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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/957,945	04/09/2019	10257319	HOLA-005-US4	7917

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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 0 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.

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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):

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ATTY.'S DOCKET: HOLA-005-US4

In re Application of:	)	Confirmation No. 7917
	)	
Derry Shribman *et al.*	)	Art Unit: 2459
	)	
Appln. No.: 15/957,945	)	Examiner: Nguyen, Minh Chau
	)	
Filed: April 20, 2018	)	Washington, D.C.
	)	
For: System providing faster and more efficient data communication	)	October 18, 2018
	)	

RESPONSE / AMENDMENT:

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building, Mail Stop Amendments
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Office Action of September 5, 2018 ("Action"):

Remarks/Arguments begin on page 2 of this paper.

REMARKS / ARGUMENTS

The examiner's action dated September 5, 2018 ("Action") has been received and its contents carefully noted.

Office Action, pages 2-4

Claims 1-29 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility.

Response.

a. Claim 1 is considered abstract since it describes "*abstract idea which similar to the concept of remotely accessing and retrieving user specified information*". The Action is based on over generalization of the abstract idea and oversimplification of the recited claim functions and is untethered from the actual language of the claims. The Examiner has provided no facts and/or evidence to support the Examiner's determination that the recited structure and mechanism is an abstract idea. It is noted that Alice framework cautions that "*describing the claims at such a high level of abstraction and untethered from the language of the claims all but ensures that the exceptions to§ 101 swallow the rule.*" *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1337 (Fed. Cir. 2016).

In particular, claim 1 also recites sending a received content to a server, which cannot be part of "*the concept of remotely accessing and retrieving user specified information*". Hence, the Action fails to consider the claims as a whole, while it is noted that the claims should be analyzed "… ***in their entirety*** *to ascertain whether their character* ***as a whole*** *is directed to excluded subject matter.*" (Emphasis added) Internet Patents Corp., 790 F.3d at 1346. Further, the information exchanged over the network relates to routing or

handling OTHER information, which is similar to the case of Enfish, 822 F.3d at 1336, 118 USPQ2d at 1689, where claims to self-referential table for a computer database were not directed to an abstract idea. It is noted that the claims here are even less abstract since the steps involves not only a single generic computer, but few types of devices (servers / clients) communicating over a network.

b. The rejection is based on the case of "*Int. Vent. V. Erie Indemnity '002 patent*". It is noted that this case (*Intellectual Ventures I LLC v. Erie Indemnity Co., 850 F.3d 1315, 1327 (Fed. Cir. 2017)*) involved organizing and accessing records through the creation of an index-searchable database (i.e., locating information in a database). Claim 1 is not involved in any database in general, and any organizing and accessing records in particular, hence this case is not analogous to the claims herein. Specifically, the claim discloses a server receiving information from another server via a client device, which is unique and solves a specific problem such as anonymity when fetching information.

Hence, in light of the specification's description of the problem and the inventors' solution, the claimed invention, as described in paragraphs 0004-0012 of the corresponding publication 2018/0241851, solves a problem of Internet congestion, faster and more efficient content transport by improving the operation of peer-to-peer networking arrangement using a management server, in contrast to '*creating and using an index*', which is the heart of the invention - "*the heart of the claimed invention lies in creating and using an index to search for and retrieve data … an abstract concept*" [*Cf. Intellectual Ventures I v. Erie Indemnity Company, 850 F.3d, 1315, 1328 (Fed. Cir. 2017)*].

Hence, similar to the PTAB decision in appeal 2017-011163 dated May 9, 2018, the Examiner's interpretation of the claims as being directed to an abstract idea of creating an index and using that index to search for and retrieve data is an oversimplification of the claims, as the claims do not even mention the creation of an index or the use of such an index or searching and retrieving data, not do the claim mention the words 'index' or 'search'.

c. As admitted in the Action, the claims involve specific networking of physical elements such as servers and clients, connected via various networks forming a specific structure and relationships, which are physical apparatuses, and are NOY a 'generic computer' as stated in the Action. Under Bilski's MoT test, a claimed process can be patent-eligible under § 101 if: (1) **it is tied to a particular machine or apparatus;** or (2) the process transforms a particular article into a different state or thing." (See Bilski, 545 F.3d at 954 (citing Gottschalk v. Benson, 409 U.S. 63, 70 (1972)).

d. The Action states that the arrangement claimed provides '*conventional computer functions*', '*conventional computer implementation*', '*generic computer, generic computer components, or a programmed computer*'. However, the Examiner does not sufficiently establish that the "ordered combination" of the recited elements also fails to "'transform the nature of the claim' into a patent-eligible application." Alice, 134 S. Ct. at 2355. "[A]n inventive concept can be found in the non-conventional and nongeneric arrangement of known, conventional pieces," even if these pieces constitute generic computer-related components. Bascom Global Internet v. AT&T Mobility LLC, 827 F.3d 1341, 1350 (Fed. Cir. 2016). Specifically, the

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