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11/768,729	06/26/2007	Kenneth P. Weiss	W0537-7006	3536
	7590	02/03/2010	EXAMINER	
John N. Anastasi c/o Lowrie, Lando & Anastasi, LLP Riverfront Office Park, One Main Street Cambridge, MA 02142			DADA, BEEMNET W	
			ART UNIT	PAPER NUMBER
			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.

APPLE 1107

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 unknown to the service provider..." and "...provide the service without the service provider's knowledge of the information..." *"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 unknown to the service provider..." 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