	ED STATES PATEN	T AND TRADEMARK OFFICE	UNITED STATES DEPAR United States Patent and Address: COMMISSIONER F P.O. Box 1450 Alexandria, Virginia 22. www.uspto.gov	FOR PATENTS
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,729	06/26/2007	Kenneth P. Weiss	W0537-7006	3536
John N. Anastasi c/o Lowrie, Lando & Anastasi, LLP Riverfront Office Park, One Main Street Cambridge, MA 02142			EXAMINER DADA, BEEMNET W	
			ART UNIT	PAPER NUMBER
Cambridge, wi	1021-12		2435	
			MAIL DATE	DELIVERY MODE
			02/03/2010	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.

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		Application No.	Applicant(s)	
		11/768,729	WEISS, KENNETH P.	
Office	Action Summary	Examiner	Art Unit	
		BEEMNET W. DADA	2435	
The MAILI Period for Reply	NG DATE of this communication app	pears on the cover sheet with the o	correspondence address	
 WHICHEVER IS Extensions of time ma after SIX (6) MONTHS If NO period for reply Failure to reply within Any reply received by 	STATUTORY PERIOD FOR REPLY LONGER, FROM THE MAILING D/ ay be available under the provisions of 37 CFR 1.1: 5 from the mailing date of this communication. is specified above, the maximum statutory period v the set or extended period for reply will, by statute the Office later than three months after the mailing ljustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATIOI 36(a). In no event, however, may a reply be tir vill apply and will expire SIX (6) MONTHS from , cause the application to become ABANDONE	N. mely filed the mailing date of this communication. ED (35 U.S.C. § 133).	
Status				
2a)⊠ This action 3)⊡ Since this a	e to communication(s) filed on <u>20 M</u> is FINAL . 2b)☐ This application is in condition for allowar ccordance with the practice under <i>E</i>	action is non-final. nce except for formal matters, pro		
Disposition of Clain	IS			
4a) Of the a 5)	5,8-16,18-21 and 24-40 is/are pend bove claim(s) is/are withdray is/are allowed. 5, 8-16, 18-21, 24-40 is/are rejected is/are objected to. are subject to restriction and/o	wn from consideration.		
Application Papers				
10) The drawing Applicant ma Replacemen	ation is objected to by the Examine g(s) filed on is/are: a) acc ay not request that any objection to the it drawing sheet(s) including the correct declaration is objected to by the Ex	epted or b) objected to by the drawing(s) be held in abeyance. Se ion is required if the drawing(s) is ob	e 37 CFR 1.85(a). ijected to. See 37 CFR 1.121(d).	
Priority under 35 U.	S.C. § 119			
a) All b) 1. Certi 2. Certi 3. Copi appli	Iment is made of a claim for foreign Some * c) None of: fied copies of the priority document fied copies of the priority document es of the certified copies of the prior cation from the International Bureau ched detailed Office action for a list	s have been received. s have been received in Applicat rity documents have been receive u (PCT Rule 17.2(a)).	ion No ed in this National Stage	
Attachment(s) 1) Notice of Reference	s Cited (PTO-892) on's Patent Drawing Review (PTO-948)	4)		

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DETAILED ACTION

This office action is in reply to an amendment filed on November 20, 2009. Claims 1, 3-5, 8, 9, 11, 16 and 21 have been amended and new claims 31-40 have been added. Claims 1-5, 8-16, 18-21, 24-40 are pending.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 8-16, 18-21, 24-40 have been considered but are moot in view of the new ground(s) of rejection. Examiner would point out that the claim amendments include a phrase that is directed to negative limitation: "...where the information is <u>unknown to the service provider</u>..." and "...provide the service <u>without the service</u> <u>provider's knowledge of the information</u>..." *"Any negative limitation or exclusionary proviso must* have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See In re Johnson, 558 F.2d 1008, 1019, 194 USPQ 187, 196

(CCPA 1977) ("[the] specification, having described the whole, necessarily described the part remaining."). See also Ex parte Grasselli, 231 USPQ 393 (Bd. App. 1983), aff 'dmem., 738 F.2d 453 (Fed. Cir. 1984). The mere absence of a positive recitation is not basis for an exclusion. Any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement."

The phrase clearly recites a negative limitation. Indeed, the specification must contain a full, clear and concise description of the claimed subject matter.

Claim Rejections - 35 USC § 112

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-5, 8-16, 18-21 and 24-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to mention or teach the system/method, "...where the information is <u>unknown to the service provider</u>..." and "...provide the service without the service provider's knowledge of the information..."

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). 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 date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to BEEMNET W. DADA whose telephone number is (571)272-3847. The examiner can normally be reached on Monday - Friday (9:00 am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. 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.

/Beemnet W Dada/ Primary Examiner, Art Unit 2435 February 1, 2010

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