UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/356,486	01/20/2009	James A. Billmaier	34395/430	8893

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EXAMINER
BAUTISTA, XIOMARA L

ART UNIT	PAPER NUMBER
2179	

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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.

	Application No.	Applicant(s)
Office Action Summary	12/356,486	BILLMAIER ET AL.
	Examiner	Art Unit	
	X. L. Bautista	2179	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ 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 _20 January 2009_.

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) _1-21_ 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   4a) Of the above claim(s) _____ is/are withdrawn from consideration.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) _1-21_ 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 _20 January 2009_ 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 _06/29/2009_

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other:

DETAILED ACTION

Double Patenting

1.   A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain <u>a</u> patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

2.   **Claims 1-21** are rejected under 35 U.S.C. 101 as claiming the same invention as

that of claims 1-22 of prior U.S. Patent No. 7,487,459 B2 and claims 1-48 of prior U.S.

Patent No. 7,055,104 B1. This is a double patenting rejection.

Specification

3.   The specification is objected to as failing to provide proper antecedent basis for

the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Applicant claims a "computer-readable medium" in **claim 21**, which is not defined

in the specification.

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 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 1-21** are rejected under 35 U.S.C. 102(e) as being anticipated by **Bernhardson** (US 2003/0001898 A1).

Claims 1, 2, 3, 11, 12, 20, and 21:

Bernhardson discloses *navigating options within a user interface* (abstract; fig. 3). Bernhardson discloses *providing a first set of cards, each card graphically representing a single available option from one of a plurality of option types*. Bernhardson teaches a graphical user interface having a first and second group of scroll bar elements; each element representing an available option from a plurality of option types (figs. 3-4C).

Bernhardson discloses *providing a user interface including a focus area intersected by a first axis; displaying a set of cards representing filters along the first axis, each filter corresponding to a respective one of a plurality of option types; receiving a selection of a filter in response to scrolling the set of filter cards along the first axis to align a corresponding filter card with the focus area.* Bernhardson teaches user interface having a focus region (fig. 3, item 16); a first group of elements along a vertical axis and a second group of elements along a horizontal axis (page 1, par. 0007-

0008). Bernhardson explains that the horizontal scroll bar elements can be

personalized for individual users; for example in a family, the scroll bar can be

configured for use by the father, mother, son, and daughter. In the example of figure 3,

the horizontal scroll bar configured for use by the father and a horizontal scroll bar

element H1, concerning "News" has been horizontally scrolled into the focus region.

When the horizontal scroll bar elements are scrolled into the focus region, the vertical

scroll bar elements are populated with details concerning content sources associated

with "News" (figs. 3-4C; page 2, par. 0024-0025).

Bernhardson discloses *filtering the first set of cards according to the selected*

filter to produce a second set of cards, the second set of cards only including cards

representing the type of option corresponding to the selected filter; displaying a subset

of the second set of cards along the second axis that is perpendicular to the first axis,

one card being displayable within the focus area (page 3, par. 0026-0027; figs. 3-4C).

Claims 4, 5, 13 and 14:

Bernhardson discloses filtering criteria having at least a search attribute and a

tag compared to the filtering criteria of a selected filter (page 3, par. 0030-0031).

Claims 6 and 15:

Bernhardson discloses tags indicating scroll bar elements' characteristics (figs. 3-

4C).

Claims 7 and 16:

Bernhardson discloses a vertical axis and a horizontal axis (figs. 3-4C).

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