis noted above. In contrast to the presently claimed invention, Ellis merely discloses a user may adjust settings of a particular application. For example, adjusting parental settings of a television program guide. With respect to non-television viewing related activity, Ellis discloses:

“A chat application may be implemented on a set top box. Chat applications are services that allow users to exchange chat messages with other users in real time. A chat application may be implemented as a stand-alone chat application or as part of another application such as a program guide application. Chat applications that may be implemented on user television equipment are described in DeWeese

et al. U.S. patent application Ser. No. 09/356,270, filed Jul. 16, 1999, filed concurrently herewith (Attorney Docket No. UV-101), which is hereby incorporated by reference herein in its entirety. A user may remotely adjust settings associated with a chat application such as the size of a chat window, an address book, or whether to filter potentially offensive messages. After the user adjusts chat settings with a remote access chat application running on a remote access device, the remote access chat application may remotely adjust the settings of a local chat application by, for example, exchanging one or more access communications with the local chat application over a remote access link.” (Ellis, para. 179).

There is nothing in this disclosure of Ellis which suggests the chat application settings affect the content received by the user while engaged in a television viewing related activity. Rather, in Ellis, the activities are distinct, and their respective settings are distinct. In the Final Office Action (page 3) dated May 24, 2007, the examiner seems again to disagree that the claims recite one type of activity may update a profile which affects content received while in engaged in a second unrelated activity. Given the examiner’s contention that such features are not recited, the examiner again (under the assumption such features are not recited) simply cites various portions of Ellis which disclose settings for a given application may be configured. For example, adjusting the parental control settings for television viewing affects content received while viewing television. Similarly, adjusting chat application settings may affect chat application functionality. In other words, the rejection assumes the claims do not recite the affect the first activity has on the second (unrelated) activity. Applicant reiterates that in fact the claims clearly recite such an interaction between disparate activities via the user profile. For example, claim 1 clearly recites:

- (i) updating the user profile responsive to the first user activity via a first device;

- (ii) initiating a second user activity via a different device – only one of the first and second user activities is related to television viewing, but not both.
- (iii) accessing the same user profile in response to the second activity;
- (iv) transmitting data to the user in response to the second user activity – wherein the data is based at least in part on the user profile and the first user activity affects a content of said data transmitted to the user responsive to the second user activity.

The interaction between the disparate activities is clear from the claims – the first activity affects the content received by the user in response to the second activity. Ellis nowhere discloses such a common profile and interaction between these two different types of activities as recited. Applicant has reviewed Ellis and all disclosure and examples therein simply describe adjusting setting for a given application. Therefore, the 35 U.S.C. § 102 rejection of each of the independent claims over Ellis is a clear error.

For at least the above reasons, each of the independent claims are patentably distinguishable from the cited art.

2. Rejection of claims 2, 5-7, 9, 15, 17-19, 21 and 28 under 35 U.S.C. § 103(a)

Each of claims 2, 5-7, 9, 15, 17-19, 21 and 28 stand rejected under 35 U.S.C. § 103(a) over Ellis. However, as each of these 35 U.S.C. § 103 rejections depends upon Ellis as discuss above, Applicant submits the 35 U.S.C. § 103 rejections are in error for at least the reasons given above in the discussion of Ellis.

3. Rejection of claims 10-11, 22-23, and 30 under 35 U.S.C. § 103(a).

Each of claims 10-11, 22-23, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of U.S. Patent 6,571,279 (hereinafter “Herz”). However, each of these 35 U.S.C. § 103 rejections depends upon the features in Ellis as discuss above. As discussed above, Applicant submits Ellis does not disclose the features as suggested and, accordingly, the combination of Ellis and Herz fails to disclose all of the features of claim 10-11, 22-23, and 30. Therefore, Applicant submits a prima facie case of obviousness has not been established and these 35 U.S.C. § 103 rejections are in error.

4. Rejection of claims 26-32 under 35 U.S.C. § 101.

Claims 26-32 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. With regard to these 35 U.S.C. § 101 rejections, the examiner previously rejected the claims which recited a carrier medium. The Description includes a signal as a type of carrier medium. In response to the rejection, Applicant amended the claims to recite a computer readable storage medium comprising program instructions. Applicant submits a signal is not a storage medium and believes the claims are statutory. In that same amendment (Response dated March 22, 2007, page 10), Applicant further requested a telephone interview to address any unresolved issues. It is believed such interviews are quite useful in clarifying examiner’s rejections when not entirely clear or, alternatively, to assist the examiner when possible. However, as noted above, Applicant’s requests for an interview during prosecution have not been granted.

VIII. CONCLUSION

For the foregoing reasons, it is submitted that the Examiner's rejection of claims 1-32 was erroneous, and reversal of the decision is respectfully requested.

The Commissioner is authorized to charge any fees that may be due to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-03800/RDR.

Respectfully submitted,

/Rory D. Rankin/

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Date: March 6, 2008

IX. CLAIMS APPENDIX

The claims on appeal are as follows.

1. A method for utilizing a user profile in an interactive television system, the method comprising:
 - updating a user profile responsive to a first user activity, the first user activity being initiated via a first device;
 - initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either
 - (i) the first user activity is related to television viewing and the second user activity is unrelated to television viewing, or
 - (ii) the first user activity is unrelated to television viewing and the second user activity is related to television viewing;
 - accessing the user profile in response to the second user activity; and
 - transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.
2. The method as recited in claim 1, further comprising updating said user profile in response to said second user activity.
3. The method as recited in claim 1, wherein said first user activity comprises an activity related to television viewing and the first device comprises a television receiver, and said second user activity is performed via a remote device that does not utilize the television receiver.
4. The method as recited in claim 1, wherein said first user activity is performed via a remote device that does not utilize a television receiver, and said second user activity

comprises an activity related to television viewing and the second device comprises a television receiver.

5. The method as recited in claim 1, further comprising:
determining the type of said second device;
accessing a device profile corresponding to the second device;
formatting said data to correspond to said device profile prior to transmitting the
data; and
transmitting the data to the second device.
6. The method as recited in claim 2, further comprising selecting non-requested data based on said user profile and transmitting said non-requested data.
7. The method as recited in claim 6, wherein said non-requested data comprises an advertisement targeted to the user.
8. The method as recited in claim 3 wherein said first user activity is via a set-top box, said remote device is a wireless mobile unit, and wherein said set-top box and mobile unit are configured to communicate with one another.
9. The method as recited in claim 5, further comprising storing the user profile at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the system.
10. The method as recited in claim 3, further comprising detecting a physical location of the second device; and selecting the data to be transmitted at least in part on the physical location of the second device.
11. The method as recited in claim 1, further comprising updating the user profile in response to detecting a physical location of a user's location trackable mobile unit.

12. The method as recited in claim 3, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

13. The method as recited in claim 1, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

14. An interactive television system comprising:

a remote unit;

a set-top box; and

a broadcast station coupled to convey a programming signal to the set-top box;

wherein the system is configured to:

update a user profile responsive to a first user activity, the first user activity being initiated via a first device corresponding to one of the remote unit and the set-top box;

detect a second user activity, the second user activity being initiated via a second device corresponding to one of the remote unit and the set-top box, the second device being different from the first device, wherein either

(i) the first user activity comprises an activity related to television viewing and the second user activity comprises an activity unrelated to television viewing, or

(ii) the first user activity comprises an activity unrelated to television viewing and the second user activity comprises an activity related to television viewing;

access the user profile in response to the second user activity; and

transmit data responsive to the second user activity, wherein the

transmitted data is based at least in part on the user profile, and

wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.

15. The system as recited in claim 14, wherein the system is configured to update the user profile in response to the second user activity.

16. The system as recited in claim 14, wherein the first device is the set-top box and the first user activity is performed via the set-top box, and wherein the second device is the remote unit and the second user activity is performed via the remote unit and does not utilize the set-top box.

17. The system as recited in claim 15, wherein the first device is the remote unit, said first user activity is via the remote unit and does not utilize the set-top box, and wherein the second device is the set-top box and the second user activity utilizes the set-top box.

18. The system as recited in claim 15, wherein the system is further configured to:
determine the type of the second device;
access a device profile corresponding to the second device;
format the data to correspond to the device profile prior to transmitting the data;
and
transmit the data to the second device.

19. The system as recited in claim 15, wherein the system is further configured to select non-requested data based on said user profile and transmit said non-requested data to a user.

20. The system as recited in claim 16 wherein said set-top box and remote unit are configured to communicate with one another.

21. The system as recited in claim 18, wherein the user profile is stored at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the television system.
22. The system as recited in claim 16, wherein the system is further configured to detect a physical location of the second device; and select the data to be transmitted at least in part on the detected location.
23. The system as recited in claim 14, wherein the system is further configured to update the user profile in response to detecting a physical location of a user's location trackable mobile unit.
24. The system as recited in claim 16, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.
25. The system as recited in claim 14, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
26. A computer readable storage medium comprising program instructions, or triggers to launch execution of program instructions, wherein the program instructions are executable by a computing device to:
 - update a user profile responsive to a first activity, the first user activity being initiated via a first device;
 - detect a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either
 - (i) the first user activity comprises an activity related to television viewing and the second user activity comprises an activity unrelated to television viewing, or

(ii) the first user activity comprises an activity unrelated to television viewing and the second user activity comprises an activity related to television viewing;

access the user profile in response to the second user activity; and
transmit data responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.

27. The computer readable storage medium as recited in claim 26, wherein the first user activity is performed via a set-top box, and the second user activity is performed via the remote unit and does not utilize the set-top box.

28. The computer readable storage medium as recited in claim 26, wherein the program instructions are further executable to:
determine the type of the second device;
access a device profile corresponding to the second device;
format the data to correspond to the device profile prior to transmitting the data;
and
transmit the data to the second device.

29. The computer readable storage medium as recited in claim 26, wherein the program instructions are executable to select non-requested data based on said user profile and transmit said non-requested data to a user.

30. The computer readable storage medium as recited in claim 26, wherein the program instructions are executable to select the data to be transmitted at least in part on the detected physical location of the second device.

31. The carrier medium as recited in claim 27, wherein the remote unit is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

32. The carrier medium as recited in claim 26, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

X. EVIDENCE APPENDIX

No evidence submitted under 37 CFR §§ 1.130, 1.131 or 1.132 or otherwise entered by the Examiner is relied upon in this appeal.

XI. RELATED PROCEEDINGS APPENDIX

There are no related proceedings known to Appellant.

35 U.S.C. § 103(a) as being unpatentable over Ellis in view of U.S. Patent 6,571,279 (hereinafter “Herz”). Finally, claims 26-32 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The following clear errors in the Examiner’s rejection are noted.

Generally speaking, Applicant’s presently claimed invention recites a method wherein a user’s activities within one sphere may affect content received by the user while acting in another, unrelated, sphere. In particular, claim 1 recites a method which includes

“updating a user profile responsive to a first user activity, the first user activity being initiated via a first device;
initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either
(i) the first user activity is related to television viewing and the second user activity is unrelated to television viewing, or
(ii) the first user activity is unrelated to television viewing and the second user activity is related to television viewing;
accessing the user profile in response to the second user activity; and
transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.”

As seen from the claim, both a first and second activity are recited. One of the activities is related to television viewing and the other is unrelated to television viewing. A particular user profile is updated in response to the first activity. A second user activity is then initiated (from a different device) and the user profile is accessed. Given the claim language, one of two things must be true. Either the first activity is related to television viewing and the second is not, or vice-versa. Finally, in response to the second user activity, data is transmitted to the user and the data is based at least in part on the

accessed user profile. However, the first user activity affects a content of the data transmitted to the user responsive to the second user activity. In other words, a user's prior activity may affect the data content received at a later time while engaged in an unrelated activity (where one is related to television viewing and the other is not). The cited art simply does not disclose such features.

In the final Office Action dated May 24, 2007, Ellis is cited as disclosing all of the features of claim 1. In the rejections, the examiner cites portions of Ellis which describe television and non-television related activities, and updating settings for each of these activities. For example, updating a television program guide's parental settings. Alternatively, updating settings of a chat application. However, Ellis nowhere discloses activities in one sphere affect content in another.

In Applicant's response dated August 9, 2006, Applicant pointed out that claim 1 recites a user profile is updated in response to one type of activity and the same profile is accessed in response to a second type of activity, etc., as discussed above. In the Office Action (paragraph 2) dated December 22, 2006, the examiner disagreed that such features are recited and simply cited the various portions of Ellis noted above.

In contrast to the presently claimed invention, Ellis merely discloses a user may adjust settings of a particular application. For example, adjusting parental settings of a television program guide. With respect to non-television viewing related activity, Ellis discloses:

“A chat application may be implemented on a set top box. Chat applications are services that allow users to exchange chat messages with other users in real time. A chat application may be implemented as a stand-alone chat application or as part of another application such as a program guide application. Chat applications that may be implemented on user television equipment are described in DeWeese et al. U.S. patent application Ser. No. 09/356,270, filed Jul. 16, 1999, filed concurrently herewith (Attorney Docket No. UV-101), which is hereby incorporated by reference herein in its entirety. A user may

remotely adjust settings associated with a chat application such as the size of a chat window, an address book, or whether to filter potentially offensive messages. After the user adjusts chat settings with a remote access chat application running on a remote access device, the remote access chat application may remotely adjust the settings of a local chat application by, for example, exchanging one or more access communications with the local chat application over a remote access link.” (Ellis, para. 179).

However, there is nothing in Ellis which suggests the chat application settings affect the content received by the user while engaged in television viewing related activity. Rather, in Ellis, the activities are distinct, and their respective settings are distinct. In the Final Office Action (page 3) dated May 24, 2007, the examiner seems again to disagree that the claims recite one type of activity may update a profile which affects content received while in engaged in a second unrelated activity. Given the examiner’s contention that such features are not recited, the examiner simply cites various portions of Ellis which disclose settings for a given application may be configured. Applicant not only reiterates that in fact the claim clearly does recite such an interaction between disparate activities via the user profile, but Applicant has at least twice (to no avail) requested a telephone interview with the examiner to discuss the matter.

Nevertheless, Ellis nowhere discloses such a common profile and interaction between these two different types of activities as recited. The 35 U.S.C. § 102 rejection of each of the independent claims over Ellis is a clear error.

Applicant submits the 35 U.S.C. § 103 rejections are in error for at least the reasons given above in the discussion of Ellis. With regard to the 35 U.S.C. § 101 rejections, Applicant previously amended the claims to recite a computer readable storage medium comprising program instructions – which were believed to address the examiner’s concerns. Applicant believes the claims to be statutory. In that same

amendment (Response dated March 22, 2007, page 10), Applicant further requested a telephone interview to address any unresolved issues. It is believed such interviews are quite useful in clarifying examiner's rejections when not entirely clear or, alternatively, to assist the examiner when possible. However, as noted above, Applicant's requests for an interview during prosecution have not been granted.

In light of the foregoing remarks, Applicant submits clear errors are present in the rejections and the application is in condition for allowance, and notice to that effect is respectfully requested. If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5266-03800/RDR.

Respectfully submitted,

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/271,801	10/15/2002	Vincent Dureau	5266-03800	9386
44015	7590	05/24/2007	EXAMINER	
OPTV/MEYERTONS			HUYNH, SON P	
RORY D. RANKIN			ART UNIT	PAPER NUMBER
P.O. BOX 398			2623	
AUSTIN, TX 78767-0398			MAIL DATE	DELIVERY MODE
			05/24/2007	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.

Office Action Summary	Application No. 10/271,801	Applicant(s) DUREAU, VINCENT	
	Examiner Son P. Huynh	Art Unit 2623	

-- 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 03 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 22 March 2007.
- 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) 1-32 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) 1-32 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) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

With respect to rejection under 35 U.S.C 101, Applicant argues the claims have been amended to meet the examiner's request in order to facilitate a speedy allowance (page 9, paragraph 2), this argument is respectfully traversed.

As indicated in the Office Action, dated 12/22/2006, page 5, the examiner stated "page 53 of the interim guidelines states "a computer readable medium encoded with a computer program...." On pages 5-6 of the office action, the examiner further stated "at page 24, lines 3-8, the specification defines a carrier medium my include transmission media or signals.... all signal claims are nonstatutory...".

Amended claims 26-30 recite "a computer readable storage medium comprising program instructions, or triggers to launch execution of program instructions..." Thus, the "computer readable storage medium comprising program instructions or trigger" does not necessarily define structural and functional **interrelationships** between a data structure/computer program and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus not statutory.

Art Unit: 2623

In addition, claims 31-32 recite, "the carrier medium" which is defined to include transmission media or signals. Therefore, it is non-statutory.

With respect to rejection under 35 U.S.C 102 (e), 35 U.S.C 103 (a), applicant argues there is nothing in Ellis which suggests the chat application settings affect the content received by the user while engaged in television viewing related activity. Rather, in Ellis, the activities are distinct, and their respective settings are distinct (page 10, paragraph 2).

In response, this argument is respectfully traversed. The claims do not recite these limitations, but instead, amended claim 1 recites updating a user profile responsive to a first user activity, the first user activity being initiated via a first device; initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either (i) the first user activity is related to television viewing and the second user activity is unrelated to television viewing, or (ii) the first user activity is unrelated to television viewing and the second user activity is related to television viewing.... accessing the user profile in response to the second user activity..."

Ellis discloses the user can either use the remote control at the user television equipments or the remote access device such as PDA, palmtop computer, or a device at neighbor home and access his or her personal program guide setting, or to generate activities such as select to tune to a channel, browse the web, select a chat application, select only shopping, adjusting the settings of user profile including settings of program

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schedule recording settings, favorite channel settings, chat application settings, web browser setting, shopping application settings, etc. (see include, but is not limited to, paragraphs 0029, 0071, 0120 –0126, 0159, 0176-0180). Thus, the user activities such as settings parental control for web browser, shopping, chat, etc. is read on the claimed user activity unrelated to television viewing; user activities such as setting reminder, setting parental control to display program listings, etc. is read on user activity related to television viewing.

Ellis further discloses in response user activity such as browsing a web, shopping, select to view a program listings, select to view favorite channel, select to enter the chat, etc. the data is provided/displayed to the user according to the user previously activities of parental control settings, favorite channels setting, recording schedule setting, or stock ticker settings, etc. for example blocking the display of potentially objectionable program listings, block particular web page, block a chat message, display only favorite channels, etc. according to the previous settings when the user select to display a program listings, web page, chat, favorite channel, etc. (see include, but is not limited to, paragraphs 0024-0026, 0029, 00870099, 0110, 0124, 0126, 0129, 0159-0162, 0176, 0178-0180, incorporated by reference 2005/0251827, paragraphs 0088, 0103-0105, 0114; incorporated by reference 2005/0262542, paragraphs 0075, 0077, 0083, 0096). Thus, the added limitation of “the first user activity affects a content of said data transmitted to the user response to the second user activity” is broadly interpreted as the user activity of adjusting the settings of parental control, favorite channel, web browser, shopping, etc. allows to block and/or display

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particular data when the user selects to program listings, selects to shop, select to chat, etc.

For the reason given above, rejections on claims 1-32 are analyzed as discussed below.

Claim Rejections - 35 USC § 101

2. 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.

3. Claims 26-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 26-32 recite "a computer readable storage medium comprising program instructions, or triggers to launch execution of program instructions" is directed to non-statutory subject matter.

Page 53 of the interim guideline states that "computer readable medium encoded with a computer program...is thus statutory". The "computer readable storage medium comprising program instructions, or triggers..." does not necessarily define structural and functional **interrelationships** between a data structure/computer program and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus not statutory.

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In addition, at page 24, lines 3-8, the specification defines a carrier medium may include transmission media or signals used in broadcast systems and otherwise such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as a network and/or a wireless link. According to Interim guidelines, Pages 55-56, all signal claims are nonstatutory because a signal is neither a process ("actions"), machine, manufacture nor composition of matter (i.e., a tangible "thing").

Claim 26 recites limitation "a computer readable storage medium comprising program instructions, or triggers to launch execution of program instructions, wherein the program instructions are executable by a computer device to" should be replaced as – a computer readable storage medium encoded with computer executable instructions, being executed by a computing device to—

Applicant should also state on the record that "signal" is not being covered by the claims.

Claim Rejections - 35 USC § 102

4. 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

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3- 4, 8, 12-14, 16, 20, 24-27, 29, 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 2005/0028208) (incorporated by references US 2005/0251827 and US 2005/0262542 in their entirety).

Regarding claim 1, the claimed method for utilizing a user profile in an interactive television system is met by Ellis's disclosure as follow:

“updating a user profile responsive to a first user activity, the first user activity being initiated via a first device” is broadly met by adjusting the settings of user profiles including settings of program schedule recording settings, favorite channel settings, chat application settings, web browser setting, shopping application settings, or parental control settings, etc. via either user television equipment (22) or the remote program guide access device (24), microphone, or device at neighbor home, or at any location outside the home –see include, but is not limited to, par. 0024-par. 0027; par. 0081; par. 0138; par. 0159-par. 0162; par. 0179; par. 0213, 0218; figures 2d-4, US 2005/0251827, paragraphs 0097, 0103, 0105; US 2005/0262542, paragraphs 0075-0077, 0083);

“initiating a second user activity, the second user activity being initiated via a second device which is different from the first device wherein either (i) the first user activity is related to television viewing, and the second user activity is unrelated to television viewing” is broadly met by the settings such as selecting program guide

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listings, parental control listing, program recording listings, shopping application, chat application, etc. via either user television equipment (22) or remote program guide access device (24), or microphone, etc. wherein the remote program guide access device (24) and the user television equipment (including remote control locally at the user television equipment) are different devices (figures 3-5, 19), wherein the first user activity and second user activity is either met by activity of settings program schedule recording, favorite channels, web browser, activities to select program guide listing, chat application, or shopping, etc. (see including, but are not limited to, paragraphs 0015, 0024-0025, 0071, 0020, 0176-0180); "activity is unrelated television viewing" is interpreted as activity of shopping application settings, email settings, chat application settings, web browser application settings, or browse a web page, shopping, or chat, etc. and the "actively is related to television viewing" is interpreted as activities of program schedule recording settings, favorite channel settings, or select to display program guide listings, etc.

Ellis further discloses the user may adjust the settings (see including, but are not limited to, paragraphs 0015, 0020, 0024-0026, 0120-0127, 0137, 0159-0166) and blocking and/or displaying particular program listings, messages, favorite programs, channels, etc. in accordance to the settings (see include, but is not limited to, paragraphs 0159-0162, 0176-0180), it is inherent that the user profile is accessed in response to the second user activity so that the data is filtered/blocked/customized in according to the settings;

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“transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile” is broadly met by transmitting/providing the program guide data, program content, Internet data, or chat communication, etc. responsive to user settings of program scheduled recording, favorite channel settings, web browser settings, chat application settings, etc. such as filtering and transmitting particular program guide data, Internet data, chat communication, etc. to the user responsive to the settings, wherein the particular program guide data, particular program, particular Internet data, chat communication (messages), particular service, etc. is transmitted is based at least in part on the user profile (which including all the settings) – see including, but are not limited to, paragraphs 0025, , 0029, 0099, 0101, 0116- 0118, 0125- 0126, 0159-0162, 0176-0179), and wherein the first activity affects a content of the data transmitted to the user responsive to the second activity is met by activity of settings used to filter/block, customize the content of data transmitted to the user responsive to user activity such as select to display program guide data, program content, chat message, web content, or stock ticker, etc. (see include, but is not limited to, paragraphs 0024-0026, 0029, 00870099, 0110, 0124, 0126, 0129, 0159-0162, 0176, 0178-0180, incorporated by reference 2005/0251827, paragraphs 0088, 0103-0105, 0114; incorporated by reference 2005/0262542, paragraphs 0075, 0077, 0083, 0096).

Regarding claim 3, Ellis discloses a method as discussed in the rejection of claim 1.

Furthermore, the claimed feature of “first user activity comprises an activity related to

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television viewing and the first device comprises a television receiver” is met by activity of program schedule recording settings, favorite program recording setting, or parental control settings for television data, etc. that set to a particular channel for receiving, recording, or particular data to be displayed/blocked, etc. and the first device comprises user television equipment that receives television (see including, but are not limited to, figures 3-4, paragraphs 0071, 0075, 0129, US 2005/0251827, paragraphs 0096, 0103-0105); the claimed feature of “second activity is performed via a remote device that does not utilize the television receiver” is broadly met by activity of selecting to browse/receive/display a web site, e-mail, parental control, chat message, etc. using the remote program guide access device (24), microphone, etc. (see including, but are not limited to, figures 2b, 2d, 5-6, paragraphs 0099-0101, 0142, 0176-0179).

Regarding claim 4, Ellis discloses a method as discussed in the rejection of claim 1. Additionally, the claimed feature of “first user activity is performed via a remote device that does not utilize the television receiver” is broadly met by activity of adjusting the settings web browser, settings of shopping application, settings of parental control for web browser, or settings of stock ticker, etc. using the remote program guide access device (24), microphone (see include, but is not limited to, figures 2b, 2d, 5-6, paragraphs 0099, 0142); the claimed feature of “second user activity comprises an activity related to television viewing activity and the second device comprises a television receiver” is met by activity of selecting of program, channel, to tune to, to record, to block, or selecting to display program guide listings, favorite channel, etc. and

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the second device comprises user television equipment (22) that receives television – (see include, but is not limited to, figures 3-4, paragraphs 0159, 0162).

Regarding claim 8, Ellis discloses a method as discussed in the rejection of claim 3. Ellis further discloses the first user activity is via set top box (figure 3-4), the remote device is a wireless mobile unit (par. 0092), wherein the set top box and mobile unit (24) are configured to communicate with one another (see include, but is not limited to, figures 2c, 3-4).

Regarding claim 12, Ellis discloses a method as discussed in the rejection of claim 3. Ellis further discloses the remote device is a personal digital assistance, a portable computer system (par. 0092).

Regarding claim 13, Ellis discloses a method as discussed in the rejection of claim 1. Ellis further discloses the user profile is based on data obtained in a passive manner, active manner, or both (e.g. settings in the profile is obtained by user input information- par. 0136, par. 0124, par. 0161-par. 0162).

Regarding claim 14, the limitations of the claimed system correspond to the limitations of the method as discussed in the rejection of claim 1, and are analyzed as discussed with respect to the rejection of claim 1, wherein the claimed "remote unit" is met by the remote program guide access device (24) or any device used outside the home; the

claimed. "set top box" is met user television equipment (22); and "broadcast station" is met by the main facility (12) or television distribution facility (16) – figures 1-5.

Regarding claims 16, 20,24-25, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 3, 8, 12-13, and are analyzed as discussed with respect to the rejection of claims 3, 8, 12-13.

Regarding claims 26-27, 31-32, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claims 1, 3, 12-13, and are analyzed as discussed with respect to the rejections of claims 1,3,12-13.

Regarding claim 29, the additional limitation of "select non-requested data based on said user profile and transmitted said non-requested data to a user" is interpreted as program guide data is transmitted and displayed according to preference profiles including the settings –see include, but is not limited to, par. 0123, par. 0126, par. 0129, par. 0161-par. 0162)

Claim Rejections - 35 USC § 103

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

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(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.

7. Claims 2, 5-7, 9, 15,17-19, 21 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 1, 14, 26 above.

Regarding claim 2, Ellis teaches a method as discussed in the rejection of claim 1. Ellis further discloses the information regarding user's activities such as pay program account information or information regarding programs that have been purchased and viewed using locally generated authorization techniques (see include, but is not limited to, paragraph 0070, lines 12-17, paragraph 0186). However, Ellis does not explicitly disclose the updating the user profile in response to the user activity. Official Notice is taken that updating a user profile using user's activity/behavior is well known in the art. For example, updating user profile/user preferences in response to data collected by user's activities, selection habits, selection behaviors, or selection history, etc. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis with the well-known teaching of updating user profile in response to user activity in order to improve efficiency in targeting data to user based on user profile, thereby allowing user to locate user's desired data easily.

Regarding claim 5, Ellis discloses a method as discussed in the rejection of claim 1. Furthermore, the claimed limitation of "formatting data corresponding to the device prior

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to transmitting the data and transmitting the data to the second device is interpreted as Ellis' disclosure of formatting/filtering data suitable for presentation on the particular device – par. 0109-par. 0110, par. 0123, par. 0126). Ellis further discloses if link 19 is an Internet link, for example, program guide functionality may be accessed by, for example, using HTTP.... (paragraphs 0104-0105). Appropriate differences in presentation may occur depending on the interface devices used in user television equipment 22 and remote program guide access device 24 (paragraphs 0108-0108). Ellis further discloses assigning name for each device such as master/primary or slave, etc. The master device is able to control setting of all slave devices (par. 0211-par. 0217). It would have been obvious to one of ordinary skill in the art that the type of the second device (microphone, master, slave, PDA, etc.) is determined so that an appropriate format of presentation is provided to the device and the device profile (e.g. master/primary or slave, etc.) is accessed and data is formatted to correspond to the device profile (e.g. data is formatted/filter based on the device set of master or slave or based on the device capability) in order to provide most suited format/information to the device thereby improve the services.

Regarding claim 6, the additional limitation of “selecting non-requested data based on the user profile and transmitting non-requested data” is interpreted as Ellis' disclosure of program guide data is transmitted and displayed according to preference profiles including the settings – see include, (but is not limited to, par. 0123, par. 0126, par. 0129, par. 0161-par. 0162).

Regarding claim 7, the additional limitation of “non-requested data comprises an advertisement targeted to the user” is interpreted as Ellis' disclosure of program guide data comprises program title, description, etc. of the program (advertisement for program) that provided to user based on user profile which including the settings – par. 0123, par. 0126, par. 0161-par. 0163, par. 0067).

Regarding claim 9, Ellis further discloses storing the user profile (including the settings), at one or more of a television broadcast station (16), user set top box, or other remote location configured to communicate within the system (par. 0124, par. 0161-par. 0162).

Regarding claims 15, 18-19, 28 and 21 the additional limitations of the claimed system and claimed carrier medium comprising program instructions respectively, correspond to the additional limitations of the method as claimed in claims 2, 5-7, 9 and are analyzed as discussed with respect to the rejection of claims 2, 5-7, and 9.

Regarding claim 17, the additional limitation of the system as claimed correspond to the additional limitations of the method as claimed in claim 4, and are analyzed as discussed with respect to the rejection of claim 4.

8. Claims 10-11, 22-23, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 3, 15, 26 above, and further in view of Herz et al. (US 6,571,279).

Regarding claim 10, Ellis teaches a method as discussed in the rejection of claim 3. Ellis further discloses the remote device is mobile device such as portable computer, PDA, handheld personal computer, etc. (par. 0092), and selecting data to transmit to the remote device (figures 2-5). However, Ellis does not specifically disclose detecting a physical location of the second device, and selecting the data to be transmitted at least in part on the physical location of the second device.

Herz discloses detecting a physical location of the mobile device such as cellular phone, and selecting data to be transmitted at least in part on the physical location of the mobile device (col. 3, line 34-col. 4, line 67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience, as measured by location information systems (abstract).

Regarding claim 11, Ellis discloses a method as discussed in the rejection of claim 1. Ellis further discloses updating user profile (including the settings) – see including, but are not limited to, figure 19; par. 0020, par. 0136; par. 0155-par. 0162). However, Ellis does not specifically disclose updating the user profile in response to detecting a physical location of a user location trackable mobile unit.

Herz discloses updating the user profile in response to detecting a physical location of a user location trackable mobile unit (col. 4, lines 1-65, col. 18, lines 34-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience (abstract).

Regarding claims 22-23, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 10-11, and are analyzed as discussed with respect to the rejection of claims 10-11.

Regarding claim 30, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claim 10, and are analyzed as discussed with respect to the rejections of claim 10.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Paulo et al. (US 2003/0177504 A1) discloses system and method for synchronizing interaction of a communication network with a broadcasting network.

Schumacher et al. (US 6,754,907) discloses remote control of video on demand system.

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Shteyn (US 6,611,654) discloses time and location driven personalized TV.

Blake (US 2003/0031465) discloses schedule system with enhanced recording capability.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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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.

/SPH/

May 17, 2007



SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER

IN THE CLAIMS

Please amend claims 1, 14, and 26-32 as indicated below.

1. (Currently Amended) A method for utilizing a user profile in an interactive television system, the method comprising:
 - updating a user profile responsive to a first user activity, the first user activity being initiated via a first device;
 - initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either
 - (i) the first ~~or the second~~ user activity ~~comprises an activity is~~ related to television viewing and the second user activity ~~other of the first and the second user activities~~ ~~comprises an activity is~~ unrelated to television viewing, or
 - (ii) the first user activity is unrelated to television viewing and the second user activity is related to television viewing;
 - accessing the user profile in response to the second user activity; and
 - transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.

2. (Previously Presented) The method as recited in claim 1, further comprising updating said user profile in response to said second user activity.

3. (Previously Presented) The method as recited in claim 1, wherein said first user activity comprises an activity related to television viewing and the first device comprises a television receiver, and said second user activity is performed via a remote device that does not utilize the television receiver.

4. (Previously Presented) The method as recited in claim 1, wherein said first user activity is performed via a remote device that does not utilize a television receiver, and said second user activity comprises an activity related to television viewing and the second device comprises a television receiver.
5. (Previously Presented) The method as recited in claim 1, further comprising:
determining the type of said second device;
accessing a device profile corresponding to the second device;
formatting said data to correspond to said device profile prior to transmitting the data; and
transmitting the data to the second device.
6. (Original) The method as recited in claim 2, further comprising selecting non-requested data based on said user profile and transmitting said non-requested data.
7. (Original) The method as recited in claim 6, wherein said non-requested data comprises an advertisement targeted to the user.
8. (Previously Presented) The method as recited in claim 3 wherein said first user activity is via a set-top box, said remote device is a wireless mobile unit, and wherein said set-top box and mobile unit are configured to communicate with one another.
9. (Original) The method as recited in claim 5, further comprising storing the user profile at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the system.
10. (Previously Presented) The method as recited in claim 3, further comprising detecting a physical location of the second device; and selecting the data to be transmitted at least in part on the physical location of the second device.

11. (Original) The method as recited in claim 1, further comprising updating the user profile in response to detecting a physical location of a user's location trackable mobile unit.

12. (Previously Presented) The method as recited in claim 3, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

13. (Original) The method as recited in claim 1, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

14. (Currently Amended) An interactive television system comprising:
a remote unit;
a set-top box; and
a broadcast station coupled to convey a programming signal to the set-top box;
wherein the system is configured to:
 update a user profile responsive to a first user activity, the first user activity being initiated via a first device corresponding to one of the remote unit and the set-top box;
 detect a second user activity, the second user activity being initiated via a second device corresponding to one of the remote unit and the set-top box, the second device being different from the first device, wherein either
 (i) the first or the second user activity comprises an activity related to television viewing and the second user activity other of the first and the second user activities comprises an activity unrelated to television viewing, or
 (ii) the first user activity comprises an activity unrelated to television viewing and the second user activity comprises an activity related to television viewing;
 access the user profile in response to the second user activity; and

transmit data responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.

15. (Previously Presented) The system as recited in claim 14, wherein the system is configured to update the user profile in response to the second user activity.

16. (Previously Presented) The system as recited in claim 14, wherein the first device is the set-top box and the first user activity is performed via the set-top box, and wherein the second device is the remote unit and the second user activity is performed via the remote unit and does not utilize the set-top box.

17. (Previously Presented) The system as recited in claim 15, wherein the first device is the remote unit, said first user activity is via the remote unit and does not utilize the set-top box, and wherein the second device is the set-top box and the second user activity utilizes the set-top box.

18. (Previously Presented) The system as recited in claim 15, wherein the system is further configured to:

determine the type of the second device;
access a device profile corresponding to the second device;
format the data to correspond to the device profile prior to transmitting the data;
and
transmit the data to the second device.

19. (Original) The system as recited in claim 15, wherein the system is further configured to select non-requested data based on said user profile and transmit said non-requested data to a user.

20. (Previously Presented) The system as recited in claim 16 wherein said set-top box and remote unit are configured to communicate with one another.

21. (Original) The system as recited in claim 18, wherein the user profile is stored at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the television system.

22. (Previously Presented) The system as recited in claim 16, wherein the system is further configured to detect a physical location of the second device; and select the data to be transmitted at least in part on the detected location.

23. (Original) The system as recited in claim 14, wherein the system is further configured to update the user profile in response to detecting a physical location of a user's location trackable mobile unit.

24. (Original) The system as recited in claim 16, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

25. (Original) The system as recited in claim 14, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

26. (Currently Amended) A ~~carrier~~ computer readable storage medium comprising program instructions, or triggers to launch execution of program instructions, wherein the program instructions are executable by a computing device to:

update a user profile responsive to a first activity, the first user activity being initiated via a first device;

detect a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either

(i) the first ~~or the second~~ user activity comprises an activity related to television viewing and the second user activity ~~other of the first and~~

~~the second user activities~~ comprises an activity unrelated to television viewing, or

(ii) the first user activity comprises an activity unrelated to television viewing and the second user activity comprises an activity related to television viewing;

access the user profile in response to the second user activity; and
transmit data responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.

27. (Currently Amended) The ~~earlier~~ computer readable storage medium as recited in claim 26, wherein the first user activity is performed via a set-top box, and the second user activity is performed via the remote unit and does not utilize the set-top box.

28. (Currently Amended) The ~~earlier~~ computer readable storage medium as recited in claim 26, wherein the program instructions are further executable to:
determine the type of the second device;
access a device profile corresponding to the second device;
format the data to correspond to the device profile prior to transmitting the data;
and
transmit the data to the second device.

29. (Currently Amended) The ~~earlier~~ computer readable storage medium as recited in claim 26, wherein the program instructions are executable to select non-requested data based on said user profile and transmit said non-requested data to a user.

30. (Currently Amended) The ~~earlier~~ computer readable storage medium as recited in claim 26, wherein the program instructions are executable to select the data to be transmitted at least in part on the detected physical location of the second device.

31. (Currently Amended) The carrier ~~computer readable storage~~ medium as recited in claim 27, wherein the remote unit is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

32. (Currently Amended) The carrier ~~computer readable storage~~ medium as recited in claim 26, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

REMARKS

Claims 1-32 were pending. Claims 1, 14 and 26-32 have been amended. Therefore, claims 1-32 remain pending subsequent entry of the present amendment.

In the present Office Action, a new rejection is raised against claims 26-32. In particular, claims 26-32 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. While Applicant does not necessarily agree with the rejection, Applicant has amended the claims in a manner believed to meet the examiner's request in order to facilitate a speedy allowance.

In the present Office Action, claims 1-4, 6-9, 12-17, 19-21, 24-27, 29, and 31-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ellis et al. (US 2005/0028208, hereinafter "Ellis") – including the documents US 2005/0251827 and US 2005/0262542 which are incorporated by reference in Ellis.

In addition to the above, claims 2, 5-7, 9, 15, 17-19, 21 and 28 stand rejected under 35 U.S.C. § 103(a) over Ellis, and claims 10-11, 22-23, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of Herz et al. (US 6,571,279, hereinafter "Herz"). Applicant traverses the above rejections and requests reconsideration.

Applicant appreciates the examiner's careful consideration of the present application. However, it appears particular features of the independent claims are not being properly read and/or understood. In particular, the independent claims require that the first activity and second activity be related to different activities. While Applicant believes this to be clear, the Applicant has nevertheless amended the claims to further clarify this feature.

Given the above explanation, and clarification, it is believed clear that the cited art does not disclose all of the recited features. While Ellis discloses activities related to

television viewing (e.g., program guide, recording, etc.) and non-television viewing related activities (e.g., web browsing, etc.), there is no intersection between the two as recited.

For example, Ellis discloses a user may engage in a first television related activity (e.g., adjusting parental settings of a television program guide) which affect a second television related activity (settings affect television programs permitted). With respect to non-television viewing related activity, Ellis discloses a user may adjust settings associated with a chat application (non-television viewing related). After the user adjusts chat settings with a remote access chat application running on a remote access device, the remote access chat application may remotely adjust the settings of a local chat application by, for example, exchanging one or more access communications with the local chat application over a remote access link.” (Ellis, para. 179). In other words, the chat application related activity may affect other chat application related activities. However, there is nothing in Ellis which suggests the chat application settings affect the content received by the user while engaged in television viewing related activity. Rather, in Ellis, the activities are distinct, and their respective settings are distinct.

Applicant submits both the prior and present claims are distinguished from the cited art, taken either singly or in combination.

Given the continued examinations in the present application, Applicant submits a telephone interview is most appropriate should the examiner be inclined to maintain the present rejections. The below signed representative can be reached at (512) 853-8866.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time are necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-03800/RDR.

Respectfully submitted,

/ Rory D. Rankin /

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Date: March 22, 2007



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/271,801	10/15/2002	Vincent Dureau	5266-03800	9386

44015 7590 12/22/2006
OPTV/MEYERTONS
RORY D. RANKIN
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AUSTIN, TX 78767-0398

EXAMINER

HUYNH, SON P

ART UNIT PAPER NUMBER

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

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

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No. 10/271,801	Applicant(s) DUREAU, VINCENT	
Examiner Son P. Huynh	Art Unit 2623	

-- 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 03 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 11 September 2006.
- 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) 1-32 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) 1-32 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) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/14/06 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues claim 1 recites a particular user profile is updated in response to one type of activity, and the same profile is then accessed in response to a second type of activity. Data is then transmitted to the user in response to the second activity and the data is based at least in part on the same profile (page 8, paragraph 5, line 6-page 9, line 1).

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In response, the Examiner respectfully disagrees. Claim 1 does not recite "a particular user profile is updated in response to one type of activity, and the same profile is then accessed in response to a second type of activity. Data is then transmitted to the user in response to the second activity and the data is based at least in part on the same profile". Instead, claim 1 recites updating a user profile responsive to a first user activity, the first user activity being initiated via a first device; initiating a second user activity, the second user activity being initiated via a second device which is different from the first device.... accessing the user profile in response to the second user activity..."

Applicant further argues claim 1 provides that one of these activities is television related and the other is not television related. Ellis nowhere discloses such an interaction between these two different types of activities (page 9, lines 2-5).

In response, this argument is respectfully traversed. Claim 1 recites "either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing". Ellis discloses user activity such as adjusting parental control settings for television program, for web browser function, recording schedule settings, favorite channel settings, shopping application settings, stock ticker setting, chat application settings, etc., (see include, but is not limited to, paragraphs 0029, 0071, 0120 –0126, 0159, 0176-0180). Thus, the user activities such as settings parental control for web browser, shopping, chat, etc. is read on the claimed user activity

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unrelated to television viewing; user activities such as setting reminder, setting parental control to display program listings, etc. is read on user activity related to television viewing.

Applicant further argues Ellis does not disclose the new added limitation in independent claims 1, 14, 26 "the first user activity affects a content of said data transmitted to the user responsive to the second user activity" (page 9, lines 1-5).

In response, this argument is respectfully traversed. Ellis discloses in response user activity such as browsing a web, shopping, select to view a program listings, select to view favorite channel, select to enter the chat, etc. the data is provided/displayed to the user according to the user previously activities of parental control settings, favorite channels setting, recording schedule setting, or stock ticker settings, etc. for example blocking the display of potentially objectionable program listings, block particular web page, block a chat message, display only favorite channels, etc. according to the previous settings when the user select to display a program listings, web page, chat, favorite channel, etc. (see include, but is not limited to, paragraphs 0024-0026, 0029, 00870099, 0110, 0124, 0126, 0129, 0159-0162, 0176, 0178-0180, incorporated by reference 2005/0251827, paragraphs 0088, 0103-0105, 0114; incorporated by reference 2005/0262542, paragraphs 0075, 0077, 0083, 0096). Thus, the added limitation of "the first user activity affects a content of said data transmitted to the user response to the second user activity" is broadly interpreted as the user activity of adjusting the settings of parental control, favorite channel, web browser, shopping, etc.

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allows to block and/or display particular data when the user selects to program listings, selects to shop, select to chat, etc.

For the reason given above, rejections on claims 1-32 are analyzed as discussed below.

Claim Rejections - 35 USC § 101

3. 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.

4. Claims 26-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 26-32 recite "a carrier medium" is directed to non-statutory subject matter.

Page 53 of the interim guideline states that "computer readable medium encoded with a computer program...is thus statutory". carrier medium is not necessarily computer readable medium, and program instructions is not necessarily computer program. Thus, there is no structural and functional interrelationships between the program instructions and computer component which permit the program instruction's functionality to be realized. Thus, they are not statutory.

In addition, at page 24, lines 3-8, the specification defines a carrier medium my include transmission media or signals used in broadcast systems and otherwise such as

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electrical, electromagnetic, or digital signals, conveyed via a communication medium such as a network and/or a wireless link. According to Interim guidelines, Pages 55-56, all signal claims are nonstatutory because a signal is neither a process ("actions"), machine, manufacture nor composition of matter (i.e., a tangible "thing").

Claim Rejections - 35 USC § 102

5. 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.

6. Claims 1, 3- 4, 8, 12-14, 16, 20, 24-27, 29, 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 2005/0028208) (incorporated by references US 2005/0251827 and US 2005/0262542 in their entirety).

Regarding claim 1, the claimed method for utilizing a user profile in an interactive television system is met by Ellis's disclosure as follow:

"updating a user profile responsive to a first user activity, the first user activity being initiated via a first device" is broadly met by adjusting the settings of user profiles

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including settings of program schedule recording settings, favorite channel settings, chat application settings, web browser setting, shopping application settings, or parental control settings, etc. via either user television equipment (22) or the remote program guide access device (24), microphone, etc. –see include, but is not limited to, par. 0024-par. 0027; par. 0081; par. 0138; par. 0159-par. 0162; par. 0179; par. 0213; figures 2d-4, US 2005/0251827, paragraphs 0097, 0103, 0105; US 2005/0262542, paragraphs 0075-0077, 0083);

“initiating a second user activity, the second user activity being initiated via a second device which is different from the first device wherein either the first or the second user activity comprises an activity related to television viewing, and the other of the first and the second user activities comprises an activity unrelated to television viewing” is broadly met by the settings such as selecting program guide listings, parental control listing, program recording listings, shopping application, chat application, etc. via either user television equipment (22) or remote program guide access device (24), or microphone, etc. wherein the remote program guide access device (24) and the user television equipment (including remote control locally at the user television equipment) are different devices (figures 3-5, 19), wherein the first user activity and second user activity is either met by activity of settings program schedule recording, favorite channels, web browser, activities to select program guide listing, chat application, or shopping, etc. (see including, but are not limited to, paragraphs 0015, 0024-0025, 0071, 0020, 0176-0180); “non television viewing related” is interpreted as activity of shopping application settings, email settings, chat application settings, web

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browser application settings, or browse a web page, shopping, or chat, etc. and the “television viewing related” is interpreted as activities of program schedule recording settings, favorite channel settings, or select to display program guide listings, etc.

Ellis further discloses the user may adjust the settings (see including, but are not limited to, paragraphs 0015, 0020, 0024-0026, 0120-0127, 0137, 0159-0166) and blocking and/or displaying particular program listings, messages, favorite programs, channels, etc. in accordance to the settings (see include, but is not limited to, paragraphs 0159-0162, 0176-0180), it is inherent that the user profile is accessed in response to the second user activity so that the data is filtered/blocked/customized in according to the settings;

“transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile” is broadly met by transmitting/provided the program guide data, program content, Internet data, or chat communication, etc. responsive to user settings of program scheduled recording, favorite channel settings, web browser settings, chat application settings, etc. such as filtering and transmitting particular program guide data, Internet data, chat communication, etc. to the user responsive to the settings, wherein the particular program guide data, particular program, particular Internet data, chat communication (messages), particular service, etc. is transmitted is based at least in part on the user profile (which including all the settings) – see including, but are not limited to, paragraphs 0025, , 0029, 0099, 0101, 0116- 0118, 0125- 0126, 0159-0162, 0176-0179), and wherein the first activity affects a content of the data transmitted to the user

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responsive to the second activity is met by activity of settings used to filter/block, customize the content of data transmitted to the user responsive to user activity such as select to display program guide data, program content, chat message, web content, or stock ticker, etc. (see include, but is not limited to, paragraphs 0024-0026, 0029, 00870099, 0110, 0124, 0126, 0129, 0159-0162, 0176, 0178-0180, incorporated by reference 2005/0251827, paragraphs 0088, 0103-0105, 0114; incorporated by reference 2005/0262542, paragraphs 0075, 0077, 0083, 0096).

Regarding claim 3, Ellis discloses a method as discussed in the rejection of claim 1. Furthermore, the claimed feature of "first user activity comprises an activity related to television viewing and the first device comprises a television receiver" is met by activity of program schedule recording settings, favorite program recording setting, or parental control settings for television data, etc. that set to a particular channel for receiving, recording, or particular data to be displayed/blocked, etc. and the first device comprises user television equipment that receives television (see including, but are not limited to, figures 3-4, paragraphs 0071, 0075, 0129; US 2005/0251827, paragraphs 0096, 0103-0105); the claimed feature of "second activity is performed via a remote device that does not utilize the television receiver" is broadly met by activity of selecting to browse/receive/display a web site, e-mail, parental control, chat message, etc. using the remote program guide access device (24), microphone, etc. (see including, but are not limited to, figures 2b, 2d, 5-6, paragraphs 0099-0101, 0142, 0176-0179).

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Regarding claim 4, Ellis discloses a method as discussed in the rejection of claim 1.

Additionally, the claimed feature of "first user activity is performed via a remote device that does not utilize the television receiver" is broadly met by activity of adjusting the settings web browser, settings of shopping application, settings of parental control for web browser, or settings of stock ticker, etc. using the remote program guide access device (24), microphone (see include, but is not limited to, figures 2b, 2d, 5-6, paragraphs 0099, 0142); the claimed feature of "second user activity comprises an activity related to television viewing activity and the second device comprises a television receiver" is met by activity of selecting of program, channel, to tune to, to record, to block, or selecting to display program guide listings, favorite channel, etc. and the second device comprises user television equipment (22) that receives television – (see include, but is not limited to, figures 3-4, paragraphs 0159, 0162).

Regarding claim 8, Ellis discloses a method as discussed in the rejection of claim 3.

Ellis further discloses the first user activity is via set top box (figure 3-4), the remote device is a wireless mobile unit (par. 0092), wherein the set top box and mobile unit (24) are configured to communicate with one another (see include, but is not limited to, figures 2c, 3-4).

Regarding claim 12, Ellis discloses a method as discussed in the rejection of claim 3.

Ellis further discloses the remote device is a personal digital assistance, a portable computer system (par. 0092).

Regarding claim 13, Ellis discloses a method as discussed in the rejection of claim 1. Ellis further discloses the user profile is based on data obtained in a passive manner, active manner, or both (e.g. settings in the profile is obtained by user input information-par. 0136, par. 0124, par. 0161-par. 0162).

Regarding claim 14, the limitations of the claimed system correspond to the limitations of the method as discussed in the rejection of claim 1, and are analyzed as discussed with respect to the rejection of claim 1, wherein the claimed "remote unit" is met by the remote program guide access device (24); the claimed "set top box" is met user television equipment (22); and "broadcast station" is met by the main facility (12) or television distribution facility (16) – figures 1-5.

Regarding claims 16, 20,24-25, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 3, 8, 12-13, and are analyzed as discussed with respect to the rejection of claims 3, 8, 12-13.

Regarding claims 26-27, 31-32, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claims 1, 3, 12-13, and are analyzed as discussed with respect to the rejections of claims 1,3,12-13.

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Regarding claim 29, the additional limitation of "select non-requested data based on said user profile and transmitted said non-requested data to a user" is interpreted as program guide data is transmitted and displayed according to preference profiles including the settings –see include, but is not limited to, par. 0123, par. 0126, par. 0129, par. 0161-par. 0162)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 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.

8. Claims 2, 5-7, 9, 15,17-19, 21 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 1, 14, 26 above.

Regarding claim 2, Ellis teaches a method as discussed in the rejection of claim 1. Ellis further discloses the information regarding user's activities such as pay program account information or information regarding programs that have been purchased and viewed using locally generated authorization techniques (see include, but is not limited to, paragraph 0070, lines 12-17, paragraph 0186). However, Ellis does not explicitly disclose the updating the user profile in response to the user activity. Official Notice is

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taken that updating a user profile using user's activity/behavior is well known in the art.

For example, updating user profile/user preferences in response to data collected by user's activities, selection habits, selection behaviors, or selection history, etc.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis with the well-known teaching of updating user profile in response to user activity in order to improve efficiency in targeting data to user based on user profile, thereby allowing user to locate user's desired data easily.

Regarding claim 5, Ellis discloses a method as discussed in the rejection of claim 1.

Furthermore, the claimed limitation of "formatting data corresponding to the device prior to transmitting the data and transmitting the data to the second device is interpreted as Ellis' disclosure of formatting/filtering data suitable for presentation on the particular device – par. 0109-par. 0110, par. 0123, par. 0126). Ellis further discloses if link 19 is an Internet link, for example, program guide functionality may be accessed by, for example, using HTTP.... (paragraphs 0104-0105). Appropriate differences in presentation may occur depending on the interface devices used in user television equipment 22 and remote program guide access device 24 (paragraphs 0108-0108). Ellis further discloses assigning name for each device such as master/primary or slave, etc. The master device is able to control setting of all slave devices (par. 0211-par. 0217). It would have been obvious to one of ordinary skill in the art that the type of the second device (microphone, master, slave, PDA, etc.) is determined so that an appropriate format of presentation is provided to the device and the device profile (e.g. master/primary or

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slave, etc.) is accessed and data is formatted to correspond to the device profile (e.g. data is formatted/filter based on the device set of master or slave or based on the device capability) in order to provide most suited format/information to the device thereby improve the services.

Regarding claim 6, the additional limitation of “selecting non-requested data based on the user profile and transmitting non-requested data” is interpreted as Ellis’ disclosure of program guide data is transmitted and displayed according to preference profiles including the settings – see include, (but is not limited to, par. 0123, par. 0126, par. 0129, par. 0161-par. 0162).

Regarding claim 7, the additional limitation of “non-requested data comprises an advertisement targeted to the user” is interpreted as Ellis’ disclosure of program guide data comprises program title, description, etc. of the program (advertisement for program) that provided to user based on user profile which including the settings – par. 0123, par. 0126, par. 0161-par. 0163, par. 0067).

Regarding claim 9, Ellis further discloses storing the user profile (including the settings), at one or more of a television broadcast station (16), user set top box, or other remote location configured to communicate within the system (par. 0124, par. 0161-par. 0162).

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Regarding claims 15, 18-19, 28 and 21 the additional limitations of the claimed system and claimed carrier medium comprising program instructions respectively, correspond to the additional limitations of the method as claimed in claims 2, 5-7, 9 and are analyzed as discussed with respect to the rejection of claims 2, 5-7, and 9.

Regarding claim 17, the additional limitation of the system as claimed correspond to the additional limitations of the method as claimed in claim 4, and are analyzed as discussed with respect to the rejection of claim 4.

9. Claims 10-11, 22-23, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 3, 15, 26 above, and further in view of Herz et al. (US 6,571,279).

Regarding claim 10, Ellis teaches a method as discussed in the rejection of claim 3. Ellis further discloses the remote device is mobile device such as portable computer, PDA, handheld personal computer, etc. (par. 0092), and selecting data to transmit to the remote device (figures 2-5). However, Ellis does not specifically disclose detecting a physical location of the second device, and selecting the data to be transmitted at least in part on the physical location of the second device.

Herz discloses detecting a physical location of the mobile device such as cellular phone, and selecting data to be transmitted at least in part on the physical location of the mobile device (col. 3, line 34-col. 4, line 67). Therefore, it would have been obvious

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to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience, as measured by location information systems (abstract).

Regarding claim 11, Ellis discloses a method as discussed in the rejection of claim 1. Ellis further discloses updating user profile (including the settings) – see including, but are not limited to, figure 19; par. 0020, par. 0136; par. 0155-par. 0162). However, Ellis does not specifically disclose updating the user profile in response to detecting a physical location of a user location trackable mobile unit.

Herz discloses updating the user profile in response to detecting a physical location of a user location trackable mobile unit (col. 4, lines 1-65, col. 18, lines 34-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience (abstract).

Regarding claims 22-23, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 10-11, and are analyzed as discussed with respect to the rejection of claims 10-11.

Regarding claim 30, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claim 10, and are analyzed as discussed with respect to the rejections of claim 10.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wang (US 2004/0203630 A1) discloses method and apparatus for targeting service delivery to mobile devices.

Tatsuji et al. (US 2002/0151271 A1) discloses data transfer method and mobile server.

Schaffer et al. (US 2002/0104087 A1) discloses method and apparatus for selective updating of a user profile.

Kramer et al. (US 6,327,574) discloses hierarchical models of consumer attributes for targeting content in a privacy preserving manner.

Kunii et al. (US 7,095,402) discloses portable information terminal apparatus, information processing method, computer-program storage medium and computer program.

Takahashi et al. (US 7,117,581) discloses information retrieval method and apparatus .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

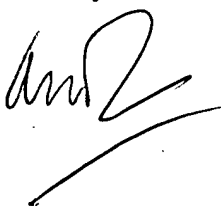
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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.

Son P. Huynh

December 19, 2006

A handwritten signature in black ink, appearing to read 'Son P. Huynh', with a long horizontal stroke underneath.

IN THE CLAIMS

Please amend claims 1, 14, and 26 as indicated below.

1. (Currently Amended) A method for utilizing a user profile in an interactive television system, the method comprising:
 - updating a user profile responsive to a first user activity, the first user activity being initiated via a first device;
 - initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 - accessing the user profile in response to the second user activity; and
 - transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.
2. (Previously Presented) The method as recited in claim 1, further comprising updating said user profile in response to said second user activity.
3. (Previously Presented) The method as recited in claim 1, wherein said first user activity comprises an activity related to television viewing and the first device comprises a television receiver, and said second user activity is performed via a remote device that does not utilize the television receiver.
4. (Previously Presented) The method as recited in claim 1, wherein said first user activity is performed via a remote device that does not utilize a television receiver, and said second user activity comprises an activity related to television viewing and the second device comprises a television receiver.

5. (Previously Presented) The method as recited in claim 1, further comprising:
determining the type of said second device;
accessing a device profile corresponding to the second device;
formatting said data to correspond to said device profile prior to transmitting the
data; and
transmitting the data to the second device.
6. (Original) The method as recited in claim 2, further comprising selecting non-requested data based on said user profile and transmitting said non-requested data.
7. (Original) The method as recited in claim 6, wherein said non-requested data comprises an advertisement targeted to the user.
8. (Previously Presented) The method as recited in claim 3 wherein said first user activity is via a set-top box, said remote device is a wireless mobile unit, and wherein said set-top box and mobile unit are configured to communicate with one another.
9. (Original) The method as recited in claim 5, further comprising storing the user profile at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the system.
10. (Previously Presented) The method as recited in claim 3, further comprising detecting a physical location of the second device; and selecting the data to be transmitted at least in part on the physical location of the second device.
11. (Original) The method as recited in claim 1, further comprising updating the user profile in response to detecting a physical location of a user's location trackable mobile unit.

12. (Previously Presented) The method as recited in claim 3, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.
13. (Original) The method as recited in claim 1, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
14. (Currently Amended) An interactive television system comprising:
 - a remote unit;
 - a set-top box; and
 - a broadcast station coupled to convey a programming signal to the set-top box;wherein the system is configured to:
 - update a user profile responsive to a first user activity, the first user activity being initiated via a first device corresponding to one of the remote unit and the set-top box;
 - detect a second user activity, the second user activity being initiated via a second device corresponding to one of the remote unit and the set-top box, the second device being different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 - access the user profile in response to the second user activity; and
 - transmit data responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.
15. (Previously Presented) The system as recited in claim 14, wherein the system is configured to update the user profile in response to the second user activity.

16. (Previously Presented) The system as recited in claim 14, wherein the first device is the set-top box and the first user activity is performed via the set-top box, and wherein the second device is the remote unit and the second user activity is performed via the remote unit and does not utilize the set-top box.

17. (Previously Presented) The system as recited in claim 15, wherein the first device is the remote unit, said first user activity is via the remote unit and does not utilize the set-top box, and wherein the second device is the set-top box and the second user activity utilizes the set-top box.

18. (Previously Presented) The system as recited in claim 15, wherein the system is further configured to:

determine the type of the second device;

access a device profile corresponding to the second device;

format the data to correspond to the device profile prior to transmitting the data;

and

transmit the data to the second device.

19. (Original) The system as recited in claim 15, wherein the system is further configured to select non-requested data based on said user profile and transmit said non-requested data to a user.

20. (Previously Presented) The system as recited in claim 16 wherein said set-top box and remote unit are configured to communicate with one another.

21. (Original) The system as recited in claim 18, wherein the user profile is stored at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the television system.

22. (Previously Presented) The system as recited in claim 16, wherein the system is further configured to detect a physical location of the second device; and select the data to be transmitted at least in part on the detected location.
23. (Original) The system as recited in claim 14, wherein the system is further configured to update the user profile in response to detecting a physical location of a user's location trackable mobile unit.
24. (Original) The system as recited in claim 16, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.
25. (Original) The system as recited in claim 14, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
26. (Currently Amended) A carrier medium comprising program instructions, or triggers to launch execution of program instructions, wherein the program instructions are executable to:
- update a user profile responsive to a first activity, the first user activity being initiated via a first device;
 - detect a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 - access the user profile in response to the second user activity; and
 - transmit data responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity.

27. (Previously Presented) The carrier medium as recited in claim 26, wherein the first user activity is performed via a set-top box, and the second user activity is performed via the remote unit and does not utilize the set-top box.

28. (Previously Presented) The carrier medium as recited in claim 26, wherein the program instructions are further executable to:

determine the type of the second device;

access a device profile corresponding to the second device;

format the data to correspond to the device profile prior to transmitting the data;

and

transmit the data to the second device.

29. (Original) The carrier medium as recited in claim 26, wherein the program instructions are executable to select non-requested data based on said user profile and transmit said non-requested data to a user.

30. (Previously Presented) The carrier medium as recited in claim 26, wherein the program instructions are executable to select the data to be transmitted at least in part on the detected physical location of the second device.

31. (Original) The carrier medium as recited in claim 27, wherein the remote unit is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

32. (Previously Presented) The carrier medium as recited in claim 26, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

REMARKS

Claims 1-32 were pending. Claims 1, 14 and 26 have been amended. Therefore, claims 1-32 remain pending subsequent entry of the present amendment.

In the Office Action dated May 9, 2006, claims 1-4, 6-9, 12-17, 19-21, 24-27, 29, and 31-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ellis et al. (US 2005/0028208, hereinafter "Ellis"). In addition, claims 5, 18, and 28 stand rejected under 35 U.S.C. § 103(a), and claims 10-11, 22-23, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of Herz et al. (US 6,571,279, hereinafter "Herz"). Applicant traverses the rejections and requests reconsideration.

As previously discussed, claim 1 recites multiple distinct types of user activities, one comprising television viewing related activity, and the other comprising non-television viewing related activity. Engaging in one type of activity may affect content received while engaged in the other type of activity. For example, claim 1 recites a method which includes:

"transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile, and wherein the first user activity affects a content of said data transmitted to the user responsive to the second user activity."

In the Office Action, Ellis is cited as disclosing all of the features of prior claim 1. In the rejections, the examiner cites portions of Ellis which describe television and non-television related activities, and updating settings for each of these activities. For example, updating a television program guide's parental settings. Alternatively, updating settings of a chat application. However, Ellis does not disclose all the features of claim 1. In particular, claim 1 recites a particular user profile is updated in response to one type of activity, and the same profile is then accessed in response to a second type of activity. Data is then transmitted to the user in response to the second activity and the data is

based at least in part on the same profile. Further, the first user activity affects a content of said data transmitted to the user responsive to the second user activity. Claim 1 further provides that one of these activities is television related and the other is not television related. Ellis nowhere discloses such an interaction between these two different types of activities. Accordingly, claim 1 is patentably distinguished from the cited art. As each of independent claims 14 and 26 include similar features to that of claim 1, each of these claims are patentably distinguishable for similar reasons.

In the Advisory Action dated August 28, 2006, the examiner stated “the claims do not recite “user’s activities related to one application affect the content received for another application”. Applicant believes the present amendment addresses the examiner’s comment. In contrast, Ellis merely discloses a user may adjust settings of a particular application. For example, adjusting parental settings of a television program guide. With respect to non-television viewing related activity, Ellis merely discloses:

“A chat application may be implemented on a set top box. Chat applications are services that allow users to exchange chat messages with other users in real time. A chat application may be implemented as a stand-alone chat application or as part of another application such as a program guide application. Chat applications that may be implemented on user television equipment are described in DeWeese et al. U.S. patent application Ser. No. 09/356,270, filed Jul. 16, 1999, filed concurrently herewith (Attorney Docket No. UV-101), which is hereby incorporated by reference herein in its entirety. A user may remotely adjust settings associated with a chat application such as the size of a chat window, an address book, or whether to filter potentially offensive messages. After the user adjusts chat settings with a remote access chat application running on a remote access device, the remote access chat application may remotely adjust the settings of a local chat application by, for example, exchanging one or more access

communications with the local chat application over a remote access link.” (Ellis, para. 179).

However, there is nothing in Ellis which suggests the chat application settings affect the content received by the user while engaged in television viewing related activity. Rather, in Ellis, the activities are distinct, and their respective settings are distinct.

Should the examiner believe issues remain which would prevent the application from proceeding to allowance, Applicant requests a telephone interview prior to issuance of a further office action in order to facilitate a resolution. The below signed representative can be reached at (512) 853-8866.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time are necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-03800/RDR.

Respectfully submitted,



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Date: September 11, 2006

Application Serial No. 10/271,801 - Filed October 15, 2002

IN THE CLAIMS

Pending claims 1-32 are presented below.

1. (Previously Presented) A method for utilizing a user profile in an interactive television system, the method comprising:
 - updating a user profile responsive to a first user activity, the first user activity being initiated via a first device;
 - initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 - accessing the user profile in response to the second user activity; and
 - transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile.
2. (Previously Presented) The method as recited in claim 1, further comprising updating said user profile in response to said second user activity.
3. (Previously Presented) The method as recited in claim 1, wherein said first user activity comprises an activity related to television viewing and the first device comprises a television receiver, and said second user activity is performed via a remote device that does not utilize the television receiver.
4. (Previously Presented) The method as recited in claim 1, wherein said first user activity is performed via a remote device that does not utilize a television receiver, and said second user activity comprises an activity related to television viewing and the second device comprises a television receiver.
5. (Previously Presented) The method as recited in claim 1, further comprising:

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determining the type of said second device;
accessing a device profile corresponding to the second device;
formatting said data to correspond to said device profile prior to transmitting the
data; and
transmitting the data to the second device.

6. (Original) The method as recited in claim 2, further comprising selecting non-requested data based on said user profile and transmitting said non-requested data.
7. (Original) The method as recited in claim 6, wherein said non-requested data comprises an advertisement targeted to the user.
8. (Previously Presented) The method as recited in claim 3 wherein said first user activity is via a set-top box, said remote device is a wireless mobile unit, and wherein said set-top box and mobile unit are configured to communicate with one another.
9. (Original) The method as recited in claim 5, further comprising storing the user profile at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the system.
10. (Previously Presented) The method as recited in claim 3, further comprising detecting a physical location of the second device; and selecting the data to be transmitted at least in part on the physical location of the second device.
11. (Original) The method as recited in claim 1, further comprising updating the user profile in response to detecting a physical location of a user's location trackable mobile unit.
12. (Previously Presented) The method as recited in claim 3, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

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13. (Original) The method as recited in claim 1, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
14. (Previously Presented) An interactive television system comprising:
a remote unit;
a set-top box; and
a broadcast station coupled to convey a programming signal to the set-top box;
wherein the system is configured to:
update a user profile responsive to a first user activity, the first user activity being initiated via a first device corresponding to one of the remote unit and the set-top box;
detect a second user activity, the second user activity being initiated via a second device corresponding to one of the remote unit and the set-top box, the second device being different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
access the user profile in response to the second user activity; and
transmit data responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile.
15. (Previously Presented) The system as recited in claim 14, wherein the system is configured to update the user profile in response to the second user activity.
16. (Previously Presented) The system as recited in claim 14, wherein the first device is the set-top box and the first user activity is performed via the set-top box, and wherein the second device is the remote unit and the second user activity is performed via the remote unit and does not utilize the set-top box.

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17. (Previously Presented) The system as recited in claim 15, wherein the first device is the remote unit, said first user activity is via the remote unit and does not utilize the set-top box, and wherein the second device is the set-top box and the second user activity utilizes the set-top box.

18. (Previously Presented) The system as recited in claim 15, wherein the system is further configured to:

determine the type of the second device;

access a device profile corresponding to the second device;

format the data to correspond to the device profile prior to transmitting the data;

and

transmit the data to the second device.

19. (Original) The system as recited in claim 15, wherein the system is further configured to select non-requested data based on said user profile and transmit said non-requested data to a user.

20. (Previously Presented) The system as recited in claim 16 wherein said set-top box and remote unit are configured to communicate with one another.

21. (Original) The system as recited in claim 18, wherein the user profile is stored at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the television system.

22. (Previously Presented) The system as recited in claim 16, wherein the system is further configured to detect a physical location of the second device; and select the data to be transmitted at least in part on the detected location.

23. (Original) The system as recited in claim 14, wherein the system is further configured to update the user profile in response to detecting a physical location of a user's location trackable mobile unit.

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24. (Original) The system as recited in claim 16, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.
25. (Original) The system as recited in claim 14, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
26. (Previously Presented) A carrier medium comprising program instructions, or triggers to launch execution of program instructions, wherein the program instructions are executable to:
- update a user profile responsive to a first activity, the first user activity being initiated via a first device;
 - detect a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 - access the user profile in response to the second user activity; and
 - transmit data responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile.
27. (Previously Presented) The carrier medium as recited in claim 26, wherein the first user activity is performed via a set-top box, and the second user activity is performed via the remote unit and does not utilize the set-top box.
28. (Previously Presented) The carrier medium as recited in claim 26, wherein the program instructions are further executable to:
- determine the type of the second device;
 - access a device profile corresponding to the second device;

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format the data to correspond to the device profile prior to transmitting the data;
and
transmit the data to the second device.

- 29. (Original) The carrier medium as recited in claim 26, wherein the program instructions are executable to select non-requested data based on said user profile and transmit said non-requested data to a user.

- 30. (Previously Presented) The carrier medium as recited in claim 26, wherein the program instructions are executable to select the data to be transmitted at least in part on the detected physical location of the second device.

- 31. (Original) The carrier medium as recited in claim 27, wherein the remote unit is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

- 32. (Previously Presented) The carrier medium as recited in claim 26, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

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REMARKS

Claims 1-32 remain pending.

In the present Office Action, claims 1-4, 6-9, 12-17, 19-21, 24-27, 29, and 31-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ellis et al. (US 2005/0028208, hereinafter "Ellis"). In addition, claims 5, 18, and 28 stand rejected under 35 U.S.C. § 103(a), and claims 10-11, 22-23, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of Herz et al. (US 6,571,279, hereinafter "Herz"). Applicant traverses the rejections and requests reconsideration.

For purposes of economy, Applicant's comments presented in the Response filed February 15, 2006, are not repeated herein in their entirety. However, the previous comments remain applicable.

As previously discussed, claim 1 recites a common profile may be updated via multiple distinct types of user activities, one comprising television viewing related activity, and the other comprising non-television viewing related activity. The common profile forms a nexus, or point of commonality, between the television and non-television activities. Engaging in one type of activity may affect content received while engaged in the other type of activity.

In the present Office Action, Ellis is cited as disclosing all of the features of claim 1. In the rejections, the examiner cites portions of Ellis which describe television and non-television related activities, and updating settings for each of these activities. For example, updating a television program guide's parental settings. Alternatively, updating settings of a chat application. However, as previously discussed by the Applicant, Ellis does not disclose the features of claim 1 are recited. In particular, Applicant pointed out that claim 1 recites a particular user profile is updated in response to one type of activity, and the same profile is then accessed in response to a second type of activity. Data is then transmitted to the user in response to the second activity and the data is based at least in

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part on the same profile. Therefore, data transmitted to the user in response to the second activity is affected by the update which was made pursuant to the first activity. Claim 1 further provides that one of these activities is television related and the other is not television related. Ellis nowhere discloses such an interaction between these two different types of activities. Each of the independent claims include similar features to that of claim 1.

In the present Office Action (page 5), the examiner states – “the claims do not recite “user’s activities related to one application affect the content received for another application” and “common user profile”. However, Applicant disagrees. Claim 1 clearly recites such features. As described above, claim 1 recites a user’s activities (“responsive to a first user activity”) related to one application (e.g., “the first . . . activity comprises an activity related to television viewing”) affects the content received for another application (“transmitting data . . . responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile” – the user profile was updated responsive to the first activity, and the second activity comprises, e.g., activity “unrelated to television viewing”). Further, claim 1 recites a common user profile (“a user profile . . . the user profile”). It is noted that the construct of the claim is such that if the first activity comprises television viewing related activity, then the second activity comprises non-television viewing related activity – and vice versa. Ellis does not disclose the common profile and interaction between these two different types of activities as recited.

In contrast, Ellis merely discloses a user may adjust settings of a particular application. For example, adjusting parental settings of a television program guide. With respect to non-television viewing related activity, Ellis merely discloses:

“A chat application may be implemented on a set top box. Chat applications are services that allow users to exchange chat messages with other users in real time. A chat application may be implemented as a stand-alone chat application or as part of another application such as a program guide application. Chat applications that may be implemented on user television equipment are described in DeWeese et al. U.S. patent application Ser. No. 09/356,270, filed Jul. 16, 1999,

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filed concurrently herewith (Attorney Docket No. UV-101), which is hereby incorporated by reference herein in its entirety. A user may remotely adjust settings associated with a chat application such as the size of a chat window, an address book, or whether to filter potentially offensive messages. After the user adjusts chat settings with a remote access chat application running on a remote access device, the remote access chat application may remotely adjust the settings of a local chat application by, for example, exchanging one or more access communications with the local chat application over a remote access link." (Ellis, para. 179).

However, there is nothing in Ellis which suggests the chat application settings affect the content received by the user while engaged in television viewing related activity. Rather, in Ellis, the activities are distinct, and their respective settings are distinct.

As discussed with the examiner via telephone on August 8, 2006, Applicant wishes an interview to discuss the matter in order to facilitate a resolution. Should the examiner believe issues remain which would prevent the application from proceeding to allowance, a telephone interview is earnestly requested. The below signed representative can be reached at (512) 853-8866.


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CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time are necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-03800/RDR.

Respectfully submitted,



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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OPTV/MEYERTONS
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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 05/09/2006

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

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 02/15/2006 have been fully considered but they are not persuasive.

Applicant argues, "Applicant agrees that the second user activity may comprise either television or non- television related activity. However, merely discussing the second user activity in isolation from the rest of the claim is not appropriate" (page 9, paragraph 1).

In response, since Applicant does not specifically point out what claim is "the rest of the claim" and, furthermore, Applicant agrees that the second user activity may comprise either television or non-television related activity, the second user activity is either interpreted as television related activity (i.e. activity of program schedule recording settings, favorite channel settings, etc.) or non television related activity (e.g. activity of chat application settings such as size of chat window, address book, web browser settings, etc.) -see Ellis, including, but are not limited to, paragraphs 0171-0172, 0099, 0103, 0117, 0121-.127, 0138, 0176-0179¹⁸⁰.

Applicant further argues, "in claim 1, there is a clear relationship between "the user profile", the first user activity, and the second user activity. If the second user activity is

Art Unit: 2623

television related activity, then the first user activity is not related to television viewing. In such a case, the user profile is updated by the non-television viewing related activity (i.e. the first user activity) and data is transmitted responsive to the second user activity based in part on the user profile. Nowhere does the cited art disclose these features (page 9, paragraph 2).

In response, claim 1 recites “updating a user profile responsive to a first user activity,... wherein either the first or second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing”. Ellis discloses adjusting settings of data in the user television equipments using either user activities inputted from user remote controller locally at the television equipment or remote control device (24) such as PDA, portable computer, etc. remotely from the television equipment (figures 1-3, paragraph 0092, 0159). The user adjusts the settings include the parental control settings, favorite channel settings, chat application settings, etc. (see including, but are not limited to, paragraphs 0171-0172, 0099, 0103, 0117, 0121-127, 0138, 0176-0179). Therefore, “updating a user profile responsive to a first user activity” is interpreted as adjusting the settings associated with particular user such as adjusting program schedule recording settings, chat application settings, etc. wherein the claimed feature “user profile” is broadly interpreted as the profile of the settings including program recording settings, parental control settings, chat application settings (size of chat window, address book, etc. – paragraph 0179), favorite channel settings, web browser application settings, etc.,

Art Unit: 2623

the claimed feature of “ first activity”, “second activity” is interpreted as either activity of favorite channel settings, program schedule recording settings, or chat application settings, web browser application settings, etc. wherein the “activity unrelated to television viewing” is broadly interpreted as activity of chat application settings, shopping application settings, web browser settings, and the “activity related to television viewing” is broadly interpreted as activity of program schedule recording settings, favorite channel settings, etc. Therefore, Ellis teaches the features as claimed.

Applicant further argues In paragraph 4 of the Office Action, ...the examiner’s discussion has already established that the second user activity is non-television viewing related (shopping, e-mail, etc.” The second user activity cannot then be changed mid-stream to mean television viewing related activity in order to meet the next clause of the claim (page 9, paragraph 3).

In response, in paragraph 4 of the Office Action, the examiner intended that if the second activity is non-television viewing related (activity of shopping application settings, email application settings, chat application settings, etc.)... or if the first user activity is related to television viewing (activity of program schedule recording settings, favorite channel settings, etc.)... The examiner would like to clarify that the claimed “non television viewing related” is interpreted as activity of shopping application settings, email settings, chat application settings, web browser application settings, etc. and the “television viewing related” is interpreted as activities of program schedule recording settings, favorite channel settings, etc. (see discussed above).

Applicant argues Ellis does not teach or disclose user's activities related to one application affect the content received for another application. Consequently, Applicant finds no teaching or suggestion in Ellis that a television program guide and any number of non-program guide applications may share a common user profile (page 10, last paragraph).

In response, this argument is respectfully traversed. The claims do not recite "user's activities related to one application affect the content received for another application" and "common user profile". Instead, claims 1, 14, 26 recites "either the first or second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing; and accessing the user profile in response to the second user activity." Claim 4, lines 3-4, further recites the second user activity comprises an activity related to television viewing". Ellis discloses user activities include program schedule recording settings, channel favorite settings, parental control settings, chat application settings, shopping application settings. Ellis further discloses the user adjust these settings associated with the user using remote control locally at the television receiver or using the remote access device remotely from the television equipment (see including, but are not limited to, paragraphs 0159, 0171-0172, 0099, 0103, 0117, 0121-127, 0138, 0176-0179). Thus, the claimed feature "first activity" and "second activity" is either met by "program schedule recording settings, favorite channel settings, etc. or shopping application settings, web browser settings, chat application settings, etc.; "activity

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related to television viewing” is interpreted as activity of program schedule recording settings, parental control settings, favorite channel settings, etc. and the “activity unrelated to television viewing” is interpreted as activity of chat application settings, shopping settings, web browser application settings, etc. Since the user may adjust the settings, it is inherent that the user profile (including all settings associated with the user) is accessed before the user adjusts the settings associated to the user.

For the reasons given above, rejections on claims 1-32 are analyzed as discussed below.

Claim Rejections - 35 USC § 102

2. 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.

3. Claims 1- 4, 6-8, 12-17, 19-20, 24-27, 29, 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 2005/0028208).

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Regarding claim 1, the claimed method for utilizing a user profile in an interactive television system is met by Ellis's disclosure as follow:

“updating a user profile responsive to a first user activity, the first user activity being initiated via a first device” is broadly met by adjusting the settings of user profiles including settings of program schedule recording settings, favorite channel settings, chat application settings, web browser setting, shopping application settings, etc. via either user television equipment (22) or the remote program guide access device (24), microphone, etc. -par. 0024-par. 0027; par. 0081; par. 0138; par. 0159-par. 0162; par. 0179; par. 0213; figures 2d-4);

“initiating a second user activity, the second user activity being initiated via a second device which is different from the first device wherein either the first or the second user activity comprises an activity related to television viewing, and the other of the first and the second user activities comprises an activity unrelated to television viewing” is broadly met by the settings such as settings of program schedule recording, favorite channel, web browser application, shopping application, chat application, etc. via either user television equipment (22) or remote program guide access device (24), or microphone, etc. wherein the remote program guide access device (24) and the user television equipment (including remote control locally at the user television equipment) are different devices (figures 3-5, 19), wherein the first user activity and second user activity is either met by activity of settings program schedule recording, favorite channels, etc. (see including, but are not limited to, paragraphs 0015, 0024-0025, 0071) or activity of setting of shopping application, chat application, web browser, etc.–

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paragraphs 0020, 0176-0180); “non television viewing related” is interpreted as activity of shopping application settings, email settings, chat application settings, web browser application settings, etc. and the “television viewing related” is interpreted as activities of program schedule recording settings, favorite channel settings, etc.

Ellis further discloses the user may adjust the settings (see including, but are not limited to, paragraphs 0015, 0020, 0024-0026, 0120-0127, 0137, 0159-0166), it is inherent that the user profile (including all settings associated with the user responsive to the second user activity;

“transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile” is broadly met by transmitting the program guide data or program content, Internet data, chat communication, etc. responsive to user settings of program scheduled recording, favorite channel settings, web browser settings, chat application settings, etc. such as filtering and transmitting particular program guide data, Internet data, chat communication, etc. to the user responsive to the settings, wherein the particular program guide data, particular program, particular Internet data, chat communication (messages), particular service, etc. is transmitted is based at least in part on the user profile (which including all the settings) – see including, but are not limited to, paragraphs 0025, , 0029, 0099, 0101, 0116- 0118, 0125- 0126, 0159-0162, 0176-0179).

Regarding claim 2, Ellis further the settings in user profile are updated in responsive to user selection of program to be recorded settings, a channel to be tuned settings, an

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adjustment of favorite channel setting, Internet browser application setting, chat application setting, etc. For example, if the user select to set a reminder for program to be recorded, parental control of particular channel, web site, filter out particular message, etc., user profile which including all settings will be updated with a reminder for particular program to be recorded as particular time, with particular message to be filtered, etc. (paragraphs 0136, 0155-0162, 0176-0179, figure 19). Thus, the user profile (including all the settings) is updated in response to the second user activity (either program schedule recording setting, reminder setting, favorite channel setting, etc. or web browser setting, chat application setting, etc.)

Regarding claim 3, Ellis discloses a method as discussed in the rejection of claim 1. Furthermore, the claimed feature of "first user activity comprises an activity related to television viewing and the first device comprises a television receiver" is met by activity of program schedule recording settings, favorite program recording setting, etc. that set to a particular channel for receiving, recording, etc. and the first device comprises user television equipment that receives television (see including, but are not limited to, figures 3-4, paragraphs 0071, 0075, 0129); the claimed feature of "second activity is performed via a remote device that does not utilize the television receiver" is broadly met by activity of settings to receive a web site, e-mail, parental control, chat message, etc. using the remote program guide access device (24), microphone, etc. (see including, but are not limited to, figures 2b, 2d, 5-6, paragraphs 0099-0101, 0142, 0176-0179).

Regarding claim 4, Ellis discloses a method as discussed in the rejection of claim 1. Additionally, the claimed feature of “first user activity is performed via a remote device that does not utilize the television receiver” is broadly met by setting of selection of program to be viewed, recorded, blocked, etc. using the remote program guide access device (24), microphone (figures 2b, 2d, 5-6, paragraphs 0099, 0142); the claimed feature of “second user activity comprises an activity related to television viewing activity and the second device comprises a television receiver” is met by activity of settings of program, channel, etc. to tune to, to record, to block, etc. and the second device comprises user television equipment (22) that receives television – (figures 3-4, paragraph 0159).

Regarding claim 6, Ellis discloses a method as discussed in the rejection of claim 2. Ellis further discloses selecting non-requested data based on the user profile and transmitting non-requested data (program guide data is transmitted and displayed according to preference profiles including the settings -par. 0123, par. 0126, par. 0129, par. 0161-par. 0162).

Regarding claim 7, Ellis discloses a method as discussed in the rejection of claim 6. Ellis further discloses the non-requested data comprises an advertisement targeted to the user (program guide data comprises program title, description, etc. of the program

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that provided to user based on user profile which including the settings – par. 0123, par. 0126, par. 0161-par. 0163, par. 0067).

Regarding claim 8, Ellis discloses a method as discussed in the rejection of claim 3.

Ellis further discloses the first user activity is via set top box (figure 3-4), the remote device is a wireless mobile unit (par. 0092), wherein the set top box and mobile unit (24) are configured to communicate with one another (figures 2c,3-4).

Regarding claim 12, Ellis discloses a method as discussed in the rejection of claim 3.

Ellis further discloses the remote device is a personal digital assistance, a portable computer system (par. 0092).

Regarding claim 13, Ellis discloses a method as discussed in the rejection of claim 1.

Ellis further discloses the user profile is based on data obtained in a passive manner, active manner, or both (e.g. settings in the profile is obtained by user input information-par. 0136, par. 0124, par. 0161-par. 0162).

Regarding claim 14, the limitations of the claimed system correspond to the limitations of the method as discussed in the rejection of claim 1, and are analyzed as discussed with respect to the rejection of claim 1, wherein the claimed “remote unit” is met by the remote program guide access device (24); the claimed “set top box” is met user

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television equipment (22); and "broadcast station" is met by the main facility (12) or television distribution facility (16) – figures 1-5.

Regarding claims 15-17, 19-20,24-25, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 1-4, 6, 8-9, 12-13, and are analyzed as discussed with respect to the rejection of claims 1-4,6,8-9,12-13.

Regarding claims 26-27, 29, 31-32, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claims 1, 3, 6, 12-13, and are analyzed as discussed with respect to the rejections of claims 1,3,6,12-13.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 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.

5. Claims 5, 9, 18, 21 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 1, 15, 26 above.

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Regarding claim 5, Ellis discloses a method as discussed in the rejection of claim 1. Furthermore, the claimed limitation of "formatting data corresponding to the device prior to transmitting the data and transmitting the data to the second device (e.g. formatting/filtering data suitable for presentation on the particular device – par. 0109-par. 0110, par. 0123, par. 0126). Ellis further discloses if link 19 is an Internet link, for example, program guide functionality may be accessed by, for example, using HTTP.... (paragraphs 0104-0105). Appropriate differences in presentation may occur depending on the interface devices used in user television equipment 22 and remote program guide access device 24 (paragraphs 0108-0108). Ellis further discloses assigning name for each device such as master/primary or slave, etc. The master device is able to control setting of all slave devices (par. 0211-par. 0217). It would have been obvious to one of ordinary skill in the art that the type of the second device (microphone, master, slave, PDA, etc.) is determined so that an appropriate format of presentation is provided to the device and the device profile (e.g. master/primary or slave, etc.) is accessed and data is formatted to correspond to the device profile (e.g. data is formatted/filter based on the device set of master or slave or based on the device capability) in order to provide most suited format/information to the device thereby improve the services.

Regarding claim 9, Ellis discloses a method as discussed in the rejection of claim 5. Ellis further discloses storing the user profile (including the settings), at one or more of a television broadcast station (16), user set top box, or other remote location configured to communicate within the system (par. 0124, par. 0161-par. 0162).

Regarding claims 18, 28 and 21 the limitations of the claimed system and claimed carrier medium comprising program instructions respectively, correspond to the additional limitations of the method as claimed in claims 5, 9 and are analyzed as discussed with respect to the rejection of claims 5 and 9.

6. Claims 10-11, 22-23, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 3, 15, 26 above, and further in view of Herz et al. (US 6,571,279).

Regarding claim 10, Ellis teaches a method as discussed in the rejection of claim 3. Ellis further discloses the remote device is mobile device such as portable computer, PDA, handheld personal computer, etc. (par. 0092), and selecting data to transmit to the remote device (figures 2-5). However, Ellis does not specifically disclose detecting a physical location of the second device, and selecting the data to be transmitted at least in part on the physical location of the second device.

Herz discloses detecting a physical location of the mobile device such as cellular phone, and selecting data to be transmitted at least in part on the physical location of the mobile device (col. 3, line 34-col. 4, line 67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience, as measured by location information systems (abstract).

Regarding claim 11, Ellis discloses a method as discussed in the rejection of claim 1. Ellis further discloses updating user profile (including the settings) – see including, but are not limited to, figure 19; par. 0020, par. 0136; par. 0155-par. 0162). However, Ellis does not specifically disclose updating the user profile in response to detecting a physical location of a user location trackable mobile unit.

Herz discloses updating the user profile in response to detecting a physical location of a user location trackable mobile unit (col. 4, lines 1-65, col. 18, lines 34-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience (abstract).

Regarding claims 22-23, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 10-11, and are analyzed as discussed with respect to the rejection of claims 10-11.

Regarding claim 30, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claim 10, and are analyzed as discussed with respect to the rejections of claim 10..

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Alexander et al. (US 6,177,931) discloses systems and methods for displaying and recording control interface with television programs, video, advertising information and program scheduling information.

Thomas et al. (US 2005/0149964 A1) discloses program guide system with monitoring of advertisement usage and user activities.

DeWeese et al. (US 2005/02622542) discloses television chat system.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. 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).

It is noted that Group Art Unit 2611 has been changed to Group Art Unit 2623

SPH
May 3, 2006


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

IN THE CLAIMS

Pending claims 1-32 are presented below.

1. (Previously Presented) A method for utilizing a user profile in an interactive television system, the method comprising:
 - updating a user profile responsive to a first user activity, the first user activity being initiated via a first device;
 - initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 - accessing the user profile in response to the second user activity; and
 - transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile.

2. (Previously Presented) The method as recited in claim 1, further comprising updating said user profile in response to said second user activity.

3. (Previously Presented) The method as recited in claim 1, wherein said first user activity comprises an activity related to television viewing and the first device comprises a television receiver, and said second user activity is performed via a remote device that does not utilize the television receiver.

4. (Previously Presented) The method as recited in claim 1, wherein said first user activity is performed via a remote device that does not utilize a television receiver, and said second user activity comprises an activity related to television viewing and the second device comprises a television receiver.

5. (Previously Presented) The method as recited in claim 1, further comprising:

determining the type of said second device;
accessing a device profile corresponding to the second device;
formatting said data to correspond to said device profile prior to transmitting the
data; and
transmitting the data to the second device.

6. (Original) The method as recited in claim 2, further comprising selecting non-requested data based on said user profile and transmitting said non-requested data.
7. (Original) The method as recited in claim 6, wherein said non-requested data comprises an advertisement targeted to the user.
8. (Previously Presented) The method as recited in claim 3 wherein said first user activity is via a set-top box, said remote device is a wireless mobile unit, and wherein said set-top box and mobile unit are configured to communicate with one another.
9. (Original) The method as recited in claim 5, further comprising storing the user profile at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the system.
10. (Previously Presented) The method as recited in claim 3, further comprising detecting a physical location of the second device; and selecting the data to be transmitted at least in part on the physical location of the second device.
11. (Original) The method as recited in claim 1, further comprising updating the user profile in response to detecting a physical location of a user's location trackable mobile unit.
12. (Previously Presented) The method as recited in claim 3, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

13. (Original) The method as recited in claim 1, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

14. (Previously Presented) An interactive television system comprising:
a remote unit;
a set-top box; and
a broadcast station coupled to convey a programming signal to the set-top box;
wherein the system is configured to:
 update a user profile responsive to a first user activity, the first user activity being initiated via a first device corresponding to one of the remote unit and the set-top box;
 detect a second user activity, the second user activity being initiated via a second device corresponding to one of the remote unit and the set-top box, the second device being different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 access the user profile in response to the second user activity; and
 transmit data responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile.

15. (Previously Presented) The system as recited in claim 14, wherein the system is configured to update the user profile in response to the second user activity.

16. (Previously Presented) The system as recited in claim 14, wherein the first device is the set-top box and the first user activity is performed via the set-top box, and wherein the second device is the remote unit and the second user activity is performed via the remote unit and does not utilize the set-top box.

17. (Previously Presented) The system as recited in claim 15, wherein the first device is the remote unit, said first user activity is via the remote unit and does not utilize the set-top box, and wherein the second device is the set-top box and the second user activity utilizes the set-top box.

18. (Previously Presented) The system as recited in claim 15, wherein the system is further configured to:

determine the type of the second device;

access a device profile corresponding to the second device;

format the data to correspond to the device profile prior to transmitting the data;

and

transmit the data to the second device.

19. (Original) The system as recited in claim 15, wherein the system is further configured to select non-requested data based on said user profile and transmit said non-requested data to a user.

20. (Previously Presented) The system as recited in claim 16 wherein said set-top box and remote unit are configured to communicate with one another.

21. (Original) The system as recited in claim 18, wherein the user profile is stored at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the television system.

22. (Previously Presented) The system as recited in claim 16, wherein the system is further configured to detect a physical location of the second device; and select the data to be transmitted at least in part on the detected location.

23. (Original) The system as recited in claim 14, wherein the system is further configured to update the user profile in response to detecting a physical location of a user's location trackable mobile unit.

24. (Original) The system as recited in claim 16, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.
25. (Original) The system as recited in claim 14, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
26. (Previously Presented) A carrier medium comprising program instructions, or triggers to launch execution of program instructions, wherein the program instructions are executable to:
- update a user profile responsive to a first activity, the first user activity being initiated via a first device;
 - detect a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 - access the user profile in response to the second user activity; and
 - transmit data responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile.
27. (Previously Presented) The carrier medium as recited in claim 26, wherein the first user activity is performed via a set-top box, and the second user activity is performed via the remote unit and does not utilize the set-top box.
28. (Previously Presented) The carrier medium as recited in claim 26, wherein the program instructions are further executable to:
- determine the type of the second device;
 - access a device profile corresponding to the second device;

format the data to correspond to the device profile prior to transmitting the data;
and
transmit the data to the second device.

29. (Original) The carrier medium as recited in claim 26, wherein the program instructions are executable to select non-requested data based on said user profile and transmit said non-requested data to a user.

30. (Previously Presented) The carrier medium as recited in claim 26, wherein the program instructions are executable to select the data to be transmitted at least in part on the detected physical location of the second device.

31. (Original) The carrier medium as recited in claim 27, wherein the remote unit is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

32. (Previously Presented) The carrier medium as recited in claim 26, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

REMARKS

Claims 1-32 remain pending.

In the present Office Action, claims 1-4, 6-9, 12-17, 19-21, 24-27, 29, and 31-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ellis et al. (US 2005/0028208, hereinafter "Ellis"). In addition, claims 5, 18, and 28 stand rejected under 35 U.S.C. § 103(a), and claims 10-11, 22-23, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of Herz et al. (US 6,571,279, hereinafter "Herz").

Applicant has considered the examiner's rejections and the cited art. However, Applicant disagrees with the examiner's analysis. Accordingly, Applicant traverses the rejections and requests reconsideration in view of the following comments. For purposes of economy, Applicant's comments presented in the Response filed September 12, 2005, are not repeated herein in their entirety. However, the previous comments remain applicable.

As discussed in the previous Response, a user profile is recited which is common to disparate activities. In particular, a user may update a common profile via multiple distinct types of user activities, one comprising an activity related to television viewing and the other comprising an activity unrelated to television viewing. The profile forms a nexus, or point of commonality, between the television and non-television related activities. In the present Office Action, the examiner suggests the Ellis discloses these features. However, Ellis does not disclose the features as recited.

Claim 1 recites both a first user activity and a second user activity. One of these activities is related to television viewing and the other is not. In paragraph 2 of the present Office Action, the examiner discusses how Ellis discloses engaging in television related activities (e.g., television program guide settings) and non-television related activities (e.g., shopping or email). The examiner then generally states that the recited

“second user activity” may correspond to either of these types of activities (i.e., television related and non-television related). Applicant agrees that the second user activity may comprise either television or non-television related activity. However, merely discussing the second user activity in isolation from the rest of the claim is not appropriate.

In claim 1, there is a clear relationship between “the user profile”, the first user activity, and the second user activity. If the second user activity is television related activity, then the first user activity is not related to television viewing. In such a case, the user profile is updated by the non-television viewing related activity (i.e., the first user activity), and data is transmitted responsive to the second user activity based in part on the user profile. Nowhere does the cited art disclose these features. While Ellis discloses non-television viewing related activity such as shopping or email, Ellis does not disclose or suggest that this activity updates a user profile which is later used for transmitting data responsive to television viewing related activity.

In paragraph 4 of the Office Action, the first user activity (television viewing related) cited by the examiner relates to setting of user profiles, parental control, program, selecting a program to record, etc. The second user activity (non-television viewing related) is then cited as corresponding to shopping, chat, e-mail, internet browser, etc. The examiner then goes on to state that the recited “accessing the user profile in response to the second user activity” is met by Ellis’ disclosure of a user accessing user settings to determine program recordings, tuning to a channel, etc. However, these latter activities are all television viewing related. The examiner’s discussion has already established that the second user activity is non-television viewing related (shopping, e-mail, etc.). The second user activity cannot then be changed mid-stream to mean television viewing related activity in order to meet the next clause of the claim. Accordingly, Applicant submits the analysis presented in the Office Action is not correct.

As discussed previously, if the second user activity comprises an activity related to television viewing and the first user activity comprises a non-television viewing related activity (such as web browsing via a PDA), then the user may be presented with

television program content that is based on a user profile updated according to the web browsing activity. Such teachings are neither disclosed nor suggested by the cited art, either singly or in combination.

Ellis is generally directed to a system for remote access of an application, such as a television program guide that is accessible from multiple television equipment devices and other devices including remotely located devices. For example, Ellis discloses:

“It is therefore an object of the present invention to provide an interactive television program guide system in which the program guide may be remotely accessed by the user. Such a system may allow the user to access important features of the user's in-home program guide from a remote location and set program guide settings for those features.” (Ellis, par. 10)

Ellis also discloses alternative embodiments that involve non-program-guide applications. For example, Ellis discloses:

“If desired, non-program-guide applications may be implemented on the user television equipment. Such non-program-guide applications may include, for example, a web browser application, a home shopping application, a game application, an e-mail application, a chat application, a banking application, etc. These applications may be implemented on a set-top box within the user television equipment. The user may adjust the settings of such a non-program-guide application using a remote access device.” (Ellis, par. 20).

Accordingly, Ellis discloses that the remote access approach may also be used to access these other applications in order to adjust their settings in a similar manner. However, nowhere does Ellis teach or suggest that a user's activities related to one application affect the content received for another application. Consequently, Applicant finds no teaching or suggestion in Ellis that a television program guide and any number of non-program-guide applications may share a common user profile, exchange data, or affect each other's operation in any way.

Accordingly, claim 1 is believed patentable over the cited art. Claims 14 and 26 recite features similar to those of claim 1 and are thus believed patentable over the cited art for at least the above reasons.

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested. Should the examiner believe issues remain which would prevent the application from proceeding to allowance, a telephone interview is requested to facilitate a speedy resolution. The below signed representative can be reached at (512) 853-8866.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time are necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-03800/RDR.

Respectfully submitted,



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/271,801	10/15/2002	Vincent Dureau	5266-03800	9386

44015 7590 11/16/2005
OPTV/MEYERTONS
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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
2611	

2611

DATE MAILED: 11/16/2005

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

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/12/2005 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues Ellis does not teach or disclose user's activities related to one application affect the content received for another application. Consequently, Applicant finds no teaching or suggestion in Ellis that a television program guide and any number of non-program guide applications may share a common user profile.

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In response, this argument is respectfully traversed. Claims 1, 14, 26 recites "the second user activities comprises an activity unrelated to television viewing; and accessing the user profile in response to the second user activity." Claim 4, lines 3-4, further recites the second user activity comprises an activity related to television viewing", Thus, the second user activities comprises an activity unrelated to television viewing and an activity related to television viewing. Therefore, the examiner interprets the claimed feature of "accessing the user profile in response to the second user activity" as accessing the user profile in response to the activity related to television viewing.

Ellis discloses user activities such as selection a channel to tune, to record, accessing various functions of the interactive program guides (parental control settings, user profiles, etc.) – paragraph 0071. The user may access a suitable web page provided by Internet service system that allows the user to enter a password and adjust a program guide parental control settings (paragraph 0099) changing user profile (paragraphs 0124-0126, 0161). The activities further comprises shopping, Internet browser, e-mail, etc. (paragraphs 0176-0179). Thus, the claimed feature of "second user activities comprises an activity unrelated to television viewing" is met by the activities comprises viewer's interaction with non program guide application such as shopping, web browser, etc. and the claimed feature of "accessing the user profile in response to the second user activity" is broadly met by the accessing the user profile in response to user selection to tune to a channel, to record a channel, to adjust add/delete a channel, etc.

For the reasons given above, the amended claims 1-32 are rejected below over Ellis.

Claim Rejections - 35 USC § 102

3. 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.

4. Claims 1- 4, 6-9, 12-17, 19-21, 24-27, 29, 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 2005/0028208).

Regarding claim 1, the claimed method for utilizing a user profile in an interactive television system is met by Ellis's disclosure as follow:

“updating a user profile responsive to a first user activity, the first user activity being initiated via a first device” is broadly met by adjusting the setting of user profiles, parental control, etc. via user television equipment (22) or the remote program guide access device (24), microphone, etc. -par. 0024-par. 0027; par. 0081; par. 0138; par. 0159-par. 0162; par. 0179; par. 0213; figures 2d-4);

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“initiating a second user activity, the second user activity being initiated via a second device which is different from the first device wherein either the first or the second user activity comprises an activity related to television viewing, and the other of the first and the second user activities comprises an activity unrelated to television viewing” is broadly met by the controlling the user television equipment (22) such as select a program to be record, tune to a channel, etc. via user television equipment (22) or remote program guide access device (24), or microphone, etc. wherein the remote program guide access device (24) and the user television equipment are different devices (figures 3-5, 19), wherein the first user activity is met by selection of a program to be record, tune to a channel, and the second user activity is met by viewer accessing an non-program guide application such as shopping, chat, e-mail, internet browser, etc. – paragraphs 0176-0180);

“accessing the user profile responsive to the second user activity” is broadly met by accessing user settings to determine if the selecting of recording of particular program, tuning to particular channel, etc. is authorized or to adjust/change the user profile (paragraphs 0018-0020, 0025, 0120-0127, 0137, 0159-0166);

“transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile” is broadly met by transmitting the program guide data or program content selected to be recorded, tuned, etc. to the user responsive to user selection of displaying program guide data, user selection of tuning to a particular channel, user selection of recording a program at particular time, wherein the program guide data, channel tuned, program to be recorded

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is based on user profiles such as user favorites channels, schedule for program to be recorded, etc. (figures 19, par. 0116-par. 0118).

Regarding claim 2, Ellis further the settings in user profile are updated in responsive to user selection of program to be recorded, a channel to be tuned, an adjustment of changing of user profile, etc. For example, if the user select to set a reminder for program to be recorded when select a program to be recorded, user profile will be updated with a reminder for particular program to be recorded as particular time (paragraphs 0136, 0155-0162, figure 19). Thus, the user profile is updated in response to the second user activity.

Regarding claim 3, the claimed feature of "first user activity comprises an activity related to television viewing and the first device comprises a television receiver" is met by tune to a channel, to record a program, etc. and the first device comprises user television equipment that receives television (figures 3-4); the claimed feature of "second activity is performed via a remote device that does not utilize the television receiver" is broadly met by selecting web site, e-mail, adjust the program guide parental control, etc. using the remote program guide access device (24), microphone, etc. (figures 2b, 2d, 5-6, paragraphs 0099, 0142).

Regarding claim 4, the claimed feature of "first user activity is performed via a remote device that does not utilize the television receiver" is broadly met by selecting program

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to be viewed, recorded, etc. using the remote program guide access device (24), microphone (figures 2b, 2d, 5-6, paragraphs 0099, 0142); the claimed feature of “second user activity comprises an activity related to television viewing activity and the second device comprises a television receiver” is met by selecting to tune to a channel, to record a program, etc. and the second device comprises user television equipment (22) that receives television – (figures 3-4).

Regarding claim 6, Ellis further discloses selecting non-requested data based on the user profile and transmitting non-requested data (program guide data is transmitted and displayed according to preference profiles-par. 0123, par. 0126, par. 0129, par. 0161-par. 0162).

Regarding claim 7, Ellis further discloses the non-requested data comprises an advertisement targeted to the user (program guide data comprises program title, description, etc. of the program that provided to user based on user profile – par. 0123, par. 0126, par. 0161-par. 0163, par. 0067).

Regarding claim 8, Ellis further discloses the first user activity is via set top box (figure 3-4), the remote device is a wireless mobile unit (par. 0092), wherein the set top box and mobile unit (24) are configured to communicate with one another (figures 2c,3-4).

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Regarding claim 9, Ellis further discloses storing the user profile at one or more of a television broadcast station (16), user set top box, or other remote location configured to communicate within the system (par. 0124, par. 0161-par. 0162).

Regarding claim 12, Ellis further discloses the remote device is a personal digital assistance (par. 0092).

Regarding claim 13, Ellis further discloses the user profile is based on data obtained in a passive manner, active manner, or both (par. 0136, par. 0124, par. 0161-par. 0162).

Regarding claim 14, the limitations of the claimed system correspond to the limitations of the method as discussed in the rejection of claim 1, and are analyzed as discussed with respect to the rejection of claim 1, wherein the claimed "remote unit" is met by the remote program guide access device (24); the claimed "set top box" is met user television equipment (22); and "broadcast station" is met by the main facility (12) or television distribution facility (16) – figures 1-5.

Regarding claims 15-17, 19-21,24-25, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 1-4, 6, 8-9, 12-13, and are analyzed as discussed with respect to the rejection of claims 1-4,6,8-9,12-13.

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Regarding claims 26-27, 29, 31-32, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claims 1, 3, 6, 12-13, and are analyzed as discussed with respect to the rejections of claims 1,3,6,12-13.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 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.

6. Claims 5, 18 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 1, 15, 26 above.

Regarding claim 5, Ellis discloses a method as discussed in the rejection of claim 1.

Furthermore, the claimed limitation of "formatting data corresponding to the device prior to transmitting the data and transmitting the data to the second device (e.g.

formatting/filtering data suitable for presentation on the particular device – par. 0109-

par. 0110, par. 0123, par. 0126). Ellis further discloses if link 19 is an Internet link, for

example, program guide functionality may be accessed by, for example, using HTTP....

(paragraphs 0104-0105). Appropriate differences in presentation may occur depending

on the interface devices used in user television equipment 22 and remote program

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guide access device 24 (paragraphs 0108-0108). Ellis further discloses assigning name for each device such as master/primary or slave, etc. The master device is able to control setting of all slave devices (par. 0211-par. 0217). It would have been obvious to one of ordinary skill in the art that the type of the second device (microphone, master, slave, PDA, etc.) is determined so that an appropriate format of presentation is provided to the device and the device profile (e.g. master/primary or slave, etc.) is accessed and data is formatted to correspond to the device profile (e.g. data is formatted/filter based on the device set of master or slave or based on the device capability) in order to provide most suited format/information to the device thereby improve the services.

Regarding claims 18, 28, the limitations of the claimed system and claimed carrier medium comprising program instructions respectively, correspond to the additional limitations of the method as claimed in claim 5, and are analyzed as discussed with respect to the rejection of claim 5.

7. Claims 10-11, 22-23, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 3, 15, 26 above, and further in view of Herz et al. (US 6,571,279).

Regarding claim 10, Ellis teaches a method as discussed in the rejection of claim 3. Ellis further discloses the remote device is mobile device such as portable computer, PDA, handheld personal computer, etc. (par. 0092), and selecting data to transmit to

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the remote device (figures 2-5). However, Ellis does not specifically disclose detecting a physical location of the second device, and selecting the data to be transmitted at least in part on the physical location of the second device.

Herz discloses detecting a physical location of the mobile device such as cellular phone, and selecting data to be transmitted at least in part on the physical location of the mobile device (col. 3, line 34-col. 4, line 67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience (abstract).

Regarding claim 11, Ellis discloses a method as discussed in the rejection of claim 1. Ellis further discloses updating user profile figure 19; par. 0136; par. 0155-par. 0162). However, Ellis does not specifically disclose updating the user profile in response to detecting a physical location of a user location trackable mobile unit.

Herz discloses Ellis does not specifically disclose updating the user profile in response to detecting a physical location of a user location trackable mobile unit (col. 4, lines 1-65, col. 18, lines 34-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience (abstract).

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Regarding claims 22-23, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 10-11, and are analyzed as discussed with respect to the rejection of claims 10-11.

Regarding claim 30, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claim 10, and are analyzed as discussed with respect to the rejections of claim 10..

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stern (US 6,486,892) discloses system and method for accessing, manipulating and viewing Internet and non-internet related information and for controlling networked devices.


Vamparys (WO 01/15449) discloses method and apparatus for creating recommendations from users profile built interactively.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. 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).

SPH
November 6, 2005


CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

IN THE CLAIMS

Please amend claims 1-5, 8, 14-18, and 26-28 as follows.

1. (Currently Amended) A method for utilizing a user profile in an interactive television system, the method comprising:
 - updating a user profile responsive to a first user activity access ~~in a first access mode~~, the first user activity access being initiated via a first device;
 - initiating a second user activity access ~~in a second access mode~~, the second user activity access being initiated via a second device which is different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 - accessing the user profile in response to the second user activity access; and
 - transmitting data to a user responsive to the second user activity access, wherein the transmitted data is based at least in part on the user profile.
2. (Currently Amended) The method as recited in claim 1, further comprising updating said user profile in response to said second user activity access.
3. (Currently Amended) The method as recited in claim 1, wherein said first user activity access mode ~~corresponds to~~ comprises an activity related to television viewing activity and the first device comprises a television receiver, and said second user activity access mode is performed via a remote device that does not utilize the television receiver.
4. (Currently Amended) The method as recited in claim 1, wherein said first user activity is performed ~~access mode corresponds to an access~~ via a remote device that does not utilize a television receiver, and said second user activity access mode ~~corresponds to~~ comprises an activity related to television viewing activity and the second device comprises a television receiver.

5. (Currently Amended) The method as recited in claim 1, further comprising:
determining the type of said second device access mode in response to said second user access;
accessing a device profile corresponding to the second device;
formatting said data to correspond to said device profile prior to transmitting the
data; and
transmitting the data to the second device.
6. (Original) The method as recited in claim 2, further comprising selecting non-requested data based on said user profile and transmitting said non-requested data.
7. (Original) The method as recited in claim 6, wherein said non-requested data comprises an advertisement targeted to the user.
8. (Currently Amended) The method as recited in claim 3 wherein said first user activity access mode is via a set-top box, said remote device is a wireless mobile unit, and wherein said set-top box and mobile unit are configured to communicate with one another.
9. (Original) The method as recited in claim 5, further comprising storing the user profile at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the system.
10. (Previously Presented) The method as recited in claim 3, further comprising detecting a physical location of the second device; and selecting the data to be transmitted at least in part on the physical location of the second device.
11. (Original) The method as recited in claim 1, further comprising updating the user profile in response to detecting a physical location of a user's location trackable mobile unit.

12. (Previously Presented) The method as recited in claim 3, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.
13. (Original) The method as recited in claim 1, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
14. (Currently Amended) An interactive television system comprising:
a remote unit;
a set-top box; and
a broadcast station coupled to convey a programming signal to the set-top box;
wherein the system is configured to:
update a user profile responsive to a first ~~access of a user~~ activity in a first access mode, the first user activity access-being initiated via a first device corresponding to one of the remote unit and the set-top box;
detect a second user activity ~~access of a user in a second access mode~~, the second user activity access-being initiated via a second device corresponding to one of the remote unit and the set-top box, the second device being different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
access the user profile in response to the second user activity access; and
transmit data responsive to the second user activity-access, wherein the transmitted data is based at least in part on the user profile.
15. (Currently Amended) The system as recited in claim 14, wherein the system is configured to update the user profile in response to the second user activity-access.

16. (Currently Amended) The system as recited in claim 14, wherein the first device is the set-top box and the first user activity access mode is performed via the set-top box, and wherein the second device is the remote unit and the second user activity access mode is performed via the remote unit and does not utilize the set-top box.

17. (Currently Amended) The system as recited in claim 15, wherein the first device is the remote unit, said first user activity access mode is via the remote unit and does not utilize the set-top box, and wherein the second device is the set-top box and the second user activity utilizes access mode corresponds to the set-top box.

18. (Currently Amended) The system as recited in claim 15, wherein the system is further configured to:

determine the type of the second device access mode in response to the second access;

access a device profile corresponding to the second device;

format the data to correspond to the device profile prior to transmitting the data;

and

transmit the data to the second device.

19. (Original) The system as recited in claim 15, wherein the system is further configured to select non-requested data based on said user profile and transmit said non-requested data to a user.

20. (Previously Presented) The system as recited in claim 16 wherein said set-top box and remote unit are configured to communicate with one another.

21. (Original) The system as recited in claim 18, wherein the user profile is stored at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the television system.

22. (Previously Presented) The system as recited in claim 16, wherein the system is further configured to detect a physical location of the second device; and select the data to be transmitted at least in part on the detected location.
23. (Original) The system as recited in claim 14, wherein the system is further configured to update the user profile in response to detecting a physical location of a user's location trackable mobile unit.
24. (Original) The system as recited in claim 16, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.
25. (Original) The system as recited in claim 14, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
26. (Currently Amended) A carrier medium comprising program instructions, or triggers to launch execution of program instructions, wherein the program instructions are executable to:
- update a user profile responsive to a first activity access ~~in a first access mode~~, the first user activity access being initiated via a first device;
 - detect a second ~~access of a user activity in a second access mode~~, the second user activity access being initiated via a second device which is different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing;
 - access the user profile in response to the second user activity access; and
 - transmit data responsive to the second user activity access, wherein the transmitted data is based at least in part on the user profile.

27. (Currently Amended) The carrier medium as recited in claim 26, wherein the first user activity access mode is performed via a set-top box, and the second user activity access mode is performed via the remote unit and does not utilize the set-top box.

28. (Currently Amended) The carrier medium as recited in claim 26, wherein the program instructions are further executable to:

determine the type of the second device access mode in response to the second access;

access a device profile corresponding to the second device;

format the data to correspond to the device profile prior to transmitting the data;

and

transmit the data to the second device.

29. (Original) The carrier medium as recited in claim 26, wherein the program instructions are executable to select non-requested data based on said user profile and transmit said non-requested data to a user.

30. (Previously Presented) The carrier medium as recited in claim 26, wherein the program instructions are executable to select the data to be transmitted at least in part on the detected physical location of the second device.

31. (Original) The carrier medium as recited in claim 27, wherein the remote unit is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

32. (Previously Presented) The carrier medium as recited in claim 26, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

REMARKS

Claims 1-32 were pending. Claims 1-5, 8, 14-18, and 26-28 have been amended. Accordingly, claims 1-32 remain pending.

In the present Office Action, claims 1-4, 6-9, 12-17, 19-21, 24-27, 29, and 31-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ellis et al. (US 2005/0028208, hereinafter "Ellis"). In addition, claims 5, 10-11, 18, 22-23, 28, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of Herz et al. (US 6,571,279, hereinafter "Herz"). Applicant respectfully traverses the rejections and requests reconsideration in view of the following discussion.

Applicant respectfully submits that each of independent claims 1, 14, and 26, as amended, recite elements which are not disclosed, suggested, or implied by the cited art. For example, amended claim 1 recites

"... updating a user profile responsive to a first user activity, the first user activity being initiated via a first device; initiating a second user activity, the second user activity being initiated via a second device which is different from the first device, wherein either the first or the second user activity comprises an activity related to television viewing and the other of the first and the second user activities comprises an activity unrelated to television viewing; accessing the user profile in response to the second user activity; and transmitting data to a user responsive to the second user activity, wherein the transmitted data is based at least in part on the user profile."

It is noted that the user may update a common profile via multiple distinct types of user activities, one comprising an activity related to television viewing and the other comprising an activity unrelated to television viewing.

Further, as recited, the user profile is updated in response to the first user activity via the first device, and data based at least in part on the user profile is transmitted responsive to the second user activity via the second device. To such an extent, the user

profile is common to both of the differing user activities. Accordingly, updates made in response to the first user activity may change the data transmitted to a user engaged in a completely unrelated second user activity. For example, if the second user activity comprises an activity related to television viewing (such as in the further limitation recited in claim 4) and the first user activity comprises web browsing, then the user may be presented with television program content that is based on a user profile that is modified according to the web browsing activity of the user performed from a device that is not a television receiver. Such teachings are neither disclosed nor suggested by the cited art, either singly or in combination.

Ellis is generally directed to a system for remote access of an application, such as a television program guide that is accessible from multiple television equipment devices and other devices including remotely located devices. For example, Ellis discloses:

“It is therefore an object of the present invention to provide an interactive television program guide system in which the program guide may be remotely accessed by the user. Such a system may allow the user to access important features of the user's in-home program guide from a remote location and set program guide settings for those features.” (Ellis, par. 10)

Regarding the remote access devices, Ellis teaches that:

“... remote program guide access device 24 may be any suitable personal computer (PC), portable computer (e.g., a notebook computer), palmtop computer, handheld personal computer (H/PC), display remote, touch-screen remote, automobile PC, personal digital assistant (PDA), or other suitable computer based device.” (Ellis, par. 92)

Ellis further teaches that for any given application, settings of the application may be updated from remote locations. For instance, television program guide settings, including user profiles, may be updated and used to determine the programming that is made available to a television viewer. Users may interact with the television program guide in a variety of ways, all of which relate to television viewing. For example, regarding the activities that a user may perform, Ellis teaches the following:

“Typical program guide features that may be provided by the program guides of this invention implemented on the user television equipment include features related to setting program reminders, profiles, program recording features, messaging features, favorites features, parental control features, program guide set up features (e.g., video display settings, language settings, etc.), and other suitable program guide features. The system coordinates operation of the program guides so that, for example, a user may adjust his favorite channel settings on a program guide operating in the living room and those settings will be effective on the program guide operating in the master bedroom and may therefore be used by that program guide.” (Ellis, par. 24).

Further, Ellis teaches that:

“The remote access program guide running on remote program guide access device 24 may provide a user with an opportunity to **remotely access program listings**. A person driving an automobile, for example, may issue a suitable vocal command that is recognized by interface 52. The remote access program guide may issue one or more access communications to the local program guide, which in turn supplies program listings information back to remote program guide access device 24. User interface 52 may, for example, provide the listings to the user in synthesized voice outputs.” (Ellis, par. 111).

“The remote access program guide may also provide a user with the opportunity to remotely **schedule program reminders** ... At an appropriate time before the selected program is scheduled to air ... a reminder may be issued by the local or remote interactive television program guides, or both. The reminder may be issued on all remote program guide access devices 24 available to the user, and may be displayed (e.g., in the form of a pop-up window or message) on user television equipment 22. If a reminder for a program is to be displayed on the user's home television, the reminder may be displayed just before the beginning of the program. If a reminder for a program is to be displayed on remote program guide access device 24, the reminder may be displayed much earlier (e.g., several hours before the program).” (Ellis, par. 117-118).

“The remote access program guide may also provide a user with the opportunity to remotely access and **adjust the parental control settings** of the local interactive television program guide implemented on interactive television program guide equipment 17.” (Ellis, par. 120).

“The remote access program guide may also provide users with an opportunity to remotely **access interactive television program guide**

functionality related to user preferences or "favorites" settings." (Ellis, par. 123).

"The remote access program guide may also provide the user with the opportunity to remotely **schedule recordings** using the local interactive program guide." (Ellis, par. 127).

"Primary user television equipment 260 may be connected to secondary user television equipment 261, secondary user television equipment 262, and secondary user television equipment 263 via communication paths 264. ... User television equipment devices are typically located in different rooms within home 265. For example, primary user television equipment 260 may be placed in the parents' bedroom, secondary user television equipment 261 may be placed in the children's room, secondary user television equipment 262 may be placed in a living room, and secondary user television equipment 263 may be placed in a guest room. With such an arrangement, **the parents' bedroom may be used as a master location to adjust user settings for the program guides on the user television equipment in the children's room and the other rooms.**" (Ellis, par. 194)

As can be seen, each of the above activities is related to television viewing and/or accesses data associated with television program content.

Ellis also discloses alternative embodiments that involve non-program-guide applications. For example, Ellis discloses:

"If desired, non-program-guide applications may be implemented on the user television equipment. Such non-program-guide applications may include, for example, a web browser application, a home shopping application, a game application, an e-mail application, a chat application, a banking application, etc. These applications may be implemented on a set-top box within the user television equipment. **The user may adjust the settings of such a non-program-guide application using a remote access device.**" (Ellis, par. 20).

Accordingly, Ellis discloses that the remote access approach may also be used to access these other applications in order to adjust their settings in a similar manner. For example, Ellis discloses:

“One non-program-guide application that may be implemented on a set-top box in accordance with the present invention is an Internet **browser**. An Internet browser may have settings such as bookmarks, parental control settings, and general preferences **that control how the browser functions.**” (Ellis, par. 176).

“Another non-program-guide application that may be implemented on a set-top box and accessed via a remote access device in accordance with the present invention is a **stock ticker**. A stock ticker may have settings such as settings indicating the top ten stocks in which the user is interested. As shown in FIG. 26, a remote access device may display a remote access stock ticker settings screen 710. Stock ticker settings screen 710 may have, for example, ticker symbol 712 and a top ten stocks option 715. A user may, for example, add a top stock. By exchanging one or more access communications, **the remote access stock ticker application can make the top ten stock settings effective on a local stock ticker application.**” (Ellis, par. 178).

“If desired, the settings of an **e-mail** application running on a set-top box may be adjusted remotely. ... Users may, for example, remotely add to or change an address book. When the user adjusts e-mail settings with a remote access e-mail application running on a remote access device, **the remote access e-mail application may remotely adjust the settings of a local e-mail application** by, for example, exchanging one or more access communications with the local e-mail application over a remote access link.” (Ellis, par. 180).

As can be seen from the above, Ellis merely discloses accessing the settings of a given application from a remote location. However, there is no teaching or suggestion that a user's activities related to one application affect the content received for another application. Consequently, Applicant finds no teaching or suggestion in Ellis that a television program guide and any number of non-program-guide applications may share a common user profile, exchange data, or affect each other's operation in any way.

Accordingly, claim 1 is believed patentable over the cited art. Claims 14 and 26 recite features similar to those of claim 1 and are thus believed patentable over the cited art for at least the above reasons. As each of dependent claims 2-13, 15-25, and 27-32 include at least the features of the independent claims and intervening dependent claims

upon which they depend, each of dependent claims 2-13, 15-25, and 27-32 is also believed patentable over the cited art.

As noted above, claims 5, 10-11, 18, 22-23, 28 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis in view of Herz. As the combination of Herz with Ellis does not disclose all of the features of the claims as discussed above, each of claims 5, 10-11, 18, 22-23, 28 and 30 are patentable for at least the reasons given above regarding the independent claims.

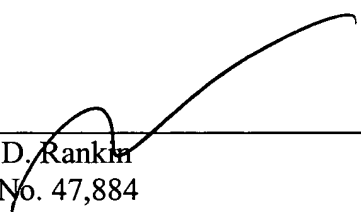
Applicant submits the application is in condition for allowance, and an early notice to that effect is requested. Should the examiner believe issues remain which would prevent the application from proceeding to allowance, a telephone interview is requested to facilitate a speedy resolution. The below signed representative can be reached at (512) 853-8866.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time are necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-03800/RDR.

Respectfully submitted,



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Date: 7/28/05

ay



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/271,801	10/15/2002	Vincent Dureau	5266-03800	9386

44015 7590 06/15/2005

OPTV/MEYERTONS
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AUSTIN, TX 78701

EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
2611	

2611

DATE MAILED: 06/15/2005

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

Office Action Summary	Application No. 10/271,801	Applicant(s) DUREAU, VINCENT	
	Examiner Son P. Huynh	Art Unit 2611	

-- 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 03 MONTH(S) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 09 December 2004.
- 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) 1-32 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) 1-32 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 15 October 2002 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 (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/11/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. 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.

3. Claims 1- 4, 6-9, 12-17, 19-21, 24-27, 29, 31-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 2005/0028208).

Regarding claim 1, the claimed method for utilizing a user profile in an interactive television system is met by Ellis's disclosure as follow:

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“updating a user profile responsive to a first user access in a first access mode, the first user access being initiated via a first device” is broadly met by adjusting the setting of user profiles, parental control, etc. via user television equipment (22) or the remote program guide access device (24) etc. -par. 0024-par. 0027; par. 0081; par. 0138; par. 0159-par. 0162; par. 0179; par. 0213; figures 2d-4);

“initiating a second user access in a second access mode, the second user access being initiated via a second device which is different from the first device” is broadly met by the controlling the user television equipment (22) such as select a program to be record, tune to a channel, etc. via user television equipment (22) or remote program guide access device (24) etc. wherein the remote program guide access device (24) and the user television equipment are different devices (figures 3-5, 19);

“accessing the user profile in response to the second user access” is broadly met accessing user settings to determine if the selecting of recording of particular program, tuning to particular channel, etc. is authorized (par. 0018-par. 0020; par. 0025; par. 0120-par. 0127; par. 0137-par. 0138; par. 0159-par. 0166);

“transmitting data to a user responsive to the second user access, wherein the transmitted data is based at least in part on the user profile” is broadly met by transmitting the program guide data or program content selected to be recorded, tuned, etc. to the user responsive to user selection of displaying program guide data, user selection of tuning to a particular channel, user selection of recording a program at particular time, wherein the program guide data, channel tuned, program to be recorded

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is based on user profiles such as user favorites channels, schedule for program to be recorded, etc. (figures 19, par. 0116-par. 0118).

Regarding claim 2, Ellis further discloses the settings in user profiles are updated in responsive to user selection of program to be recorded, a channel to be tuned, etc. for example, if the user select to set a reminder for program to be recorded when select a program to be recorded, user profile will be updated with a reminder for particular program to be recorded as particular time (figure 19; par. 0136; par. 0155-par. 0162).

Regarding claim 3, the claimed feature of "first access mode correspond to television viewing activity and the first device comprises a television receiver" is met by selecting to adjust settings in user profile, to tune to a channel, to record a program, etc. and the first device comprises user television equipment that receives television – figures 3-4); the claimed feature of "first access mode is performed via a remote device that does not utilize the television receiver" is broadly met by selecting program to be viewed, recorded, etc. using the remote program guide access device (24) – figures 2b, 2d, 5-6.

Regarding claim 4, the claimed feature of "first access mode via a remote device that does not utilize the television receiver" is broadly met by adjusting the settings user profile, selecting program to be viewed, recorded, etc. using the remote program guide access device (24) – figures 2b, 2d, 5-6; the claimed feature of "second access mode correspond to television viewing activity and the second device comprises a television

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receiver" is met by selecting to adjust settings in user profile, to tune to a channel, to record a program, etc. and the second device comprises user television equipment (22) that receives television – figures 3-4).

Regarding claim 6, Ellis further discloses selecting non-requested data based on the user profile and transmitting non-requested data (program guide data is transmitted and displayed according to preference profiles-par. 0123, par. 0126, par. 0129, par. 0161-par. 0162).

Regarding claim 7, Ellis further discloses the non-requested data comprises an advertisement targeted to the user (program guide data comprises program title, description, etc. of the program that provided to user based on user profile – par. 0123, par. 0126, par. 0161-par. 0163, par. 0067).

Regarding claim 8, Ellis further discloses the first access mode is via set top box (figure 3-4), the remote device is a wireless mobile unit (par. 0092), wherein the set top box and mobile unit (24) are configured to communicate with one another (figures 2c,3-4).

Regarding claim 9, Ellis further discloses storing the user profile at one or more of a television broadcast station (16), user set top box, or other remote location configured to communicate within the system (par. 0124, par. 0161-par. 0162).

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Regarding claim 12, Ellis further discloses the remote device is a personal digital assistance (par. 0092).

Regarding claim 13, Ellis further discloses the user profile is based on data obtained in a passive manner, active manner, or both (par. 0136, par. 0124, par. 0161-par. 0162).

Regarding claim 14, the limitations of the claimed system correspond to the limitations of the method as discussed in the rejection of claim 1, and are analyzed as discussed with respect to the rejection of claim 1, wherein the claimed "remote unit" is met by the remote program guide access device (24); the claimed "set top box" is met user television equipment (22); and "broadcast station" is met by the main facility (12) or television distribution facility (16) – figures 1-5.

Regarding claims 15-17, 19-21,24-25, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 1-4, 6, 8-9, 12-13, and are analyzed as discussed with respect to the rejection of claims 1-4,6,8-9,12-13.

Regarding claims 26-27, 29, 31-32, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claims 1, 3, 6, 12-13, and are analyzed as discussed with respect to the rejections of claims 1,3,6,12-13.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 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.

5. Claims 5, 18 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 1, 15, 26 above, and further in view of Herz et al. (US 6,571,279).

Regarding claim 5, Ellis discloses a method as discussed in the rejection of claim 1.

Furthermore, the claimed limitation of "determining said second access mode in response to said second user access" is broadly met by determining the user selection of scheduling program to be recorded, user selection of displaying program guide data, etc. (par. 0109-par. 0112);

formatting data corresponding to the device prior to transmitting the data and transmitting the data to the second device (e.g. formatting/filtering data suitable for presentation on the particular device – par. 0109-par. 0110, par. 0123, par. 0126). Ellis further discloses assigning name for each device such as master/primary or slave. The master device is able to control setting of all slave devices (par. 0211-par. 0217). It would have been obvious to one of ordinary skill in the art that that the device profile

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(e.g. master/primary or slave, etc.) is accessed and data is formatted to correspond to the device profile (e.g. data is formatted/filter based on the device set of master or slave or based on the device capability) in order to provide most suited format/information to the device thereby improve the services.

Regarding claims 18, 28, the limitations of the claimed system and claimed carrier medium comprising program instructions respectively, correspond to the additional limitations of the method as claimed in claim 5, and are analyzed as discussed with respect to the rejection of claim 5.

6. Claims 10-11, 22-23, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (US 2005/0028208) as applied to claims 3, 15, 26 above, and further in view of Herz et al. (US 6,571,279).

Regarding claim 10, Ellis teaches a method as discussed in the rejection of claim 3. Ellis further discloses the remote device is mobile device such as portable computer, PDA, handheld personal computer, etc. (par. 0092), and selecting data to transmit to the remote device (figures 2-5). However, Ellis does not specifically disclose detecting a physical location of the second device, and selecting the data to be transmitted at least in part on the physical location of the second device.

Herz discloses detecting a physical location of the mobile device such as cellular phone, and selecting data to be transmitted at least in part on the physical location of the

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mobile device (col. 3, line 34-col. 4, line 67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience (abstract).

Regarding claim 11, Ellis discloses a method as discussed in the rejection of claim 1. Ellis further discloses updating user profile figure 19; par. 0136; par. 0155-par. 0162). However, Ellis does not specifically disclose updating the user profile in response to detecting a physical location of a user location trackable mobile unit.

Herz discloses Ellis does not specifically disclose updating the user profile in response to detecting a physical location of a user location trackable mobile unit (col. 4, lines 1-65, col. 18, lines 34-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Herz in order to provide information most suited to the real current audience (abstract).

Regarding claims 22-23, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 10-11, and are analyzed as discussed with respect to the rejection of claims 10-11.

Regarding claim 30, the limitations of the carrier medium comprising program instructions as claimed correspond to the limitations of the method as claimed in claim 10, and are analyzed as discussed with respect to the rejections of claim 10..

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shen et al. (US 6,401,059) discloses method and system for using a personal digital assistance as a remote control.

Steinbach et al. (US 2002/0183072) discloses beyondguidetm method and system.

Sano et al. (US 2002/0059596) discloses device and method for distributing program information and terminal and device relating to the same.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. 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).

SPH
June 12, 2005


CHRIS GRANT
PRIMARY EXAMINER



2611

41

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/271,801

Filed: October 15, 2002

Inventor(s):

Vincent Dureau

Title: CONVERGENCE OF INTERACTIVE TELEVISION AND WIRELESS TECHNOLOGIES

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Examiner: Huynh, Son P.
Group/Art Unit: 2611
Atty. Dkt. No: 5266-03800

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Rory D. Rankin

Printed Name

[Handwritten Signature]

Signature

December 9, 2004

Date

RECEIVED

DEC 16 2004

Technology Center 2600

RESPONSE TO OFFICE ACTION OF
SEPTEMBER 9, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is submitted in response to the Office Action of September 9, 2004, to further highlight why the application is in condition for allowance.

Please amend the case as listed below.

IN THE CLAIMS

Please amend claims 1, 3-5, 10, 12, 14, 16-18, 20, 22, 26-28, 30 and 32 as follows.

1. (Currently Amended) A method for utilizing a user profile in an interactive television system, the method comprising:
 - updating a user profile responsive to a first user access in a first access mode, the first user access being initiated via a first device;
 - initiating a second user access in a second access mode, the second user access being initiated via a second device which is different from the first device;
 - accessing the user profile in response to the second user access; and
 - transmitting data to a user responsive to the second user access, wherein the transmitted data is based at least in part on the user profile.
2. (Original) The method as recited in claim 1, further comprising updating said user profile in response to said second user access.
3. (Currently Amended) The method as recited in claim [2] 1, wherein said first access mode corresponds to television viewing activity and the first device comprises a television receiver, and said second access mode is performed via a remote device that does not utilize the television receiver.
4. (Currently Amended) The method as recited in claim [2] 1, wherein said first access mode corresponds to an access via a remote device that does not utilize a television receiver, and said second access mode corresponds to television viewing activity and the second device comprises a television receiver.

5. (Currently Amended) The method as recited in claim [2] 1, further comprising:

determining said second access mode in response to said second user access;
accessing a device profile corresponding to the second device ~~said second access mode~~; ~~and~~
formatting said data to correspond to said device profile prior to transmitting the data; ~~and~~
transmitting the data to the second device.

6. (Original) The method as recited in claim 2, further comprising selecting non-requested data based on said user profile and transmitting said non-requested data.

7. (Original) The method as recited in claim 6, wherein said non-requested data comprises an advertisement targeted to the user.

8. (Original) The method as recited in claim 3 wherein said first access mode is via a set-top box, said remote device is a wireless mobile unit, and wherein said set-top box and mobile unit are configured to communicate with one another.

9. (Original) The method as recited in claim 5, further comprising storing the user profile at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the system.

10. (Currently Amended) The method as recited in claim [2] 3, further comprising detecting a physical location of the second device; ~~and~~ selecting the data to be transmitted at least in part on the physical location of a the second device ~~user performing an access.~~

11. (Original) The method as recited in claim 1, further comprising updating the user profile in response to detecting a physical location of a user's location trackable mobile unit.

12. (Currently Amended) The method as recited in claim 3, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, ~~and~~ a fixed unit, and a portable computer system.
13. (Original) The method as recited in claim 1, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
14. (Currently Amended) An interactive television system comprising:
- a remote unit;
 - a set-top box; and
 - a broadcast station coupled to convey a programming signal to the set-top box;
- wherein the system is configured to:
- update a user profile responsive to a first access of a user in a first access mode, the first access being initiated via a first device corresponding to one of the remote unit and the set-top box;
 - detect a second access of a user in a second access mode, the second access being initiated via a second device corresponding to one of the remote unit and the set-top box, the second device being different from the first device;
 - access the user profile in response to the second access[.]; and
 - transmit data responsive to the second access, wherein the transmitted data is based at least in part on the user profile.
15. (Original) The system as recited in claim 14, wherein the system is configured to update the user profile in response to the second access.
16. (Currently Amended) The system as recited in claim [15] 14, wherein the first device is the set-top box and the first access mode is performed via the set-top box, and wherein the second device is the remote unit and the second access mode is performed via the remote unit and does not utilize the set-top box.

17. (Currently Amended) The system as recited in claim 15, wherein the first device is the remote unit, said first access mode is via the remote unit and does not utilize the set-top box, and wherein the second device is the set-top box and the second access mode corresponds to the set-top box.

18. (Currently Amended) The system as recited in claim 15, wherein the system is further configured to:

determine the second access mode in response to the second access;
access a device profile corresponding to the second device access mode; and
format the data to correspond to the device profile prior to transmitting the data;
and
transmit the data to the second device.

19. (Original) The system as recited in claim 15, wherein the system is further configured to select non-requested data based on said user profile and transmit said non-requested data to a user.

20. (Currently Amended) The system as recited in claim 16 wherein said set-top box and ~~mobile~~ remote unit are configured to communicate with one another.

21. (Original) The system as recited in claim 18, wherein the user profile is stored at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the television system.

22. (Currently Amended) The system as recited in claim [15] 16, wherein the system is further configured to detect a physical location of ~~a user performing an access the~~ second device; and select the data to be transmitted at least in part on the detected location.

23. (Original) The system as recited in claim 14, wherein the system is further configured to update the user profile in response to detecting a physical location of a user's location trackable mobile unit.

24. (Original) The system as recited in claim 16, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

25. (Original) The system as recited in claim 14, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

26. (Currently Amended) A carrier medium comprising program instructions, or triggers to launch execution of program instructions, wherein the program instructions are executable to:

update a user profile responsive to a first access of a user in a first access mode,
the first access being initiated via a first device;

detect a second access of a user in a second access mode, the second access being initiated via a second device which is different from the first device;

access the user profile in response to the second access; and

transmit data responsive to the second access, wherein the transmitted data is based at least in part on the user profile.

27. (Currently Amended) The carrier medium as recited in claim 26, wherein the first access mode is performed via a set-top box, and the second access mode is performed via the remote unit and does not utilize the set-top box.

28. (Currently Amended) The carrier medium as recited in claim 26, ~~wherein the~~ wherein the program instructions are further executable to:

determine the second access mode in response to the second access;

access a device profile corresponding to the second device ~~access mode;~~ and

format the data to correspond to the device profile prior to transmitting the data;
and
transmit the data to the second device.

29. (Original) The carrier medium as recited in claim 26, wherein the program instructions are executable to select non-requested data based on said user profile and transmit said non-requested data to a user.

30. (Currently Amended) The carrier medium as recited in claim 26, wherein the program instructions are executable to ~~further configured to~~ select the data to be transmitted at least in part on the detected physical location of ~~a user performing an~~ access the second device.

31. (Original) The carrier medium as recited in claim 27, wherein the remote unit is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

32. (Currently Amended) The carrier medium as recited in claim [14] 26, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

REMARKS

Claims 1-32 were pending. Claims 1, 3-5, 10, 12, 14, 16-18, 20, 22, 26-28, 30 and 32 have been amended. Accordingly, claims 1-32 remain pending.

In the present Office Action, claims 1-10, 12-22, and 24-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,177,931 (hereinafter "Alexander"). In addition, claims 11, 23, and 26-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander. Applicant respectfully traverses the above rejections and requests reconsideration in view of the following discussion.

In order for there to be anticipation, each and every element of the claimed invention must be present in a single prior reference. Applicant respectfully submits that each of the independent claims 1, 14, and 26 recite elements which are not disclosed, suggested, or implied by the cited art.

Generally speaking, Alexander is directed to a television electronic programming guide (EPG). Alexander further teaches a viewer profile may be created based upon information explicitly provided by a viewer, or by information learned by the viewer's interactions with the EPG. Alexander also teaches the viewer profile may be updated. For example, Alexander discloses:

"H. creation of a viewer's profile

1. Collecting viewer profile information.

The EPG requests that the viewer provide certain profile information, including but not limited to: the viewer's zip code; television, cable, and satellite services to which the viewer subscribes; the length of said subscriptions; the type of television; the age of the television; where the television was purchased; the viewer's top favorite channels; the viewer's favorite types of programs; and the times during which the viewer is most likely to watch television. If the viewer declines to provide this information, the EPG will attempt to "learn" the information as described below. . . .

Every time the viewer interacts with the EPG or the television, the EPG records the viewer's actions and the circumstances surrounding those actions.” (Alexander, col. 28, lines 10-32).

“Information about the viewer is captured on an ongoing basis. Similarly, viewer profile data is updated on an ongoing basis.” (Alexander, col. 29, lines 22-24).

All viewer activity in Alexander is associated with the described television EPG in one way or another and is directed to a viewer sitting in front of their television set display. In contrast, the presently claimed invention recites multiple user access modes via multiple devices. For example, claim 1 recites a method including:

“updating a user profile responsive to a first user access in a first access mode, the first user access being initiated via a first device;

initiating a second user access in a second access mode, the second user access being initiated via a second device which is different from the first device;

accessing the user profile in response to the second user access; and

transmitting data to a user responsive to the second user access, wherein the transmitted data is based at least in part on the user profile.” (underlining added for emphasis).

At least the above features are neither taught nor suggested by the cited art. Not only do the multiple user access modes and distinct devices distinguish the claimed invention from the cited art, but it is further noted that the recited user profile is distinguishable from the cited art.

As noted above, all viewer activity in Alexander is associated with the EPG and a single corresponding device – the television receiver. In contrast, Applicant’s claimed invention recites multiple distinct devices performing accesses in multiple modes.

Further, as recited, the user profile is updated in response to the first user access via the first device, and data based at least in part on the user profile is transmitted responsive to the second user access via the second device. To such an extent, the user profile is common to both of the differing accesses by different devices. Such teachings are wholly absent from the cited art. Accordingly, each of independent claims 1, 14 and 26 are believed patentable over the cited art. As each of the dependent claims include at least the features of the independent claims upon which they depend, each of the dependent claims are likewise patentable.

Applicant further submits there are additional features cited in the dependent claims which are nowhere taught or suggested by the cited art. For example, each of claims 3 and 4 further recite that one access is related to television viewing activity and a television receiver, and the other access is by a different device and does not involve the television receiver. In contrast, all of the teachings of Alexander concern accesses involving a television receiver (e.g., channel changes, using remote control, etc.). As all of the teachings of Alexander are directed to the EPG, there is no teaching or suggestion of using a remote device to perform accesses which do not involve the television receiver. Further, claim 5 recites the additional features:

“determining said second access mode in response to said second user access;
accessing a device profile corresponding to the second device;
formatting said data to correspond to said device profile prior to transmitting the data; and
transmitting the data to the second device.” (underlining added for emphasis).

Applicant submits there is nothing in the cited art that teaches the above features. In the present Office Action, a viewer’s remote control is cited in Alexander as corresponding to the second device in prior claim 5. The Office Action further cites col. 30, lines 45-67 of Alexander which states in part:

“The EPG and Profile Program use the basic viewer profile data, the simple statistics collected about a particular viewer, Viewer Preferences and Viewer Characteristics (collectively, hereinafter, the "Viewer's Profile") to customize various aspects of the EPG. The viewer has the option to block any of these automatic customization features in the EPG Setup Mode. One aspect of the EPG that will be customized is the order of the channel slots presented in the Grid Guide. The order in which the channel slots are presented can be customized to present the viewer's favorite channels at the top/beginning of the Grid Guide in descending order according to the Viewer's Profile.

In one embodiment, the order of the channel slots is customized according to the day of the week and the time of day in accordance with the Viewer's Profile. For instance, if a particular viewer frequently watched Nick at Nite on weekday evenings from 7 pm to 10 pm, then the EPG automatically tunes the television when turned on between 7 pm and 10 pm, to the appropriate Nick at Nite channel and formats the Grid Guide to show the Nick at Nite channel as the first channel in the Grid Guide.”

Accordingly, Alexander teaches a viewer profile may be used to customize various aspects of the EPG. However, Alexander nowhere teaches or suggests “formatting said data to correspond to said device profile prior to transmitting the data; and transmitting the data to the second device.”

Still further, claim 10 recites the additional features “further comprising detecting a physical location of the second device; and selecting the data to be transmitted at least in part on the physical location of the second device”. As recited in claims 1 and 3, the second device in claim 10 is a remote device which does not utilize the television receiver. Applicant submits the features of claim 10 are neither taught nor suggested by the cited art. With respect to detecting the location of the second device, note the following excerpts from the description:

“The presentation of data at the mobile unit may vary depending upon the particular embodiment. In some embodiments, the mobile unit may include technology to indicate its physical location, and thus the location of the user. In one embodiment, global positioning system

(GPS) technology may be present in the mobile unit. In another embodiment, the physical location of the mobile unit may be determined by triangulation, such as triangulating from multiple cell phone antenna towers.” (page 4, lines 8-14).

“Information stored in the user profile may be combined with other information in order to determine data that is to be transmitted to mobile unit 305. In one embodiment, information in the user profile may be combined with location information provided by location detection technology. For example, a GPS system in one embodiment of mobile unit 305 may detect that the mobile unit (and thus its user) are located near a Mexican restaurant. The user profile of the user of mobile unit 305 may include information indicating that the user has a preference for Mexican food. Responsive to receiving these two pieces of information, broadcast station 16 may transmit information to mobile unit 305 that may indicate to its user that he is near a Mexican restaurant.” (page 17, lines 4-12).

“In addition to other features, mobile unit 305 may include location detection technology, which may be used to pinpoint the precise location of the mobile unit, and hence its user. The location information may be combined with other information stored in the user profile in determining the timing and content of data transmissions to mobile unit 305. In one embodiment, the location detection technology may comprise a global positioning system (GPS). In another embodiment, location detection technology may utilize techniques such as triangulation from multiple data transmitters.” (page 18, lines 14-24).

As already noted, the examiner has suggested that the television remote control of Alexander corresponds to the second device. However, it is first noted that the remote control of Alexander is not a device which does not utilize the television receiver. Further, Alexander nowhere teaches or suggests detecting the physical location of the remote control. Rather, Alexander merely teaches that a zip code corresponding to a viewer’s television receiver may be utilized. Accordingly, Applicant submits it is clear that Alexander does not teach or suggest detecting and using the physical location of the second device as recited.

In addition to the above, claim 11 was rejected under 35 U.S.C. § 103(a) in view of Alexander and Official Notice. While Applicant submits claim 11 is already shown to be allowable over the cited art in view of the above discussion, Applicant further traverses the Official Notice and notes the following. Paragraph 4 of the Office Action simply states that user location trackable mobile units are known in the art - therefore, claim 11 is obvious. However, as Alexander is specifically directed to an "improved" EPG, there is no suggestion of using a location trackable mobile unit in the Alexander system. Further, there is no motivation to combine Alexander's EPG with location trackable mobile units as recited. In any event, the discussion above is believed to have already overcome the rejection of all of the claims.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time are necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-03800/RDR.

Respectfully submitted,



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Reg. No. 47,884
ATTORNEY FOR APPLICANT(S)

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Date: December 9, 2004



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/271,801	10/15/2002	Vincent Dureau	5266-03800	9386

7590 09/09/2004
Rory D. Rankin
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Austin, TX 78767

EXAMINER

HUYNH, SON P

ART UNIT PAPER NUMBER

2611

DATE MAILED: 09/09/2004

3

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

Office Action Summary

Application No. 10/271,801	Applicant(s) DUREAU, VINCENT	
Examiner Son P Huynh	Art Unit 2611	

-- 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 03 MONTH(S) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 15 October 2002.
- 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) 1-32 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) 1-32 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 15 October 2002 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) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. 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 –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 12-22, 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander et al. (US 6,177,931).

Regarding claim 1, Alexander teaches a method for utilizing a user profile in an interactive television system, the method comprising:

updating a user profile responsive to a first user access in a first access mode (e.g. updating user profile responsive to user viewer's action such as channel changes, program selection, etc. – col. 28, lines 30-67, col. 29, lines 22-67);

initiating a second user access in a second access mode (e.g. lock/unlock mode; set 'bookmarks', providing individual PIN or other identification number, etc. col. 3, lines 55-67, col. 16, lines 27-64, col. 28, lines 13-29);

accessing the user profile in response to the second user access (the user profile is inherently accessed responsive to the set lock/unlock mode, "bookmarks", the PIN or

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other identification number so that the viewer can navigate data based on viewer's profile— col. 3, lines 55-67, col. 16, lines 26-64, col. 28, lines 22-29, col. 32, lines 1-54); transmitting data to a user responsive to the second user access, wherein the transmitted data is based at least in part on the user profile (transmitting data responsive to viewer's zip code, viewer identification number, etc. The data is customized based on the user profile -col. 30, line 45-col. 32, line 54).

Regarding claim 2, Alexander teaches updating the user profile in response to the second user access (e.g. updating user profile in response to the viewer's zip code, PIN, etc- col. 29, lines 20-30, col. 31, line 62-col. 32, line 54).

Regarding claim 3, Alexander teaches the first access mode correspond to television viewing activity (i.e. channel changes, number of time the program is accessed, etc. col. 29, lines 30-55), and the second access mode is performed via a remote device (remote controller 26 – col. 3, lines 20-30, col. 16, lines 27-64).

Regarding claim 4, Alexander teaches the first access mode corresponds to an access via a remote device (remote controller 26 control the selection of channel, change channel, activate web site, etc. col. 3, lines 20-30, col. 16, lines 30-50, col. 28, lines 30-52), and the second access mode correspond to television viewing activity (col. 29, lines 55-67).

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Regarding claim 5, Alexander discloses the EPG requests that the viewer provide certain profile information, including but not limited to: the viewer's zip code; television, cable, and satellite services to which viewer subscribes; the type of television; the age of the televisions, etc. each viewer uses an individualized remote (col. 28, lines 24-26). Individual viewers are identified by viewer ID and password. Individual viewers have different remote control devices, the use of which is also password protected (col. 17, lines 30-36). Inherently, the method comprising:

- determining the second access mode in response to the second user access (e.g. determining the ID of individual remote, type of television used by the user);
- access a device profile corresponding to the second access mode (accessing individual remote device or type of television correspond to the user identification number, PIN, password, etc.);
- formatting the data to correspond to the device profile prior to transmitting the data (customizing data correspond to the individual remote, type of television prior to transmitting the data – col. 30, lines 45-67).

Regarding claim 6, Alexander teaches selecting non-requested data based on the user profile and transmitting the non-requested data (ads – col. 33, line 25-col. 34, line 25).

Regarding claim 7, Alexander teaches the non-requested data comprised an advertisement targeted to the user (e.g. the Burger Kings, advertisement for education

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computer, advertisement for Goodyear Tires, etc. col. 32, lines 40-45, col. 33, lines 25-43).

Regarding claim 8, Alexander teaches the first access mode is via a set top box (display 10, television receiver or cable box – col. 3, lines 20-35, col. 14, lines 54-60). Alexander further discloses a remote controller 26 comprises multiple keys for controlling the data display on the screen (figure 2). The hardware includes a circuit board consisting of a gate array that provides all of the control functions for access by the processor, control of memory, and some peripheral functions such as infrared (IR) input and output (col. 5, lines 20-26). Inherently, the remote device is a wireless mobile unit for giving the viewer convenience to control the other devices, and wherein the set top box (cable box or display 10, television receiver) are configured to communicate with one another (col. 3, lines 20-35).

Regarding claim 9, Alexander discloses the EPG records viewer's action such as channel change, volume change, etc. (col. 28, lines 11-67). The collected data is sent to a computer at the head end of television distribution network for analysis, or in the alternative, can be analyzed by the EPG (col. 29, lines 10-30). The user profile is updated on an ongoing basis (col. 29, lines 22-30) and is used for customization data provided to viewer in the future (col. 30, lines 45-67). Inherently, the user profile is stored at one or more of a television broadcast station (e.g. head end), user set top box

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(EPG), or other remote location configured to communicate within the system for future use.

Regarding claim 10, Alexander teaches selecting the data to be transmitted at least in part on the physical location of a user performance an access (e.g. selecting data to be transmitted based on zip code of the user performance an access – col. 32, lines 7-55).

Regarding claim 12, Alexander teaches the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, and fixed unit, and a portable computer system (remote controller 26-figure 2).

Regarding claim 13, Alexander teaches the user profile is based on the obtained in a passive manner (“learn” mode) active manner (user input) or both (col. 28, lines 11-53).

Regarding claim 14, Alexander teaches an interactive television system comprising:
a remote unit (remote controller 26 – figure 2 and col. 3, lines 20-30);
a set top box (display 10 or television receiver or cable box – col. 3, lines 20-30); and
a broadcast station coupled to convey a programming signal to the set top box (data source such as head end of television distribution coupled to provide data signal to the display or television receiver or cable box– figure 1, col. 8, lines 25-27; col. 29, lines 14-35);

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wherein the system is configured to update a user profile responsive to a first access of a user in a first access mode (e.g. updating user profile responsive to user viewer's action such as channel changes, program selection, etc. – col. 28, lines 30-67, col. 29, lines 22-67);

detect a second access of a user in a second access mode (detect the user selection in e.g. lock/unlock mode; set "bookmarks", providing individual PIN or other identification number, etc. col. 3, lines 55-67, col. 16, lines 27-64, col. 28, lines 13-29);

access the user profile in response to the second access (the user profile is inherently accessed responsive to the set lock/unlock mode, "bookmarks", the PIN or other identification number so that the viewer can navigate data based on viewer's profile— col. 3, lines 55-67, col. 16, lines 26-64, col. 28, lines 22-29, col. 32, lines 1-54);

transmit data to a user responsive to the second access, wherein the transmitted data is based at least in part on the user profile (transmitting data responsive to viewer's zip code, viewer identification number, etc. The data is customized based on the user profile -col. 30, line 45-col. 32, line 54).

Regarding claims 15-22, 24-25, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 2-6, 8-10, 12-13 respectively, and are analyzed as discussed with respect to the rejection of claims 2-6, 8-10, 12-13.

Claim Rejections - 35 USC § 103

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3. The following is a quotation of 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.

4. Claims 11, 23, 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (US 6,177,931).

Regarding claim 11, Alexander teaches a method as discussed in the rejection of claim

1. Alexander further the broadcaster can packet match on the zip code to customize the message so each zip code gets a different message (col. 32, lines 7-54). Thus, the user profile is updated in response to detect a physical location of the user unit (zip code or the device). However, Alexander does not specifically disclose user's location trackable mobile unit. Official Notice is taken that using user's location trackable mobile unit is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Alexander to use the well-known teaching in the art in order to customize data according to user physical location thereby give user more convenience to access data.

Regarding claim 23, the limitations of the system as claimed correspond to the limitations of the method as claimed in claim 11, and are analyzed as discussed with respect to the rejection of claim 11.

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Regarding claims 26-32, the limitations as claimed are directed toward embodying the method of claims 1, 3,5-6,10,12-13 in "carrier medium". It would have been obvious to embody the procedures of Alexander as discussed with respect to claims 1,3,5-6,10,12-13 in a "carrier medium" in order that the instructions could be automatically performed by a processor.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tuzhilin (US 6,236,978) teaches system and method for dynamic profiling of users in one to one applications.

Ivanyi (US 6,286,140) teaches system and method for measuring and storing information pertaining to television viewer or user behavior.

Wharton (US 5,831,664) teaches method and system for synchronizing data between at least one mobile interface device and an interactive terminal.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

Art Unit: 2611

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. 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).

Son P. Huynh
August 24, 2004



VIVEK SRIVASTAVA
PRIMARY EXAMINER

- Paper Copy (identical to computer copy)
- Statement verifying identity of above copies
- 8. Assignment Papers
- 9. Power of Attorney
 - Is attached.
 - The power of attorney appears in the original papers of the prior application.
 - Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
- 10. Information Disclosure Statement (IDS)
 - Copies of IDS Citations
- 11. Amendments
 - A preliminary amendment is enclosed.
 - Cancel in this application claim(s) _____ before calculating the filing fee. At least one independent claim is retained for filing purposes.
 - Amend the specification by inserting before the first line the sentence: _____.
- 12. Return Receipt Postcard
- 13. Small Entity Status
 - A small entity statement is enclosed.
 - A small entity statement was filed in the prior non-provisional application and such status is still proper and desired.
 - Is no longer claimed.
- 14. Priority of foreign application number _____, filed on _____ in _____ is claimed under 35 U.S.C. §§ 119(a)-(d)
- 15. Petition under 37 C.F.R. § 136 for Extension of Time
- 16. Fee Authorization form

Address all future correspondence to:
 Rory D. Rankin
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 Austin, Texas 78767
 Phone: (512) 476-1400 Fax: (512) 703-1250

Signature _____
 Name Rory D. Rankin
 Registration No. 47,884
 Date Oct 15, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Dkt. No:	5266-03800
Inventor(s):	Vincent Dureau
Title:	CONVERGENCE OF INTERACTIVE TELEVISION AND WIRELESS TECHNOLOGIES

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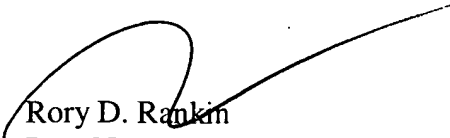
The Commissioner is hereby authorized to charge the following fee to Conley, Rose & Tayon, P.C. Deposit Account Number 501505/5266-03800/RDR:

Total Claims	32	- 20	=	12	x	\$18.00	=	\$ 216.00
Independent Claims	3	- 3	=	0	x	\$84.00	=	\$ -
							Basic Fee:	\$ 740.00
							Total:	\$ 956.00

Attorney Docket No.: 5266-03800

The Commissioner is also authorized to charge any extension fee or other fees, which may be necessary to the same account number. If the above-mentioned account is found to have insufficient funds, the Commissioner is authorized to charge Conley, Rose & Tayon, P.C. Deposit Account Number 501623/5266-03800/RDR.

Respectfully submitted,


Rory D. Rankin
Reg. No. 47,884
Attorney for Applicants

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Date: Oct. 15, 2002

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- 16. Fee Authorization form

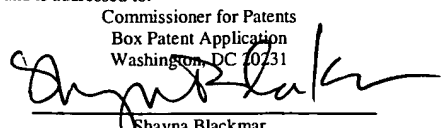
Address all future correspondence to:
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 Austin, Texas 78767
 Phone: (512) 476-1400 Fax: (512) 703-1250

Signature _____
 Name Rory D. Rankin
 Registration No. 47,884
 Date Oct 15, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Dkt. No:	5266-03800
Inventor(s):	Vincent Dureau
Title:	CONVERGENCE OF INTERACTIVE TELEVISION AND WIRELESS TECHNOLOGIES

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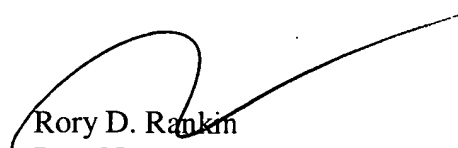
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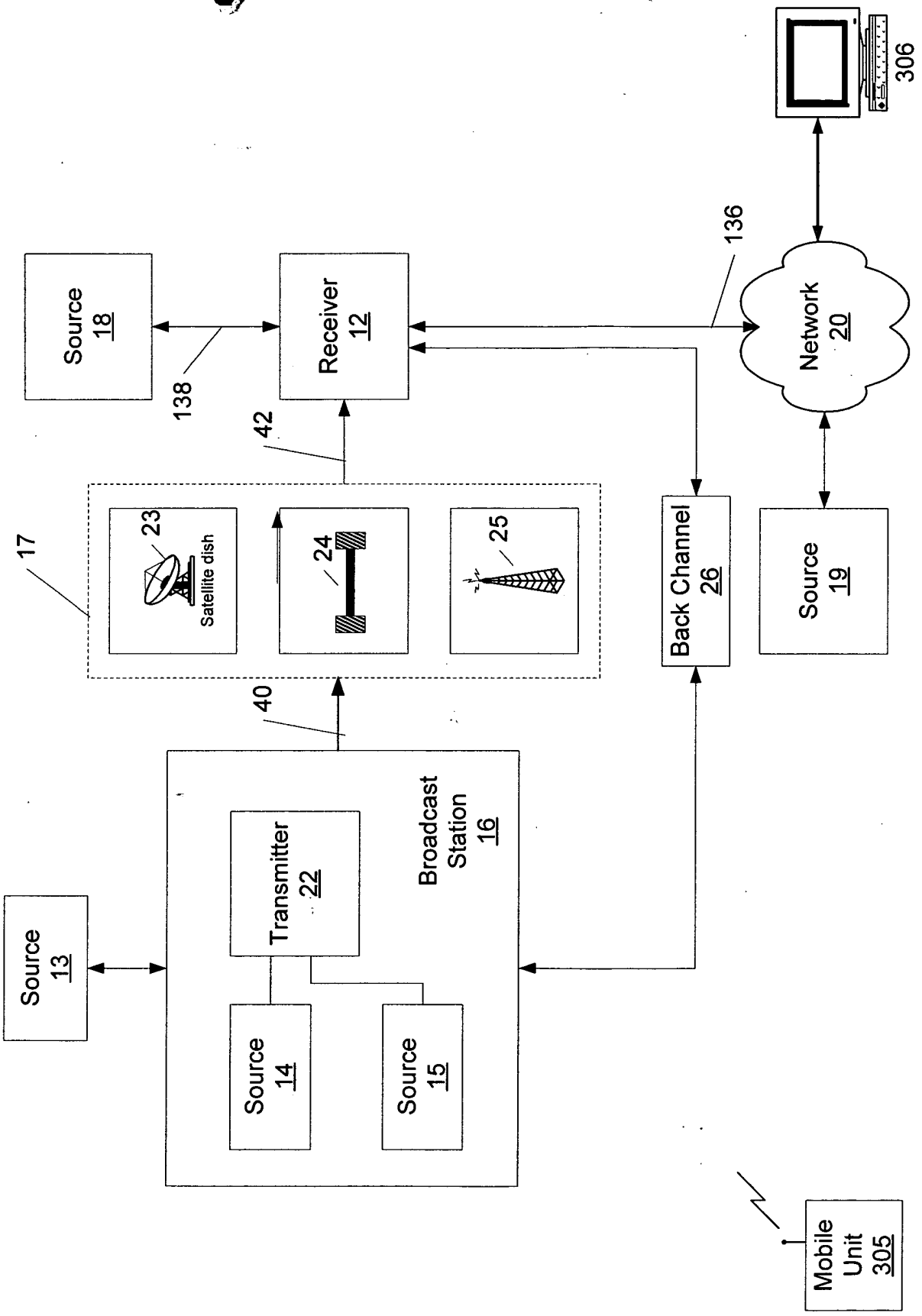


Fig. 1

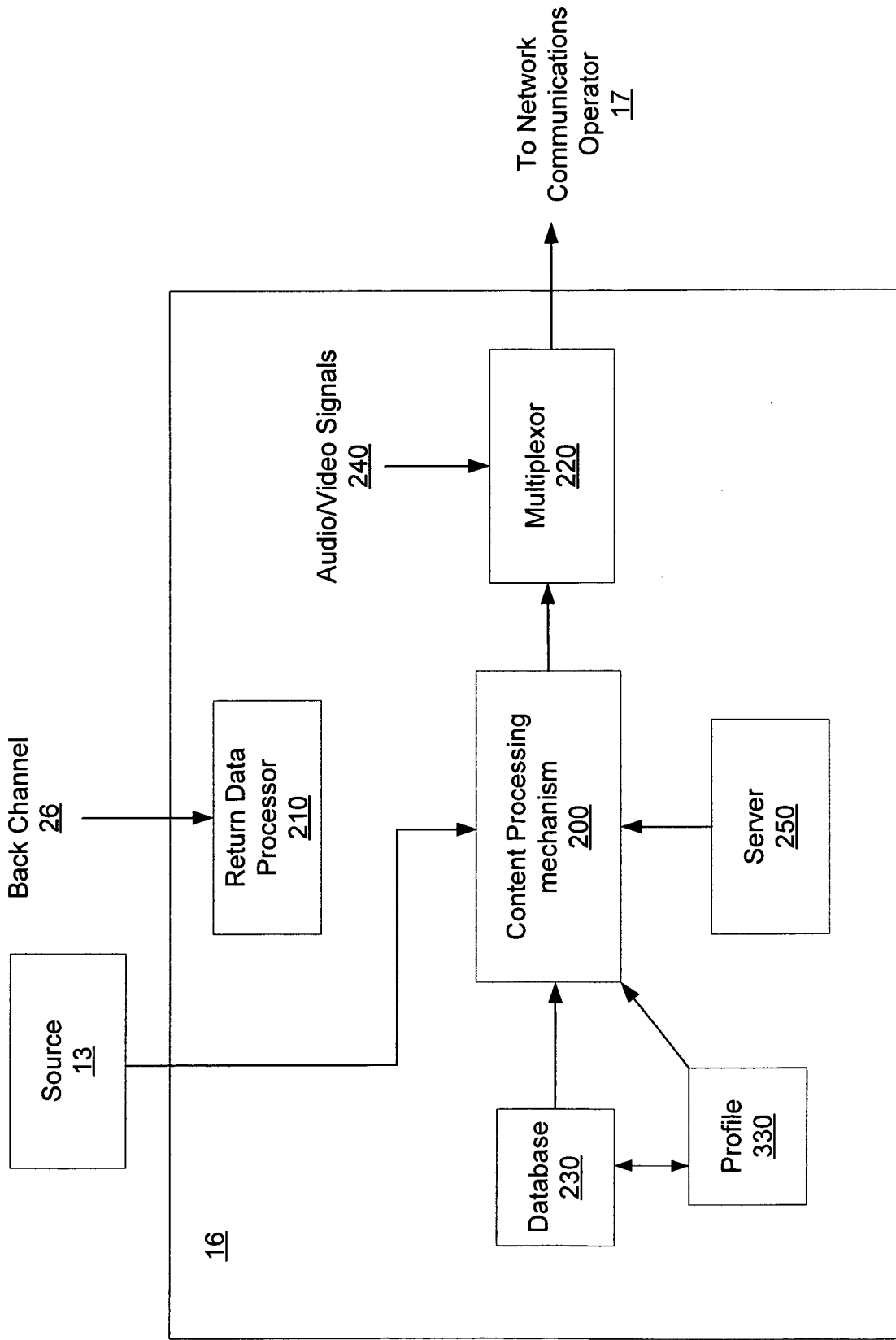


Fig. 2

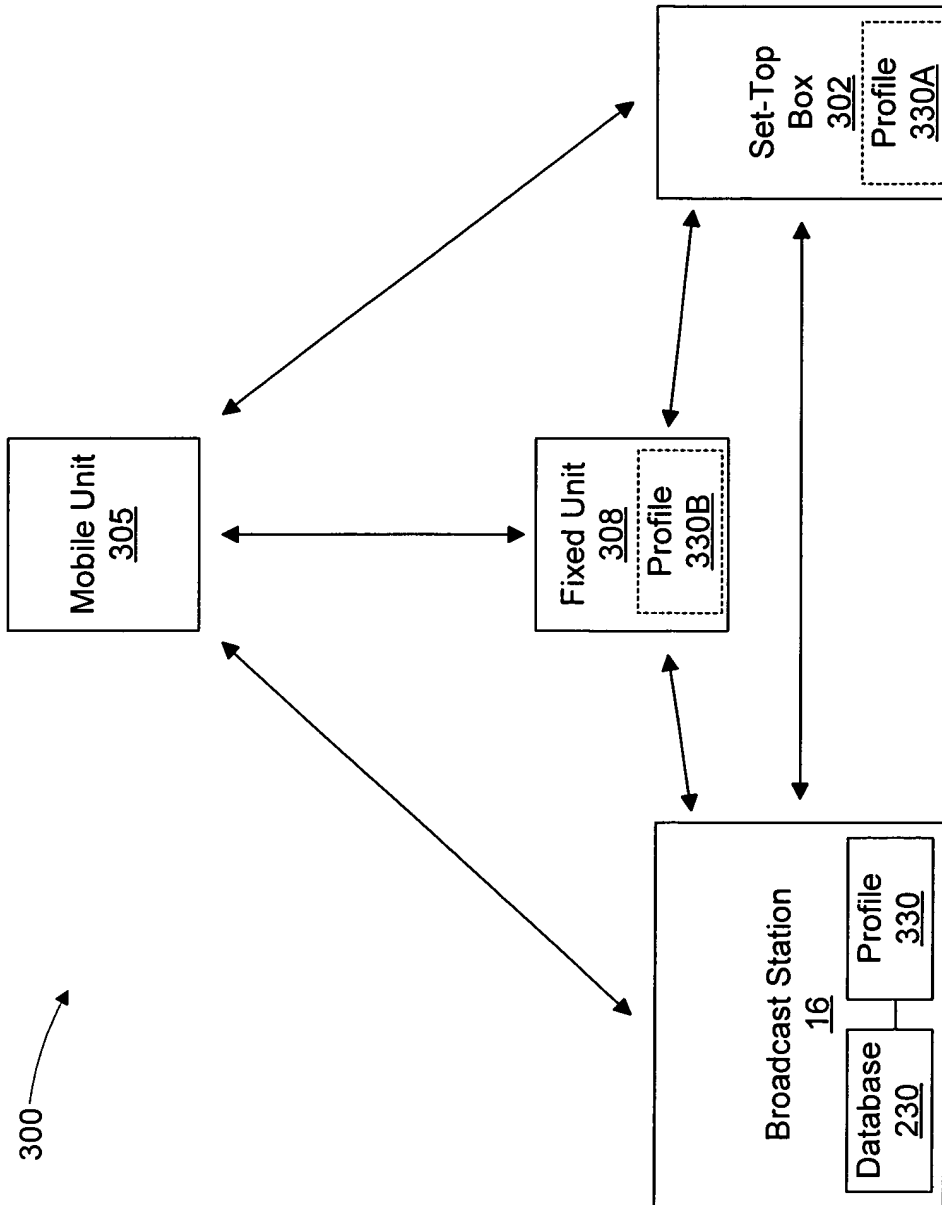


Fig. 3

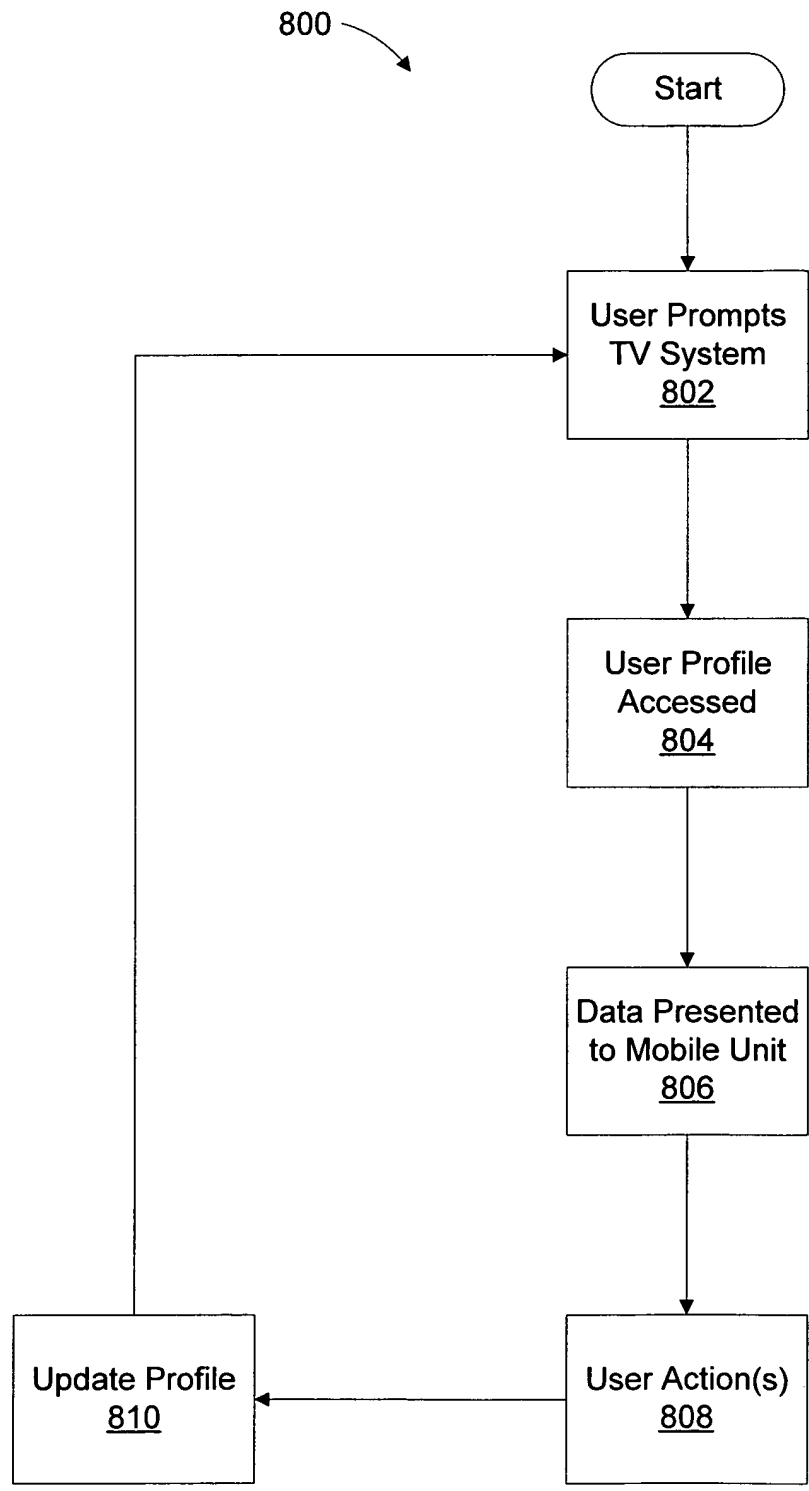


Fig. 4

900

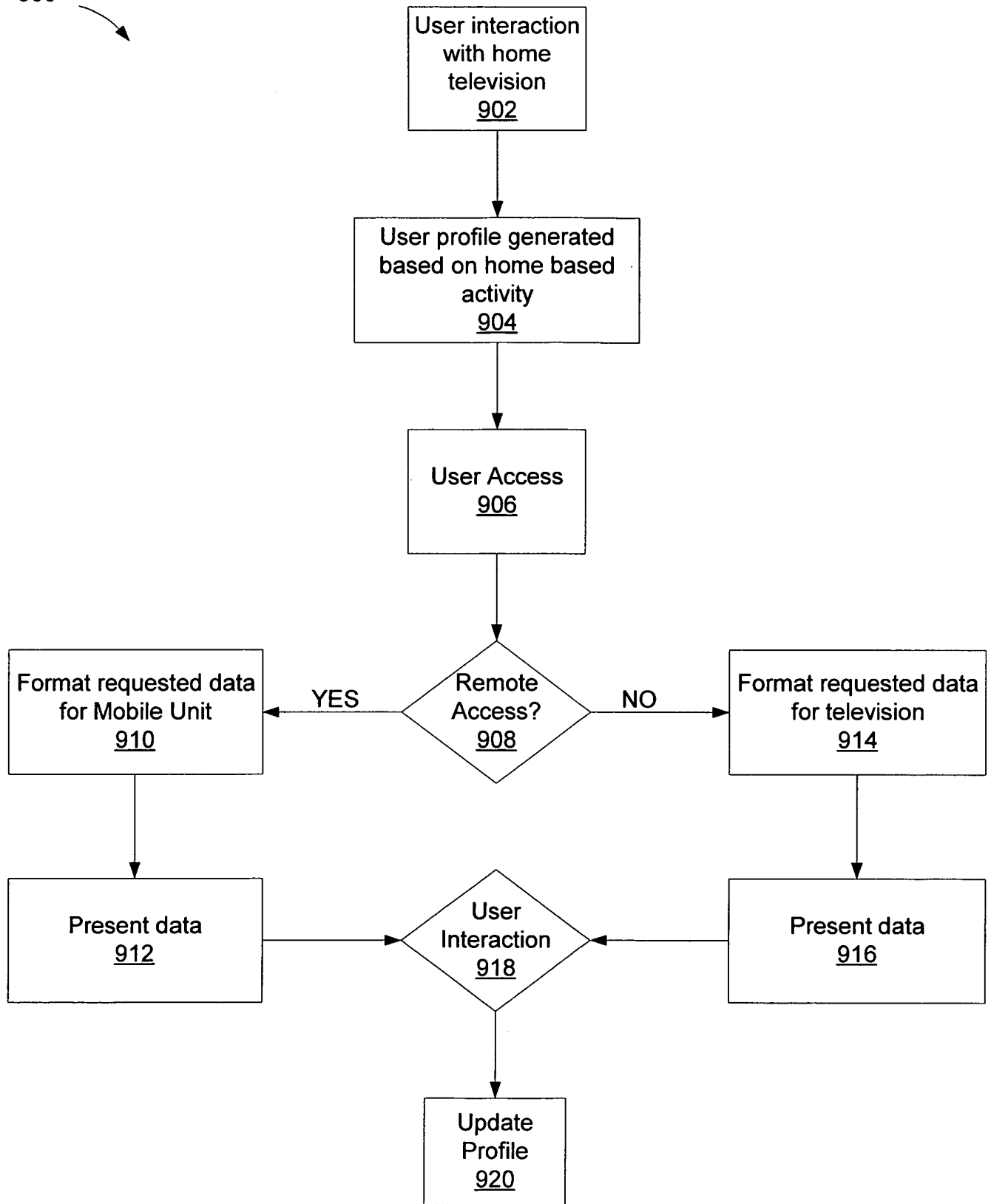


Fig. 5

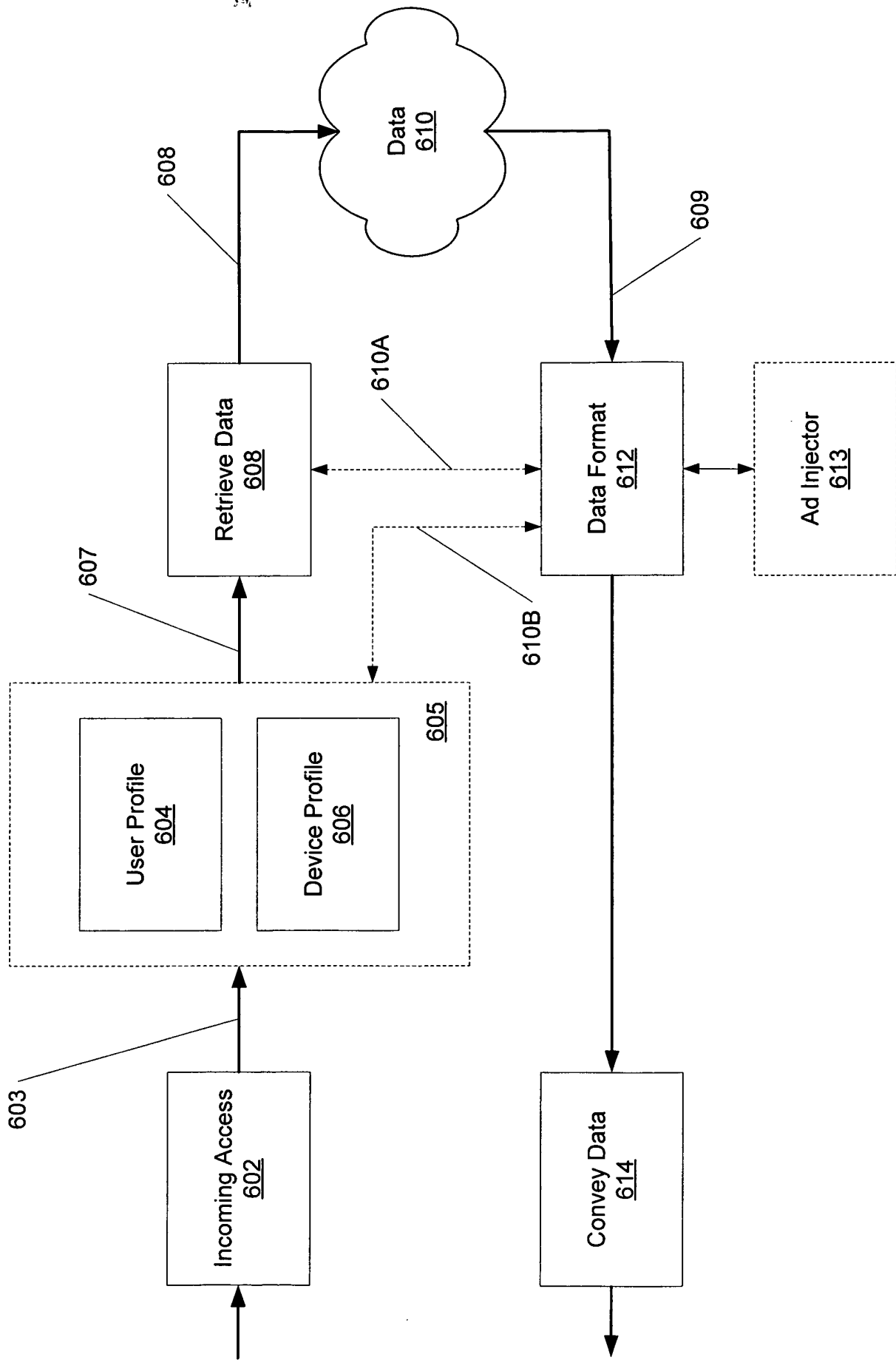



Fig. 6

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**CONVERGENCE OF INTERACTIVE TELEVISION AND WIRELESS
TECHNOLOGIES**

By:

Vincent Dureau

BACKGROUND OF THE INVENTION

1. Field of the Invention

5 This invention relates to interactive television, and more particularly, the convergence of interactive television and wireless technologies in networks based on interactive television.

2. Description of the Related Art

10 Television service providers, such as a satellite broadcaster or a cable multiple system operator (MSO), transmit audio-video streams to a viewer's television system. The viewer's television system frequently consists of a set-top box connected to a television set and a recording device, but may consist of any number of suitable devices. In addition to the audio and video that viewers typically think of as television programs,
15 television service providers may transmit additional information as well. For example, the additional information may be instructions which are interpreted by an interpreter or virtual machine. Alternatively, a service provider may transmit HTML data for rendering by a presentation engine. If the broadcast is analog, this additional information may be encoded in the VBI (vertical blanking interval). If the broadcast is digital, additional
20 information may be multiplexed with the audio and video according to a standard format, such as MPEG-2, or a proprietary format.

Interactive television systems provide a means to deliver interactive content as well as ordinary television audio and video to a large number of subscribers. Programs
25 broadcast by these systems may incorporate television audio and video, still images, text, interactive graphics and applications, and many other components. The interactive content of the interactive television signal may therefore include application code, data associated with the audio and video, control signals, raw data and many other types of

information. Both the interactive content and the audio and video data may be delivered to subscribers as "pushed" data. That is, the data is delivered to each of the subscribers, regardless of whether or not the subscribers requested the data.

5 As interactive television technology advances, it is possible to provide more personalized services to individual users. For example, it may be possible for a interactive television user to schedule the recording of various television programs well in advance of their broadcasting, as well as scheduling specific times for their playback. Furthermore, it may be possible for a user to receive notifications for upcoming programs
10 that are of similar content to those that have been recorded in the past.

 Although interactive television may provide a number of services, such as those noted above, additional capabilities may be possible using existing interactive television technologies, or by combining other technologies with interactive television.

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SUMMARY OF THE INVENTION

A system and method combining wireless and interactive television technologies is disclosed. In one embodiment, an interactive television system includes a broadcast station, a set-top box, and a remote unit. Generally speaking, a user may access the system through various means. For example, the user may communicate within the system via a set-top box, cell phone, PDA, or other device. The system is configured to creating and maintain a user profile which reflects activity of the user within the system. Activity performed in a first mode, such as television viewing, may cause the creation and/or updating of a user profile which reflects the user's viewing activities. Similarly, cell phone or other mobile unit activities and communications may cause the creation and/or updating of an already existing user profile. Information which is conveyed to a user is based at least in part on the data in the user profile. Accordingly, in one embodiment, a user's cell phone activity may affect the information the user receives at home on their television, and vice versa.

The mobile unit may be one of several different types of devices. In one embodiment, the mobile unit may be a cellular telephone. In other embodiments, the mobile unit may be a personal digital assistant (PDA), a smart remote control or a portable computer system. The mobile unit may be configured for wireless communications with both the set-top box, broadcast station, other mobile devices, or any other device configured to communicate within or through the television system. The mobile unit may send data to either the broadcast station or the set-top box. Similarly, the mobile unit may receive data from the broadcast station or the set-top box. Intermediate communications may be possible as well. For example, data may be transmitted from the broadcast station to the set-top box via the internet before being transmitted to the mobile unit. Similarly, it may be possible for data to be transmitted from the mobile unit, to the set-top box, and then to the broadcast station.

In some embodiments, a fixed unit may also be present. For example, in one embodiment, a fixed unit such as a personal computer may be incorporated and utilized in the system. The system user may also be able to connect to and utilize other functions of the system (provided by the mobile unit, broadcast station, and set-top box) through an internet connection or a combination of internet and wireless communications.

The presentation of data at the mobile unit may vary depending upon the particular embodiment. In some embodiments, the mobile unit may include technology to indicate its physical location, and thus the location of the user. In one embodiment, global positioning system (GPS) technology may be present in the mobile unit. In another embodiment, the physical location of the mobile unit may be determined by triangulation, such as triangulating from multiple cell phone antenna towers.

The broadcast station may be a station where programming and content are broadcast to a number of users. The broadcast station may include a database in which user profiles are stored for each individual user. Data may be received by the broadcast station from either the set-top box (e.g. in a "store and forward" mode) or directly from the mobile unit itself. Similarly, the broadcast station may send data to the set-top box or to the mobile unit directly. The broadcast station may transmit both normal television (i.e. non-interactive) programming, as well as interactive television programming and other content. Content may be "pushed" to the mobile unit (i.e. sent without a user request) or "pulled" (sent to the mobile unit based on a user request or other action). It should be further noted that the set-top box may be configured to store a user profile for its associated user.

The user profile may include basic user information, various user preferences, and other information. The information in the user profile may be compiled from various user actions, such as programs watched, channels watched, or other content accessed. The

user may also input information into the user profile. Such information may include credit card numbers, frequent flier memberships, preferences, and virtually any other information that may define the user. This information may be combined with other user information in the user profile in order to determine content that is to be sent to the set-top box and/or the mobile unit.

BRIEF DESCRIPTION OF THE DRAWINGS

Other aspects of the invention will become apparent upon reading the following detailed description and upon reference to the accompanying drawings in which:

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Figure 1 is a block diagram of one embodiment of a television system;

Figure 2 is a block diagram of one embodiment of a broadcast station;

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Figure 3 is a block diagram of one embodiment of a communications network comprising a broadcast station, a set-top box, and a mobile unit;

Figure 4 is a flow diagram illustrating one embodiment of the updating of a user profile based on actions taken with a mobile unit;

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Figure 5 is a flow diagram illustrating one embodiment of a method for interacting with the system of figure 1.

Figure 6 illustrates one embodiment of a system for using user profiles.

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While the invention is susceptible to various modifications and alternative forms, specific embodiments thereof are shown by way of example in the drawings and will herein be described in detail. It should be understood, however, that the drawings and description thereto are not intended to limit the invention to the particular form disclosed, but, on the contrary, the invention is to cover all modifications, equivalents, and alternatives falling within the spirit and scope of the present invention as defined by the appended claims.

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DETAILED DESCRIPTION OF THE INVENTION

Referring to Figure 1, one embodiment of a television system 100 is shown. In
5 the embodiment shown, a receiving device 12 is coupled to several sources of
programming and/or interactive content. Receiving device 12 may include any number of
suitable devices, examples of such devices include a set-top box (STB), a television (TV),
a video cassette recorder (VCR), a personal video recorder (PVR), a personal digital
assistant (PDA), a personal computer (PC), a video game console, or a mobile/cell phone.

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Included in the embodiment of Figure 1, a broadcast station 16 is coupled to a
receiving device 12 via a transmission medium 17 and back channel 26. In addition,
receiving device 12 is coupled to a source 18 and source 19 via network 20. In one
embodiment, receiving device 12 may include a database configured to store user
15 profiles. User profiles may also be located at a headend or other location within the
system. In some embodiments, user profile data may be stored in more than one location
Further, broadcast station 16 is coupled to a remote source 13. In the embodiment shown,
broadcast station 16 includes sources 14 and 15 and transmitter 22. Transmission
medium 17 may comprise a satellite based system 23, a cable based system 24, a
20 terrestrial or multiple multi-point distribution service (MMDS) based system 25, a
combination of these systems, or some other appropriate system of transmission. A
personal computer 306 may also be configured to communicate within the system 100. In
one embodiment, network 20 may comprise the Internet and the personal computer 306
may be configured to access Internet sites as well as communicate with the broadcast
25 station 16, receiver 12, and other devices in the system. Also illustrated is a mobile unit
305 which may be configured for wireless communications with television system 100 in
a number of different ways. For example, mobile unit 305 may be configured to
communicate with broadcast station 16 through transmission medium 17, through a
wireless phone network, through a wireless internet network, or otherwise.

In the embodiment of Figure 1, broadcast station 16 may include a variety of sources 14 and 15 of content to be utilized and conveyed by transmitter 22. Content sources 14 and 15 may include databases, application servers, other audio/video sources, or other data sources. In one embodiment, content may be created at a source 14 which may include an authoring station configured to create such content. An authoring station may include a computer workstation configured with software which aids in the development of interactive content. An authoring station may be part of broadcast station 16 in which case the conveyance of the created content may be through a local computing network, or similar configuration. Alternatively, an authoring station may be remotely located 13 from broadcast station 16. In an embodiment where authoring station is not directly coupled to broadcast station 16, the content created by a source 13 may be conveyed to broadcast station 16 via Internet, broadcast, cable, etc. In some cases, content created at a remote location 13 may first be transferred to a storage medium, such as a CD-ROM or DVD-ROM, and transported to broadcast station 16 via more conventional means where it may be stored in a database or other storage device.

Subsequent to its creation, content from sources 13, 14 and 15 may be delivered to client 12 through a broadcast transmission network. This network consists essentially of a broadcast station 16 which assembles the content from sources 13, 14 and 15 and processes (e.g., digitizes, compresses and packetizes) the content, and a transmission network 17 which receives the content 40 from broadcast station 16 and conveys it 42 to client 12. (It should be noted that client 12 may be only one of many devices to which this content is distributed.) In one embodiment, broadcast station 16 includes software and/or hardware which is configured to process the content conveyed by sources 13, 14 and 15 as described above. A second delivery mechanism may include a direct point-to-point connection 138 between client 12 and source 18 which may be some type of server. This connection 138 may be made via an ordinary telephone line, cable, wireless, or otherwise. A third delivery mechanism may also be a point-to-point connection 136, but

transmission of the content from a source 19 to client 12 is made via one or more shared networks (e.g., over the Internet). Also illustrated in Figure 1 is a back channel (or return path) 26 by which client 12 may convey to and/or receive data from broadcast station 16. Back channel 26 may comprise a telephone line, cable, wireless, or other connection.

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One delivery mechanism, the direct point-to-point connection to a source of content, may comprise communication via an ordinary telephone line. This type of connection is typically initiated by the client to convey information to, or retrieve information from, a data server. Another delivery mechanism, the point-to-point
10 connection through one or more networks, may comprise a typical connection between nodes on the Internet. Because data may be routed through many different shared networks in this case, it may be read, stored and written many times as it is transmitted from source 19 to client 12. The third delivery mechanism may include a satellite, cable or terrestrial broadcast network.

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Turning now to Figure 2, an overview of one embodiment of a broadcast station (head-end) 16 is shown. The broadcast station 16 of Figure 2 includes an application server 250 and a database 230 which contains previously created interactive content. Also shown in Figure 2 is a source 13 of content which is external to broadcast station 16 and
20 coupled to broadcast station 16. Database 230, server 250, and source 13 are coupled to a content processing mechanism 200 which is configured to process the content received and convey the processed content to a multiplexer 220. Also coupled to multiplexer 220 is a source 240 of audio/video signals. One or more user profiles 330 may also be stored for use by content processing mechanism 200 and/or database 230. In some
25 embodiments, database 230 may actually store user profiles 330, although they may also be stored separately as shown in this embodiment. User profiles 330 may include information for a particular user of the network, including personal and/or viewing preferences, credit card numbers, and other information. User profiles 330 will be discussed in greater detail below.

In one embodiment, content processing mechanism 200 may comprise a computer and may also be coupled to receive and convey content from the Internet or World Wide Web. Processing mechanism 200 is configured to convey the processed content to multiplexer 220. Multiplexer 220 is also coupled to receive audio/video signals 240. Multiplexer 220 multiplexes the received signals and conveys the multiplexed signal to network communications operator 17 where it is subsequently conveyed to a receiving device. Finally, broadcast station 16 includes a return data processor 210 coupled to back channel 26. In one embodiment, return data processor 210 may comprise a modem which receives data for further processing within broadcast station 16. While the above description describes a source of interactive content as being at a broadcast station 16, this need not be the case. In an alternative embodiment, database 230, and content processing mechanism 200 may reside elsewhere, such as at the location of a network communications operator 17, or otherwise. An example of such an alternative embodiment may be a cable station which inserts interactive content into a broadcast signal prior to transmission.

Turning now to Figure 3, a block diagram of one embodiment of a communications network comprising a broadcast station, a set-top box, and a mobile unit is shown. Communications network 300 includes broadcast station 16, set-top box 302, and mobile unit 305. Mobile unit 305 may be configured for wireless communications with both broadcast station 16 and set-top box 302. Broadcast station 16 may be configured for communications with set-top box 302 through either wireless means or through hardwired means (e.g. cable).

Some embodiments may include fixed unit 308. Fixed unit 308 may be a device such as a personal computer user's office or place of business. The fixed unit 308 may be configured to communicate with any of the other units in the system, either directly or indirectly. For example, fixed unit 308 may be configured to directly communicate with

broadcast station 16 or set-top box 302 via an internet connection. Similarly, fixed unit 308 may be configured to communicate with mobile unit 305 indirectly, by first transmitting data to broadcast station 16 via an internet connection, wherein broadcast station 16 then relays the data to mobile unit 305 through a wireless link. In general, fixed unit 308 may communicate with other units of the communications network 300 depending on whether it is equipped for wireless communications, hard-wired communications, or both.

Mobile unit 305 may be one of several different devices configured for wireless communications. In one embodiment, mobile unit 305 may be a cellular telephone that is data enabled. A data enabled cellular telephone may be able to utilize services beyond that of normal phone services. In another embodiment, mobile unit 305 may be a personal digital assistant (PDA) or similar device. In still another embodiment, mobile unit 305 may be a mobile computer system that is configured for wireless communications. Other embodiments of mobile unit 305 are possible and contemplated, including embodiment designed specifically for use with the communications network described herein.

Mobile unit 305 may be used to enter and transmit information which may be used to create or update a user profile. Information entered through mobile unit 305 may be directly transmitted to broadcast station 16, or may be transmitted to set-top box 302. If the information is transmitted to set-top box 302, the information may be stored and then forwarded to broadcast station 15. In addition, mobile unit 305 may be configured to communicate directly with set-top box 302 via a wireless protocol.

In addition to other features, mobile unit 305 may include location detection technology, which may be used to pinpoint the precise location of the mobile unit, and hence its user. The location information may be combined with other information stored in the user profile in determining the timing and content of data transmissions to mobile

unit 305. In one embodiment, the location detection technology may comprise a global positioning system (GPS). In another embodiment, location detection technology may utilize techniques such as triangulation from multiple data transmitters.

5 Devices that may comprise mobile unit 305 may differ in their ability to present information. As such, user profiles may be used to ensure that only relevant information is present to the user of a particular mobile unit 305. The information presented may be based both on user information and the type of device that comprises the user's
10 embodiment of mobile unit 305. For example, if mobile unit 305 is a portable computer system, data may be presented or formatted differently than it would if mobile unit 305 is a cellular telephone.

 Broadcast station 16 may be similar to that illustrated in Figure 2; or may be another embodiment. Broadcast station 16 is configured to communicate with both set-
15 top box 302 and mobile unit 305. In one embodiment, broadcast station 16 may communicate with set-top box through wireless means, such as a satellite link or other type of broadcast television link. In another embodiment, broadcast station 16 may communicate with set-top box 302 by hard-wired means, such as a cable television link.

20 Communications between broadcast station 16 and set-top box may encompass a wide variety of data exchanges. Broadcast station 16 may be configured to send television programming to set-top box 302. Television programming may be broadcast by either analog or digital signals, and may include signals for high-definition television (HDTV). Communications between broadcast station 16 and set-top box 302 may also
25 include internet communications. Broadcast station 16 may include connections to the internet, thereby allowing a user of set-top box 302 to send and receive e-mail, browse the world wide web, and perform other internet related activities.

Broadcast station 16 may include database 230. Database 230 may be used to store user profiles. Broadcast station 16 may receive data for use in generating the user profile from set-top box 302, fixed unit 308, or directly from mobile unit 305. Broadcast station 16 may further be configured to access data from user profiles stored in database 230. The data accessed from the user profile may be used to determine information that is to be sent to set-top box 302, fixed unit 308, and/or mobile unit 305. Information transmitted by broadcast station 16 may be either "pushed" (information is sent without a user request) or "pulled" (information is sent based on a request by the user^{AT}). Optionally, a profile 330A may be stored in set-top box 302, or in fixed unit 330B. In general, user profile data may be stored anywhere within system 300. Multiple, cached copies of user profile data may also be maintained within system 300. Further, user profiles 330 or database 230 may also include device profiles for devices which may access the system in different modes. Such device profiles may include information describing particular details about devices which may be used to access the system 300. One example of device profiling is the Wireless Application Protocol User Agent Profile Specification (WAP-248-UAPROF-20011020-a) which is concerned with capturing classes of device capabilities and preference information. These classes include the hardware and software characteristics of the device as well as information about the network to which the device is connected. The device profile contains information used for content formatting purposes. A device profile is distinct from a user profile that would contain application-specific information about the user for content selection purposes. These device profiles may then be used to select and format data which is suitable for presentation on the accessing device.

User profiles may include a wide variety of user information, and may include both user-entered information as well as usage history. User-entered information may include basic personal information (e.g. date of birth, etc.), credit card account information, memberships such as frequent flyer memberships, and various user preferences. Usage history information may be generated based on a user's activity on

the network, including television viewing habits and preferences, locations browsed on the World Wide Web, and any other type of network access. User profiles may also be affected by the physical location and movements of a user who utilizes a device which can be tracked (i.e., a location trackable device). For example, if a user makes a phone
5 call or other access from a location identified as a Mexican food restaurant, this fact may be noted in the user profile and used to indicate the user may like Mexican food. Alternatively, if a user frequently performs accesses from particular coffee/internet cafes, this fact may be noted in the user profile. Thus, user profiles may be created and updated based on user inputs and subsequent usage history on multiple devices and then shared by
10 multiple devices. In some embodiments, user profiles may be automatically generated by a network operator. In other embodiments, the user profile may be created manually by the user. User profiles may also be created by a set-top box or other computing device.

In one embodiment, the user profiles are built by the broadcast service provider
15 based upon the viewing data accumulated within the broadcast network. Such data may come, for example, from previous transactions. This data includes information on the various transactions which take place in the network, and may include transactions ranging from requests for pay-per-view events or subscription to broadcast provider or other third party provider services to interactive transactions to simple selections of
20 programs. The specific data recorded in regard to the network transactions may vary from system to system. Transaction data may be recorded at the broadcast station. Data which is available to the broadcast station at the time of the transaction ("on-line" data) is collected at the broadcast station. Data which is not available to the broadcast station at the time of the transaction ("local" data) may be collected elsewhere, such as at the set-
25 top box or the mobile unit. Local data is preferably stored in a non-volatile RAM of the set-top box so that it is not lost if the set-top box is powered down. The local data is accumulated in the set-top box until a predetermined amount of data has been collected or a predetermined time period (e.g., one month) has expired. The local data may then be transmitted to the broadcast station. In some embodiments, the transmission of the local

data to the broadcast station can be externally triggered by signals which are broadcast or individually transmitted to the set-top boxes. In other embodiments, the transmission of the local data to the broadcast station takes place when other real-time data, such as a purchase, needs to be transmitted to from the set-top box to the broadcast station.

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The broadcast station may accumulate data on an entire population of subscribers to the broadcast network. This data forms the broadcast station's cumulative database. Based upon the information in the cumulative database, the broadcast service provider can determine viewing patterns, preferences and other information which form profiles corresponding to different types of viewers. These viewer population profiles may indicate that viewers of a particular program also tend to view a second program. Similarly, the profiles may indicate that viewers of a particular program may be interested in particular products and disinterested in others. For example, a viewer who watches an animated movie on a pay-per-view basis may be more interested in buying a videotape of cartoons than a videotape of an athletic event. Based upon the indications of the profiles, the broadcast service provider can make available to particular viewers the programs which they are most likely to watch or products and services which they are most likely to purchase. In this manner, the broadcast service provider can increase the effectiveness of marketing over the network by filtering or directing advertisements and programs to the viewers who are most likely to be impacted by them. The filtering of the program content of the broadcast program signal may be accomplished by generating a viewer preference filter. A viewer preference filter may be created according to a particular viewer's viewing habits, or personal preferences. Viewer preference filters may also be configured to take into account viewer population profiles and the relation of the viewer data to the profiles. Additionally, the viewer preference filter can be altered by the broadcast provider to promote particular services.

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It should be noted that the "viewer preference filter" is used herein to describe data which is used, not simply to block certain content of a broadcast signal, but to

provide a basis for customizing the content of the broadcast signal. The viewer preference filters can thus be considered individualized viewer preference profiles. The viewer preference filters can be used by applications which may block portions of the broadcast signal or portions of individual programs. For example, an application may block a commercial or a component of the commercial, such as a jingle. The viewer preference filters can also be used by applications which rearrange or add to the content of a broadcast signal. An example of such an application is one which changes the order in which channels are presented in an electronic programming guide. If the viewer is a sports fan, this application might present channels with basketball games before those having game shows. An application might also take some action apart from changing the content of the displayed programs. For instance, the application might selectively reject e-mail sent to the set-top box based on the viewer's profile (as contained in the viewer preference filter) and the likelihood that the viewer would not be interested in the e-mail. With the advent of local storage in the receiver, the filter can also be used to select the content that should be stored in the receiver for later use. Further, the filter may be used to select and present data which has previously been stored in the receiver.

The viewer preference filter may be implemented as a component of set-top box 302, the filter may be implemented in a number of other ways, such as in a software application, and need not be a separate component of set-top box 302. (It should also be noted that "transmitting filters" to the set-top box as used herein can mean both transmitting actual software filters and transmitting data which is used by hardware or software at the set-top box to implement filtering functions in a particular implementation.) The set-top box filters the remaining program content according using the viewer preference filter and displays or executes the filtered program signal components. The filtered broadcast program signal may then be passed on to a television. The television may be a standard television unit or a video monitor employing any suitable television format (e.g., NTSC or HDTV), or it may be replaced by other devices,

such as a video recorder or another form of mass storage such as a magnetic hard disc or a writeable optical disc.

Information stored in the user profile may be combined with other information in order to determine data that is to be transmitted to mobile unit 305. In one embodiment, information in the user profile may be combined with location information provided by location detection technology. For example, a GPS system in one embodiment of mobile unit 305 may detect that the mobile unit (and thus its user) are located near a Mexican restaurant. The user profile of the user of mobile unit 305 may include information indicating that the user has a preference for Mexican food. Responsive to receiving these two pieces of information, broadcast station 16 may transmit information to mobile unit 305 that may indicate to its user that he is near a Mexican restaurant.

In another example, a user of network 300 may be watching interactive television and may see an advertisement for a product he finds interesting. The user of network 300 may “tag” this advertisement using mobile unit 305, thereby indicating interest in the product. This information may initially be sent from mobile unit 305 to set-top box 302, and may then be forwarded to broadcast station 16, where the information may be stored in the associated user profile. Broadcast station 16 may further respond by sending to mobile unit 305 information on where to purchase the advertised product. In addition, if mobile unit 305 includes location detection technology, it may be possible for broadcast station to transmit information on how to get to the location where the product is sold once the location of mobile unit 305 has been detected. If the user purchases the advertised product responsive to receiving information on where to purchase the product, the associated user profile 330 may be updated with usage history information.

In still another example, a user of network 300 may watch a cooking show on interactive television. The user may decide that they are interested in a recipe that is presented on the cooking show. The selection of the recipe, along with its ingredients and

cooking instructions may then be stored in the associated user profile. Recipe information may be recalled on demand by the user of mobile unit 305, thereby assisting the user in obtaining ingredients for the recipe, or in cooking the dish defined by the recipe.

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Mobile unit 305 may also be used to program set-top box 302 to record programming (or a device coupled to set-top box 302). Mobile unit 305 need not be in the proximity of set-top box 302 in order to perform the programming functions. A user of mobile unit 305 may enter data concerning the program to be recorded (i.e. program
10 start time, channel, etc.). This data may be transmitted to broadcast station 16, where it is then forwarded to set-top box 302. Alternatively, data may be transmitted from mobile unit 305 directly to set-top box 302 in some embodiments.

Another possible use for network 300 is as a mechanism for electronic coupons.
15 In one embodiment, broadcast station 16 may transmit an electronic coupon to mobile unit 305 based on information in the associated user profile. Subsequent to receiving the coupon via mobile unit 305, the coupon may be redeemed at a store that honors such coupons. In one embodiment, mobile unit 305 may transmit the coupon to the cashier using a wireless technology (e.g. IR). Once transmitted, the coupon may be removed
20 from mobile unit 305. In one embodiment, a mobile unit may include technology to identify the location of the mobile unit (GPS, or other technology). When the mobile unit is detected by the system to be in the vicinity of a retailer which carries the product corresponding to the previously stored coupon, the system may automatically alert the user via the mobile unit. The user may then respond to the notification as desired.

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The various selections made in the above examples may also result in the setting of bookmarks in set-top box 302. In various embodiments, bookmarks may also be stored by broadcast station 16 or set-top box 302. Furthermore, bookmarks may also be stored in fixed unit 308 for those embodiments having a fixed unit. Once the bookmarks

are set, they may be removed from mobile unit 305, which may have limited storage space. However, mobile unit 305 may still access these bookmarks at any time. The bookmarks may be accessed by interactions between mobile unit 305 and one of the other units (set-top box 302, broadcast station 16, or fixed unit 308).

5

Turning now to Figure 4, one embodiment of a flow diagram illustrating the updating of a user profile based on actions taken with a mobile unit is shown. The embodiment shown illustrates one of many possible sequences that may involve user interaction with the TV system, as well as accessing and/or updating a user profile.

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Method 800 begins with a user prompting the TV system in item 802. The user may use the mobile unit 305 described above to access the TV system. In some cases accessing the TV system may involve the user having a mobile unit being in the general vicinity of a television set having a set-top box (e.g. the user is watching a television program on interactive TV). In another example, a user at a location remote to both the broadcast station and set-top box may prompt the TV system for information by manually inputting data into the mobile unit, which may then be transmitted to various places, such as the broadcast station or the set-top box via a wireless link. In yet another example, the mobile unit may automatically prompt the TV system without any manual input from the user based on detecting the location of the user, and hence the location of the mobile unit. Various means may be used for location detection, such as the use of a global positioning system or a triangulation system.

Following a prompt of the TV system, a user profile associated with a user of the mobile unit may be accessed (item 804). As discussed above, the user profile may include information for a specific user of the TV system. The specific information may include basic personal information, credit card information, usage history, and viewer preference filters. This information may be combined with location information and other information (e.g. date/time of day) in order to select data which may be presented to

the mobile unit (item 806). In addition to the user profile and other information, the presentation of data may be dependent upon the type of unit making the access. The exact format of the data may be different for various types of mobile units, including cellular phones, PDA's, portable computers, and other types.

5

Based on the data presented to the mobile unit, the user may take certain actions (item 808). The user's actions may be recorded by the mobile unit, and the mobile unit may also transmit information corresponding to these actions back to the TV system. This information may be recorded as usage history, and may also be used to update the user profile item 810.

10

Countless examples may be presented of practical uses for this method. In one example, a user of the interactive TV system may be watching a commercial for a new product offering. The interactive television may prompt the user as to whether they are interested in the product. If the user indicates an interest, this information may be recorded and used to update the user profile. Alternatively, if the user indicates a negative interest, the user profile may be updated to prevent the interactive TV system from prompting the user again concerning this product. If the user expresses interest in the product, the user may at a later time request information on the location(s) of the restaurant(s) that offer this product. Furthermore, if it is detected that the user is operating the mobile unit in the vicinity of a retailer that offers the product, the TV system may then alert the user to this fact. The user may also record a purchase of the product, which may then be recorded as usage history in order to update the user profile.

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Another example may relate to the use of the preference filters. In this example, a user watching interactive television may be presented with options to watch sports programming. Supposing the user has a preference for watching football games and other related programming over other types of sports, the user may typically choose to ignore other programming. Usage history incorporated into the user profile may then cause a

preference filters to be updated such that the other (non-football) sports-related programs are not presented to the user. Subsequently, when accessing the system for sports scores via a mobile unit, the user is presented with football scores by default. In this manner, the user need not receive and traverse scores and information on items of no interest to the user. Furthermore, the user may manually set user preferences such that reminders of upcoming football related programming are sent to the mobile unit. Thus, a user who is in a remote location may receive a reminder of a football game or football related program that may be telecast at some point later in the day.

Turning now to figure 5, one embodiment of a method 900 for interacting with a system as described above is illustrated. In the embodiment shown, a television viewer at home watches particular programs and may interact with applications. Based on the viewer's activity, a profile reflecting this activity is generated 904. Alternatively, an existing user profile may be updated. The profile may include information gathered in either an "active" and/or "passive" manner. For example an "active" manner may include providing specific information in response to a request, such as a survey. Passively gathered information may include information based on a viewer's viewing habits. Many such techniques are possible and are contemplated.

Subsequent to the creation of the profile, the system detects a viewer/user access 906. The nature of the access is then determined 908. Upon determining the type of access, data is formatted to correspond to the type of access. For example, if the access is detected to be a remote access by a mobile unit, the data format is selected to correspond to the mobile unit 910. The user profile corresponding to the accessing user is then accessed 912. Based on the user profile, specific information may be selected for presentation to the user. The selected data is then formatted and conveyed to the mobile unit. Alternatively, if the user access is detected to be a non-remote access 908, the selected format is chosen 914 to correspond to a television or other predetermined device. Utilizing the user profile, data is selected and conveyed to the user/viewer 916. If the

user/viewer interacts 918 with the presentation to the remote or non-remote device, the user profile may then be updated 920 in accordance with that interaction.

5 It is noted that the user profile may be created and/or updated based on accesses from any device within the system. Further, the user profile may be used to select information to presentation to any device within the system. In some cases, accessing the user profile of a user performing an access may require accessing the user profile at a remote location. For example, if a user profile is stored in a user's set-top box and the user performs an access using a wireless phone through a wireless phone network, 10 communication through the phone network, television broadcast network, and/or the Internet may be required in order to access the user profile.

15 Fig. 6 shows one embodiment illustrating the relationship access, profiles, and data retrieval. Other embodiments are possible and are contemplated. The elements described in Fig. 6 may be located in one or more locations. In the embodiment shown, an access from a remote device is received at a port or other mechanism 602 configured to receive accesses. The received access may include a request for data 603 which is conveyed to device 605. Device 605 may include any suitable hardware and/or software combination for servicing data requests. In the embodiment shown, device 605 includes 20 user profile 604 and device profile 606. In Alternative embodiments, user profile 604 and device profile 606 may be located apart from device 605. In addition to including a request for data, the received access may also include an indication of the user making the request and the type of device being used to make the request. Device 605 may then utilize the user and device indications to select a corresponding user profile 604 and 25 device profile 606, respectively.

Based on the corresponding profiles and the data request, device 605 may then formulate a specific data retrieval request 607. The device profile 606 may be used to select or format data which is suitable for the particular device. For example, if the device

is text only, no graphic images will be conveyed in any response which is conveyed to the user device. Further, requested data which does not conform to the requirements of the device may be reformatted to a format which is suitable for the device. The user profile 604 may be used to select or format data in accordance with a profile or preferences of the accessing user. For example, in one embodiment the user profile 604 may be used to select an advertisement targeted to the particular user. Alternatively, the profile may indicate the user is a fan of a particular football team. Using this information, the device 605 may be configured to determine whether any news or scores concerning that team are available. This information may then be conveyed in conjunction with the requested data. Alternatively, an indication that this information is available may be conveyed to the user who may then decide whether they want the information conveyed to them. The user profile 604 may also include preferences indicating a specific presentation format the user has previously indicated. Numerous alternatives are possible and are contemplated.

Upon generating the data request, device 605 conveys the request 607 for retrieval of the data. In the embodiment shown, the request is conveyed via an optional port 608. Data 610 may be located in one or more local and/or remote locations. Retrieved data 609 is then formatted 612 as appropriate for the device and the transmission medium and conveyed 614 to the requesting device. Hardware and/or software device 612 is configured to communicate 610A-610B with other elements of the system as necessary to determine formatting requirements. In one embodiment, device 612 is coupled to advertisement injector 613 where advertisements targeted to the particular user may be obtained and included with the returned data. Accordingly, usage by a mobile or other remote unit may affect advertisements targeted to the user while watching television at home. Similarly, Web surfing activity may affect the data the user receives when making accesses using a wireless PDA. Ultimately, all user interaction with the system may affect the user profile which may in turn affect the information the user receives from any accessing device.

Various embodiments may further include receiving, sending or storing instructions and/or data implemented in accordance with the foregoing description upon a carrier medium. Generally speaking, a carrier medium may include transmission media or signals used in broadcast systems and otherwise such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as network and/or a wireless link. For example, a network operator may convey signals which describe program instructions via a broadcast system. Alternatively, conveyed signals may include one or more “triggers” which are configured to cause execution of program instructions. A carrier medium may also include storage media or memory media such as magnetic or optical media, e.g., disk, DVD or CD-ROM, volatile or non-volatile media such as RAM (e.g. SDRAM, RDRAM, SRAM, etc.), ROM, etc.

While the present invention has been described with reference to particular embodiments, it will be understood that the embodiments are illustrative and that the invention scope is not so limited. Any variations, modifications, additions, and improvements to the embodiments described are possible. These variations, modifications, additions, and improvements may fall within the scope of the inventions as detailed within the following claims.

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WHAT IS CLAIMED IS:

1. A method for utilizing a user profile in an interactive television system, the method comprising:

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updating a user profile responsive to a first user access in a first access mode;

initiating a second user access in a second access mode;

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accessing the user profile in response to the second user access;

transmitting data to a user responsive to the second user access, wherein the transmitted data is based at least in part on the user profile.

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2. The method as recited in claim 1, further comprising updating said user profile in response to said second user access.

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3. The method as recited in claim 2, wherein said first access mode corresponds to television viewing activity, and said second access mode is performed via a remote device.

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4. The method as recited in claim 2, wherein said first access mode corresponds to an access via a remote device, and said second access mode corresponds to television viewing activity.

5. The method as recited in claim 2, further comprising:

determining said second access mode in response to said second user access;
accessing a device profile corresponding to said second access mode; and

formatting said data to correspond to said device profile prior to transmitting the data.

6. The method as recited in claim 2, further comprising selecting non-requested data based on said user profile and transmitting said non-requested data.

7. The method as recited in claim 6, wherein said non-requested data comprises an advertisement targeted to the user.

8. The method as recited in claim 3 wherein said first access mode is via a set-top box, said remote device is a wireless mobile unit, and wherein said set-top box and mobile unit are configured to communicate with one another.

9. The method as recited in claim 5, further comprising storing the user profile at one or more of a television broadcast station, user set-top box, or other remote location configured to communicate within the system.

10. The method as recited in claim 2, further comprising selecting the data to be transmitted at least in part on the physical location of a user performing an access.

11. The method as recited in claim 1, further comprising updating the user profile in response to detecting a physical location of a user's location trackable mobile unit.

12. The method as recited in claim 3, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, and fixed unit, and a portable computer system.

13. The method as recited in claim 1, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

14. An interactive television system comprising:

a remote unit;

5 a set-top box; and

a broadcast station coupled to convey a programming signal to the set-top box;

wherein the system is configured to update a user profile responsive to a first
access of a user in a first access mode, detect a second access of a user in a
second access mode, access the user profile in response to the second
10 access, and transmit data responsive to the second access, wherein the
transmitted data is based at least in part on the user profile.

15. The system as recited in claim 14, wherein the system is configured to update the
user profile in response to the second access.

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16. The system as recited in claim 15, wherein the first access mode is performed via
the set-top box, and the second access mode is performed via the remote unit.

17. The system as recited in claim 15, wherein said first access mode is via the remote
20 unit, and the second access mode corresponds to the set-top box.

18. The system as recited in claim 15, wherein the system is further configured to:

determine the second access mode in response to the second access;

25 access a device profile corresponding to the second access mode; and

format the data to correspond to the device profile prior to transmitting the data.

19. The system as recited in claim 15, wherein the system is further configured to select non-requested data based on said user profile and transmit said non-requested data to a user.
- 5 20. The system as recited in claim 16 wherein said set-top box and mobile unit are configured to communicate with one another.
21. The system as recited in claim 18, wherein the user profile is stored at one or more of a television broadcast station, user set-top box, or other remote location configured to
10 communicate within the television system.
22. The system as recited in claim 15, wherein the system is further configured to detect a physical location of a user performing an access and select the data to be transmitted at least in part on the detected location.
- 15 23. The system as recited in claim 14, wherein the system is further configured to update the user profile in response to detecting a physical location of a user's location trackable mobile unit.
- 20 24. The system as recited in claim 16, wherein the remote device is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.
- 25 25. The system as recited in claim 14, wherein the user profile is based on data obtained in a passive manner, active manner, or both.
26. A carrier medium comprising program instructions, or triggers to launch execution of program instructions, wherein the program instructions are executable to:

update a user profile responsive to a first access of a user in a first access mode;
detect a second access of a user in a second access mode;
access the user profile in response to the second access; and
transmit data responsive to the second access, wherein the transmitted data is
5 based at least in part on the user profile.

27. The carrier medium as recited in claim 26, wherein the first access mode is performed via a set-top box, and the second access mode is performed via the remote unit.
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28. The carrier medium as recited in claim 26, wherein the wherein the program instructions are further executable to:
determine the second access mode in response to the second access;
15 access a device profile corresponding to the second access mode; and
format the data to correspond to the device profile prior to transmitting the data.

29. The carrier medium as recited in claim 26, wherein the program instructions are executable to select non-requested data based on said user profile and transmit said non-requested data to a user.
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30. The carrier medium as recited in claim 26, wherein the program instructions are executable to further configured to select the data to be transmitted at least in part on the physical location of a user performing an access.
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31. The carrier medium as recited in claim 27, wherein the remote unit is selected from the group consisting of: a cellular phone, a personal digital assistant, a fixed unit, and a portable computer system.

32. The carrier medium as recited in claim 14, wherein the user profile is based on data obtained in a passive manner, active manner, or both.

5

ABSTRACT OF THE DISCLOSURE

5 A system and method for utilizing user profiles in an interactive television
system. An interactive television system includes a broadcast station, a set-top
box, and a remote mobile or fixed unit. The system is configured to create and/or
update a user profile in response to an access made in a first access mode. In
response to detecting a user access in a second access mode, the system accesses
the user profile, selects data based at least in part on the user profile, and transmits
10 the data to the user.

POWER OF ATTORNEY

OpenTV, Inc., owner(s) of the application for United States Letters Patent on the invention entitled "CONVERGENCE OF INTERACTIVE TELEVISION AND WIRELESS TECHNOLOGIES," the specification of which:

is attached hereto.
 was filed on _____ as Application Serial No. _____
and was amended on _____ (if applicable).

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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 Date: October 9, 2002

DECLARATION

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled "CONVERGENCE OF INTERACTIVE TELEVISION AND WIRELESS TECHNOLOGIES," the specification of which:

- is attached hereto.
- was filed on *****

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability of the subject matter claimed in this application, as "materiality" is defined in 37 C.F.R. § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate listed below, or under § 365(a) of any PCT international application listed below designating least one country other than the United States of America, and have identified below any foreign application for patent or inventor's certificate, or of any PCT international application, having a filing date before that of the application on which priority is claimed.

<u>Prior Foreign Application No.</u>	<u>Country</u>	<u>Filing Date (mm/dd/yy)</u>	<u>Priority Claimed</u>	<u>Cert. copy Attached</u>
N/A				

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

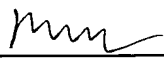
<u>Provisional Application No.</u>	<u>Filing Date (mm/dd/yy)</u>
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I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) listed below, or under § 365(c) of any PCT international application listed below designating the United States of America, and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose all information known to me to be material to the patentability of the subject matter claimed in this application, as "materiality" is defined in 37 C.F.R. § 1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application.

<u>Parent Application No.</u>	<u>Filing Date (mm/dd/yy)</u>	<u>Parent Patent No. (if applicable) or Status</u>
N/A		

I hereby declare that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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10/21/2002 DTESSM1 00000014 501505 10271801

01 FC:1001	740.00 CH
02 FC:1202	216.00 CH

PTO-1556
(5/87)