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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/357,345	01/21/2009	Christopher William Higgins	070.P270 (Y05226US00)	1514

74792 7590 12/29/2016

BERKELEY LAW & TECHNOLOGY GROUP LLP
17933 NW EVERGREEN PARKWAY
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BEAVERTON, OR 97006

EXAMINER
MAHMOOD, REZWANUL

ART UNIT	PAPER NUMBER
2164	

MAIL DATE	DELIVERY MODE
12/29/2016	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHRISTOPHER WILLIAM HIGGINS, MARC ELIOT DAVIS, CHRISTOPHER TODD PARETTI, CARRIE BURGENER, RAHUL NAIR, and SIMON P. KING[1]

Appeal 2016-002318
Application 12/357,345
Technology Center 2100

Before MICHAEL J. STRAUSS, DANIEL N. FISHMAN, and JAMES W. DEJMEK, *Administrative Patent Judges*.

STRAUSS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 4–20, and 22–25. Claims 2, 3, and 21 have been canceled. App. Br. 31, 34. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We affirm.

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[1] Appellants identify Yahoo! Inc. as the real party in interest. App. Br. 4.

STATEMENT OF THE CASE

Introduction

Appellants' claimed invention is directed to targeting an advertisement to an entity using tags related to the advertisement. Abstract.

Claims 1 and 13 are representative of the subject matter on appeal and are reproduced below with disputed limitations emphasized in *italics*:

1. A method, comprising:

determining, by a computing device, at least one tag of a plurality of tags relating to an advertisement, the advertisement comprising content, wherein the at least one tag is generated implicitly, by the computing device, based on subject matter of the content of the advertisement, *the at least one tag being generated implicitly prior to the advertisement being presented to one or more users*;

selecting, by the computing device, at least one entity that is representative of the at least one tag; and

targeting, by the computing device, the advertisement to the at least one entity, the targeting comprising presenting the advertisement to the one or more users.

13. A method, comprising:

determining, by a computing device, at least one tag of a plurality of tags relating to an advertisement, the advertisement comprising content, wherein the at least one tag is generated implicitly, by the computing device, based on subject matter of the content of the advertisement, the at least one tag being generated implicitly prior to the advertisement being presented to one or more users;

selecting, by the computing device, at least one geographical location that is representative of the at least one tag; and

targeting, by the computing device, the advertisement to the at least one geographical location, the targeting comprising presenting the advertisement to the one or more users.

The Examiner's References and Rejections

Claims 1, 5–13, 20, and 23–25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dominowska et al. (US 2009/0144141 A1; June 4, 2009 (filed Nov. 30, 2007)) ("Dominowska") and Petersen (US 2009/0089288 A1; Apr. 2, 2009 (filed Sept. 27, 2007)). Final Act. 10–23.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Dominowska, Petersen, and Kapur et al. (US 2007/0136256 A1; June 14, 2007) ("Kapur"). Final Act. 23–24.

Claims 14–16, 18, 19, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dominowska, Petersen, and Johnson (US 2009/0204484 A1; Aug. 13, 2009 (filed Feb. 7, 2008)). Final Act. 24–29.

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Dominowska, Petersen, Johnson, and Kapur. Final Act. 29–30.

ANALYSIS[2]

We have reviewed the Examiner's rejections in light of Appellants' arguments the Examiner has erred. App. Br. 8–29; Reply Br. 3–26. We are not persuaded by Appellants' contentions regarding the pending claims and, in connection therewith, adopt as our own the findings and reasons set forth by the Examiner in the action from which this appeal is taken (Final Act. 2–31), and as set forth by the Examiner in the Answer in response to arguments

[2] In this Opinion, we refer to Appellants' Appeal Brief ("App. Br.," filed August 6, 2014); Appellants' Reply Brief ("Reply Br.," filed March 2, 2015); the Final Office Action ("Final Act.," mailed March 6, 2014); and the Examiner's Answer ("Ans.," mailed on December 29, 2014).

made in Appellants' Appeal Brief (Ans. 2–13). We highlight and address specific findings and arguments below.

Claims 1, 4–12, 20, and 22–24

Appellants contend the Examiner erred in finding the combination of Dominowska and Petersen teaches or suggests "at least one tag being generated implicitly prior to the advertisement being presented to one or more users," as recited in claim 1. App. Br. 12–19; Reply Br. 4–22. In particular, Appellants assert Petersen teaches an implicit tagging of content, but argue the implicit tagging occurs only *after* a user has been presented the content. App. Br. 18 (citing Petersen ¶ 56).

Appellants' contentions are not persuasive at least because Appellants consider the teachings of Petersen in isolation and fail to specifically rebut the Examiner's ultimate legal conclusion of obviousness based on the combination of Dominowska and Petersen. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). The Examiner relies on Dominowska, not Petersen, to teach generating at least one tag *prior* to an advertisement being presented to one or more users. Final Act. 3–4, 11–12 (citing Dominowska Abstract; ¶¶ 20, 34, 36, 37, 47; Figures 1–4). The Examiner relies on Petersen to teach at least one tag generated implicitly. Final Act. 4–5, 12 (citing Petersen ¶¶ 12, 56, 57; Figure 7). Thus, the Examiner finds, and we agree, *the combination* of Dominowska and Petersen teaches at least one tag prior generated implicitly prior to an advertisement being presented to one or more users.

Regarding Appellants' argument that Petersen's teaching of generating at least one tag *prior* to an advertisement being presented to one or more users in the combination functions differently from how Petersen's generation of a tag functions individually (Reply Br. 18–21), we remain unpersuaded the Examiner erred. At the outset, we note paragraph 56 of Petersen, as relied upon by the Examiner, discloses "[i]f the user **18** desires to later recall specific content, but the user **18** can only remember the context in which the content was previously accessed, the user **18** can review and select contextual tags assigned by the mobile device **12** to recall content." Thus, Petersen teaches that, after contextually tagging content, the user may at a later time select the contextual tags "to recall and access content by context." Petersen ¶ 56. Thus, with respect to such a later selection, the tag was generated prior to presenting to the user. Accordingly, Petersen teaches generating at least one implicit tag prior to the content being presented to the user, and we disagree with Appellants' argument that "[t]o the extent that [Petersen] shows implicit tagging, the implicit tagging is necessarily performed only *after* the content has already been presented to the user." Reply Br. 7; *see also* App. Br. 18.

The Examiner expressly finds, as discussed *supra*, a person of ordinary skill in the art would have modified Dominowska in view of Petersen to arrive at the claimed invention, with a reasonable expectation of successfully providing the function of each element taught or suggested by Dominowska and Petersen. Further, Appellants have not presented any evidence or reasoning in support of their contention these findings are erroneous. In particular, Appellants have not identified any evidence indicating the function of Dominowska's or Petersen's systems would be

changed or altered *unpredictably* upon their combination. Contrary to Appellants' apparent premise, we agree with the Examiner that the skilled artisan would "be able to fit the teachings of multiple patents together like pieces of a puzzle" because the skilled artisan is "a person of ordinary creativity, not an automaton." *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 420-21 (2007). Therefore, we find unpersuasive of error Appellants' contention that the combination of Dominowska and Petersen is improper.

Next, Appellants argue the above combination renders Dominowska and Petersen unsatisfactory for their respective intended purposes because Dominowska is directed to associating feature-value pairs with advertisements and Petersen is directed to implicitly tagging content unrelated to an advertising system. App. Br. 25–26; Reply Br. 13. Appellants further argue the combination would fundamentally alter Dominowska's operation of associated feature-value pairs with advertisements and Petersen's operation of implicitly tagging content. App. Br. 26.

We are not persuaded the Examiner erred. Appellants have failed to provide sufficient evidence or argument that modifying Dominowska's tag to include an implicit tag as taught by Petersen would render the methods of Dominowska and Petersen unsatisfactory for their intended purposes or change their principles of operation. Not only are Appellants' arguments speculative and unsubstantiated, it is well settled that the test for obviousness is not bodily integration of the teachings but, instead, what the combined teachings of the references would have suggested to those of ordinary skill in the art. *In re Keller*, 642 F.2d 413, 425 (CCPA 1981). The Examiner finds, *inter alia*, it would have been obvious to a person of

ordinary skill in the art, at the time the invention was made, to combine Dominowska and Petersen "to assist users in retrieving desired content based on implicit tags by automatically and silently tagging content when a user accesses content in a normal fashion." Final Act. 13 (citing Petersen ¶ 12); *see also* Ans. 11, 13. We find the Examiner has articulated reasoning with rational underpinnings sufficient to justify the legal conclusion of obviousness, which is not persuasively rebutted by Appellants' unsubstantiated contentions.

Next, Appellants argue the Examiner "employs hindsight bias and ignores express specification definitions and clear usage of terminology within the specification." App. Br. 14; *see also* Reply Br. 13–17. In particular, Appellants argue the source of the Examiner's motivation is Appellants' Specification because neither Dominowska nor Petersen teaches implicitly generating at least one tag for an advertisement prior to the advertisement being shown to a user. Reply Br. 13–14.

We remain unpersuaded the Examiner erred.

> Any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper.

In re McLaughlin, 443 F.2d 1392, 1395 (CCPA 1971). As discussed *supra*, we find the Examiner has articulated a reason based on rational underpinnings, for the proposed combination. Appellants have not persuaded us the Examiner improperly relied on information gleaned only from Appellants' Specification in making the proposed combination. *See KSR, 550 U.S. at 418*; *see also In re McLaughlin*, 443 F.2d at 1313–14.

Accordingly, as we are unpersuaded of Examiner error, we sustain the Examiner's rejection of independent claim 1 and, for similar reasons, the rejection of independent claim 20, which recites similar limitations and was not argued separately. Additionally, we sustain the Examiner's rejections of dependent claims 4–12 and 22–24, which were not argued separately. *See* App. Br. 27.

Claims 13–19 and 25

Appellants contend the Examiner erred in finding the combination of Dominowska and Petersen teaches or suggests "selecting, by the computing device, at least one geographical location that is representative of the at least one tag," as recited in claim 13. App. Br. 20–23; Reply Br. 23–25. In particular, according to Appellants, Dominowska teaches delivering advertisements only to users in a particular geographic location. App. Br. 22 (citing Dominowska ¶ 33). Appellants argue Dominowska teaches the selection of the particular geographic location is performed by a human advertiser, not a computing device. App. Br. 22. Appellants further argue, in the absence of a computing device taught by Dominowska, "there would be no reason for a computing device to select or otherwise determine a geographic location that is representative of at least one tag." App. Br. 22.

In response to Appellants' argument, the Examiner finds paragraph 36 of Dominowska teaches "selecting tags . . . automatically by an advertising system, which is selecting by a computing device." Ans. 7. Appellants fail to address this finding or otherwise provide sufficient persuasive evidence or reasoning supporting an interpretation of the disputed limitation that would distinguish over Dominowska's disclosure of automatic tag selection. Therefore, in the absence of sufficient substantive rebuttal, we agree with the

Examiner that an artisan having ordinary skill in the art would understand the selection of the particular geographic location is performed by a computing device.

Accordingly, we sustain the Examiner's rejection of independent claim 13. Additionally, we sustain the Examiner's rejections of dependent claims 14–19 and 25, which were not argued separately. *See* App. Br. 20, 23, 27.

DECISION

We affirm the Examiner's decision to reject claims 1, 4–20, and 22–25.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED

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74792 7590 01/07/2016

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EXAMINER
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BERKELEY LAW & TECHNOLOGY GROUP LLP
17933 NW EVERGREEN PARKWAY
SUITE 250
BEAVERTON, OR 97006

Appeal No: 2016-002318
Application: 12/357,345
Appellant: Christopher William Higgins et al.

Patent Trial and Appeal Board Docketing Notice

Application 12/357,345 was received from the Technology Center at the Board on January 07, 2016 and has been assigned Appeal No: 2016-002318.

In all future communications regarding this appeal, please include both the application number and the appeal number.

The mailing address for the Board is:

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By order of the Patent Trial and Appeal Board.

AA

Office of Petitions: Routing Sheet

Application No. 12357345

This application is being forwarded to your office for further processing. A decision has been rendered on a petition filed in this application, as indicated below. For details of this decision, please see the document PET.OP.DEC filed on the same date as this document.

- [X] **GRANTED**
- [ ] **DISMISSED**
- [ ] **DENIED**

Office of Petitions: Decision Count Sheet

Mailing Month

Application No. 12357345

For US serial numbers: enter number only, no slashes or commas. Ex: 10123456

For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

Deciding Official: WOOD, DOUGLAS

Count (1) - Palm Credit 12/357,345

Decision: DISMISSED

FINANCE WORK NEEDED

☐ Select Check Box for YES

Decision Type: 525 - 37 CFR 1.181 for W/D HOLDING OF ABANDONMEI

Notes: Please also enter 525 petition

Count (2)

Decision: GRANT

FINANCE WORK NEEDED

☐ Select Check Box for YES

Decision Type: 502 - 37 CFR 1.137(b) - REVIVAL BASED ON UNINTENTI

Notes:

Count (3)

Decision: n/a

FINANCE WORK NEEDED

☐ Select Check Box for YES

Decision Type: NONE

Notes:

Initials of Approving Official (if required)

If more than 3 decisions, attach 2nd count sheet & mark this box

Printed on: *11/16/2015*

Office of Petitions Internal Document - Ver. 5.0

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12/357,345	01/21/2009	Christopher William Higgins	070.P270 (Y05226US00)	1514

74792 7590 11/18/2015

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EXAMINER
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ART UNIT	PAPER NUMBER
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In re Application of	:	
Higgins et al.	:	
Application No. 12/357,345	:	ON PETITION
Filed: 01/21/2009	:	
Attorney Docket Number: 070.P270	:	
(Y05226US00)	:	

This is a decision on the petition, filed on May 8, 2015, which is treated as a petition to withdraw the holding of abandonment in the above-identified application, and, in the alternative, as a petition under 37 CFR 1.137(a).

The petition to withdraw the holding of abandonment is **DISMISSED**.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The application became abandoned on March 1, 2015 for failure to submit the appeal forwarding fee within two (2) months of the date of the examiner's answer mailed on December 29, 2014. On March 17, 2015, a Notice of Abandonment was mailed, stating that the application was abandoned for failure to pay the appeal forwarding fee as set forth in 37 CFR 41.45(b).

Petition to Withdraw Holding of Abandonment.

Petitioners assert that the holding of abandonment should be withdrawn because the Reply Brief filed on March 2, 2015 contained a general authorization to charge any fees to counsel's deposit account. As such, petitioners argue, authorization was given to timely pay the appeal forwarding fee.

Petitioner's argument has been considered, but is not persuasive.

MPEP 509.01 states, in pertinent part:

> Many applications contain broad language authorizing any additional fees which might have been due to be charged to a deposit account. ***The U.S. Patent and Trademark Office will interpret such broad authorizations to include authorization to charge to a deposit account fees set forth in 37 CFR 1.16, and 1.17.*** Fees under 37 CFR 1.19, 1.20, and 1.21 will not be charged as a result of a general authorization under 37 CFR 1.25 except to cover the processing fee under 37 CFR 1.21(m) in the event a check or credit card payment is refused or charged back by a financial institution.

> Fees under 37 CFR 1.18 will not be charged as a result of a preauthorization of issue fee payment. (emphasis added)

As indicated above, the Office will construe a general authorization as an authorization to charge fees set forth in §§ 1.16 and 1.17 only. The rules of practice do not authorize the payment of appeal fees through general authorization. *See Notice Concerning Payment of the Appeal Fowarding Fee under 37 CFR 41.45 and Improper Use of Deposit Account General Authorizations under 37 CFR 1.25(b)*, 1401 *Off. Gaz. Pat. Office* 184 (April 8, 2014). Fees under other subsections of 37 CFR § 1 will not be charged as a result of a general authorization, except a processing fee under § 1.21(m). The appeal forwarding fee is not under §§ 1.16 or 1.17, but is under § 41.20(b)(4). As such, a general authorization, such as that provided in the Reply Brief filed on March 2, 2015. As the general authorization was insufficient to charge the appeal forwarding fee, and the appeal forwarding fee was not paid, the application became abandoned for failure to timely pay the appeal forwarding fee. The petition is therefore dismissed.

Petition Under 37 CFR 1.137(a).

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the reply in the form of the appeal forwarding fee paid on May 8, 2015, (2) payment of the petition fee in the amount of $1700, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

This application is being referred to Technology Center Art Unit 2164 for further processing.

/dwood/

Douglas I. Wood
Attorney Advisor
Office of Petitions

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 070.P270 (Y05226US00)

First named inventor: Christopher William Higgins

Application No.: 12/357,345 Art Unit: 2164

Filed: 1/21/2009 Examiner: Rezwanul Mahmood

Title: INTEREST-BASED LOCATION TARGETING ENGINE

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

1. Petition Fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☑ Other than small entity-fee $ 1900.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Reply Brief (identify type of reply):

☑ has been filed previously on March 2, 2015.

☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $_____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/James Wakely/	5/8/2015
Signature	Date
James Wakely	48,597
Type or Printed name	Registration Number, If applicable
17933 NW Evergreen Parkway, Suite 250	503.439.6500
Address	Telephone Number
Beaverton, OR 97006	
Address	

Enclosures:

☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: Appeal Forwarding Fee of $2,000.00 pursuant to 37 CFR 41.20(b)(4)

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300. **Submitted via EFS**

5/8/2015	/Kristi Schroeder/
Date	Signature
	Kristi Schroeder
	Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Christopher William Higgins, et al.	**Art Unit:**	2164
Application No.:	12/357,345	**Examiner:**	Rezwanul Mahmood
Filed:	1/21/2009		
Confirmation No.:	1514		

For: INTEREST-BASED LOCATION TARGETING ENGINE

MAIL STOP PETITIONS
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

SIR/MADAM:

In response to the Notice of Abandonment, dated March 17, 2015, kindly consider the following Petition.

Remarks begin on page 2.

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted via Electronic Filing System or facsimile (571-273-8300) or USPS to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

Kristi Schroeder	5/8/2015
Name of Person Transmitting Correspondence	*Date*
/Kristi Schroeder/	
Signature	

REMARKS

This response is a full and complete petition to withdraw holding of abandonment indicated in a Notice of Abandonment, mailed on March 17, 2015. The Notice of Abandonment indicates that the above –referenced application became abandoned because an appeal forwarding fee was not submitted.

The present application is being handled by the law firm Berkeley Law & Technology Group, LLP, (hereinafter "Berkeley Law") on behalf of Assignee Yahoo!, Inc. (hereinafter "Assignee"). [See Exhibit A – Declaration of James Wakely.]

It is submitted that Assignee did not intend to abandon the present application. [See Exhibit A – Declaration of James Wakely; Exhibit A – Declaration of Howard Skaist; Exhibit C – Declaration of Julianne Flynn; Exhibit D – Declaration of Kristi Schroeder.] As discussed below, the present application was in the process of being appealed and Assignee, through its representative, believed that all of the required fees were either paid or were authorized to be charged to deposit account 50-3130 in the event that any fee was inadvertently omitted with any submission relating to an Appeal for the above-referenced patent application. [See Exhibits A-D.]

Julianne Flynn and Kristi Schroeder are employees of Berkeley Law and have job duties that include electronically filing documents via the U.S. Patent & Trademark Office's ("USPTO") Patent Application Information Retrieval ("PAIR") system. [See Exhibits C, D.] Julianne Flynn and Kristi Schroeder were involved in the electronic filing of one or more documents via USPTO's PAIR system in connection an Appeal for the above-referenced patent application. [See Exhibits C,D.]

James Wakely is a patent attorney and a member of Berkeley Law, who was involved in the preparation and drafting of various responses and briefs for the above-referenced patent application, including Appeal and Reply Briefs submitted in connection with the above-referenced patent application. [See Exhibit A.] Howard Skaist is a patent attorney, partner and founder of Berkeley Law, who also was involved in the preparation and drafting of various responses and briefs for the above-referenced patent application, including Appeal and Reply Briefs submitted in connection with the above-referenced patent application [See Exhibit B.]

A final Office Action was mailed in connection with the above-referenced patent application on March 6, 2014. [See Exhibits A, B.] A Notice of Appeal and a corresponding fee of $800.00 pursuant for 37 CFR 41.20(b)(1) were electronically filed by Julianne Flynn via the USPTO's PAIR system on June 6, 2014 . [See Exhibit C.]

An Appeal Brief was electronically filed by Julianne Flynn via the USPTO's PAIR system on August 6, 2014, but no fees were paid at the time of electronic filing. [See Exhibit D.] James Wakely signed the Appeal Brief. [See Exhibit A.]

An Examiner's Answer was mailed on December 29, 2014. [See Exhibits A, B.] A Reply Brief responsive to Examiner's Answer was electronically filed by Kristi Schroeder via the USPTO's PAIR system on March 2, 2015, the first business day after Saturday, February 28, 2015. [See Exhibit D.] Kristi Schroeder did not pay the Appeal Forwarding Fee or any other fees at the time that the Reply Brief was electronically filed via the USPTO's PAIR system. [See Exhibit D.] James Wakely signed the Reply Brief. [See Exhibit A.]

The Reply Brief contained a general authorization to charge deposit account number 50-3130 in the event that any fees were due which had not been paid. [See Exhibits A, B, D.] The general authorization in the Reply Brief recites, "Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3130." [See Exhibits A, B, D.]

James Wakely and Kristi Schroeder each believed that all of the necessary fees had either been paid already or would be charged to the deposit account as a result of the general authorization. [See Exhibits A, D.]

Assignee submits that the failure to pay the Appeal Forwarding Fee was not intentional. Assignee further submits that it was not Assignee's intention to abandon the present application. It is the Assignee's intent to revive the present application and have the Board of Patent Appeals consider the Appeal and Reply Briefs submitted in connection with the above-referenced patent application. Assignee has submitted herewith the following fees: (a) $1900.00 for the cost of the petition to revive an unintentionally abandoned application per 37 CFR 1.17(m); and (b) $2000.00 for the cost of the Appeal Forwarding Fee per 37 CFR 41.20(b)(4).

CONCLUSION

The foregoing is submitted as a full and complete response to the Notice of Abandonment, mailed March 17, 2015. In view of the foregoing remarks, Assignee respectfully requests that the USPTO withdraw the holding of abandonment of the above-referenced application and consider the Appeal and Reply Briefs which have been previously submitted in connection with the above-referenced patent application.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 50-3130.

Respectfully submitted,

Dated: May 8, 2015

By / James Wakely /
James Wakely, Patent Attorney
Registration No. 48,597

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cc: Docketing

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Christopher William Higgins, et al.	**Art Unit:**	2164
Application No.:	12/357,345	**Examiner:**	Rezwanul Mahmood
Filed:	1/21/2009		
Confirmation No.:	1514		
For:	**INTEREST-BASED LOCATION TARGETING ENGINE**		

MAIL STOP PETITIONS
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

DECLARATION OF JAMES WAKELY

SIR/MADAM:

I, James Wakely, declare as follows:

1. I am a patent attorney and I have been a member of the law firm Berkeley Law & Technology Group, LLP, (hereinafter "Berkeley Law") since January 2008.

2. I was involved in the preparation and drafting of various responses and briefs, including Appeal and Reply Briefs, submitted in connection with the above-referenced patent application on behalf of Assignee Yahoo!, Inc. (hereinafter "Assignee").

3. I reviewed a final Office Action, mailed on March 6, 2014, received in connection with the above-referenced patent application.

4. I was involved in the preparation and drafting of an After Final Response, submitted on May 6, 2014, in connection with the above-referenced patent application.

5. I interviewed Examiner Mahmood on May 19, 2014 in an effort to advance prosecution of the above-referenced patent application, but no agreement was reached.

6. I reviewed an Advisory Action, mailed on May 27, 2014, received in connection with the above-referenced patent application.

7. On June 6, 2014, I requested my legal assistant, Kristi Schroeder, to electronically file a Notice of Appeal via the U.S. Patent & Trademark Office's ("USPTO") Patent Application Information Retrieval ("PAIR") system in connection with the above-referenced patent application.

8. I was involved in the preparation and drafting of an Appeal Brief in connection with the above-referenced patent application.

9. On August 6, 2014, I requested my legal assistant, Julianne Flynn, to electronically submit the Appeal Brief via the USPTO's PAIR system in connection with the above-referenced patent application.

10. I reviewed an Examiner's Answer, mailed on December 29, 2014, received in connection with the above-referenced patent application.

11. I was involved in the preparation and drafting of a Reply Brief in connection with the above-referenced patent application.

12. On March 2, 2015, the first business day after Saturday, February 28, 2015, I requested my legal assistant, Kristi Schroeder, to electronically submit the Reply Brief via the USPTO's PAIR system in connection with the above-referenced patent application.

13. The Appeal Brief and the Reply Brief each include a general authorization which recites, "Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3130."

14. It was my understanding that all fees required in connection with an appeal for the above-referenced patent application were either paid at the time that various documents were submitted via the USPTO's PAIR system or would be charged to Deposit

Account number 50-3130 in the event that any fees were not paid in connection with the above-referenced patent application.

15. I was not aware that an Appeal Forwarding Fee had not been paid until Berkeley Law received (a) a Miscellaneous Action, mailed on March 13, 2015, which indicated that the Appeal had been dismissed for failure to pay the Appeal Forwarding Fee; and (b) a Notice of Abandonment, mailed on March 17, 2015, which indicated that the above-referenced patent application had been abandoned for failure to pay the Appeal Forwarding Fee.

16. It was not my intention to not pay any required fees relating to an appeal or to allow the above-referenced application to go abandoned and, to the best of my knowledge, it was not the intention of anyone else who was working for or with Berkeley Law in connection with the above-referenced patent application to not pay any required fees relating to an appeal or to allow the above-referenced application to go abandoned.

The undersigned, being warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. §1001) and may jeopardize the validity of the application or any patent issuing thereon, hereby declares that the above statements made of my own knowledge are true and that all statements made on information and belief are believed to be true.

Date: May 8, 2015

/James Wakely/
James Wakely, Patent Attorney
Registration No. 48,597

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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DECLARATION OF HOWARD SKAIST

SIR/MADAM:

I, Howard Skaist, declare as follows:

1. I am a patent attorney and I have been a partner at the law firm Berkeley Law & Technology Group, LLP, (hereinafter "Berkeley Law") since its inception.

2. I was involved in the preparation and drafting of various responses and briefs submitted in connection with the above-referenced patent application on behalf of Assignee Yahoo!, Inc. (hereinafter "Assignee").

3. I reviewed a final Office Action, mailed on March 6, 2014, received in connection with the above-referenced patent application.

4. I was involved in the preparation and drafting of an After Final Response, submitted on May 6, 2014, in connection with the above-referenced patent application.

5. I reviewed an Advisory Action, mailed on May 27, 2014, received in connection with the above-referenced patent application.

6. I was involved in the preparation and drafting of an Appeal Brief in connection with the above-referenced patent application.

7. I reviewed an Examiner's Answer, mailed on December 29, 2014, received in connection with the above-referenced patent application.

8. I was involved in the preparation and drafting of a Reply Brief in connection with the above-referenced patent application.

9. The Appeal Brief and the Reply Brief each include a general authorization which recites, "Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3130."

10. It was my understanding that all fees required in connection with an appeal for the above-referenced patent application were either paid at the time that various documents were submitted via the U.S. Patent & Trademark Office's ("USPTO") Patent Application Information Retrieval ("PAIR") system or would be charged to Deposit Account number 50-3130 in the event that any fees were not paid in connection with the above-referenced patent application.

11. I was not aware that an Appeal Forwarding Fee had not been paid until Berkeley Law received (a) a Miscellaneous Action, mailed on March 13, 2015, which indicated that the Appeal had been dismissed for failure to pay the Appeal Forwarding Fee; and (b) a Notice of Abandonment, mailed on March 17, 2015, which indicated that the above-referenced patent application had been abandoned for failure to pay the Appeal Forwarding Fee.

12. It was not my intention to not pay any required fees relating to an appeal or to allow the above-referenced application to go abandoned and, to the best of my knowledge, it was not the intention of anyone else who was working for or with Berkeley Law in connection with the above-referenced patent application to not pay any required fees relating to an appeal or to allow the above-referenced application to go abandoned.

The undersigned, being warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. §1001) and may jeopardize the validity of the application or any patent issuing thereon, hereby declares that the above statements made of my own knowledge are true and that all statements made on information and belief are believed to be true.

Date: 5/8/15

/Howard Skaist/
Howard Skaist, Patent Attorney
Registration No. 36,008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Christopher William Higgins, et al.	**Art Unit:**	2164
Application No.:	12/357,345	**Examiner:**	Rezwanul Mahmood
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DECLARATION OF JULIANNE FLYNN

SIR/MADAM:

I, Julianne Flynn, declare as follows:

1. I have been an employee of the law firm Berkeley Law & Technology Group, LLP, (hereinafter "Berkeley Law") since 2005.

2. On August 6, 2014, I electronically submitted an Appeal Brief to the U.S. Patent & Trademark Office's ("USPTO") Patent Application Information Retrieval ("PAIR") system in connection with the above-referenced patent application on behalf of Assignee Yahoo!, Inc. (hereinafter "Assignee").

3. It was not my intention to not pay any required fees relating to an appeal or to allow the above-referenced application to go abandoned and, to the best of my knowledge, it was not the intention of anyone else who was working for or with Berkeley Law in connection with the above-referenced patent application to not pay any required fees relating to an appeal or to allow the above-referenced application to go abandoned.

The undersigned, being warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. §1001) and may jeopardize the validity of the application or any patent issuing thereon, hereby declares that the above statements made of my own knowledge are true and that all statements made on information and belief are believed to be true.

Date: 08 May 2015

Julianne Flynn

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Christopher William Higgins, et al.	**Art Unit:**	2164
Application No.:	12/357,345	**Examiner:**	Rezwanul Mahmood
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DECLARATION OF KRISTI SCHROEDER

SIR/MADAM:

I, Kristi Schroeder, declare as follows:

1. I have been an employee of the law firm Berkeley Law & Technology Group, LLP, (hereinafter "Berkeley Law") since 2004.

2. On June 6, 2014, I electronically filed a Notice of Appeal via the U.S. Patent & Trademark Office's ("USPTO") Patent Application Information Retrieval ("PAIR") system in connection with the above-referenced patent application on behalf of Assignee Yahoo!, Inc. (hereinafter "Assignee").

3. I submitted a payment for $800.00 to cover the cost of the Notice of Appeal at the time I electronically submitted the Notice of Appeal via the USPTO's PAIR system on June 6, 2014.

4. On March 2, 2015, the first business day after Saturday, February 28, 2015, I electronically submitted a Reply Brief via the USPTO's PAIR system in connection with the above-referenced patent application.

5. I did not submit any payments in connection with the electronic submission of the Reply Brief via the USPTO's PAIR system in connection with the above-referenced patent application on March 2, 2015.

6. The Reply Brief includes a general authorization which recites, "Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3130."

7. It was my understanding that any fees required in connection with the submission of the Reply Brief in connection with the above-referenced patent application would be charged to Deposit Account number 50-3130.

8. I was not aware that an Appeal Forwarding Fee had not been charged to Deposit Account number 50-3130 until Berkeley Law received (a) a Miscellaneous Action, mailed on March 13, 2015, which indicated that the Appeal had been dismissed for failure to pay the Appeal Forwarding Fee; and (b) a Notice of Abandonment, mailed on March 17, 2015, which indicated that the above-referenced patent application had been abandoned for failure to pay the Appeal Forwarding Fee.

9. It was not my intention to not pay any required fees relating to an appeal or to allow the above-referenced application to go abandoned and, to the best of my knowledge, it was not the intention of anyone else who was working for or with Berkeley Law in connection with the above-referenced patent application to not pay any required fees relating to an appeal or to allow the above-referenced application to go abandoned.

The undersigned, being warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. §1001) and may jeopardize the validity of the application or any patent issuing thereon, hereby declares that the above statements made of my own knowledge are true and that all statements made on information and belief are believed to be true.

Date: 5/8/2015

/Kristi Schroeder/
Kristi Schroeder