APPLICATION FOR UNITED STATES LETTERS PATENT

FOR

VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Inventors:
Evan Feldman
Jonathan Nelson

Attorney Docket No. 109909-157809
IPG No.: P0035NP

Prepared by: Schwabe, Williamson & Wyatt, PC
1420 5th Avenue, Ste. 3010
Seattle, WA 98101

Wildseed Mobile EX2001
Google v. Wildseed Mobile
IPR2023-00244

RELATED APPLICATIONS

The present application claims the benefit of priority from and is related to commonly-owned U.S. Provisional Application No. 60/945,677 filed June 22, 2007. The disclosure of the foregoing application is hereby incorporated by reference in its entirety, including any appendices or attachments thereof, for all purposes.

FIELD OF PRESENT INVENTION

The present invention relates to the field of portable media player devices. More specifically, the present invention relates to venue or event recommendations for a user of a portable media player device.

BACKGROUND OF THE PRESENT INVENTION

Portable media player devices are increasing in popularity. A portable media player device is a transportable device that plays one or more media file types, including text, audio, video, graphics, interactive, and other media file types. For purposes of this disclosure, a portable media player device does not include a general purpose laptop or tablet computer, nor any computing device attached or installed on a mobile vehicle (such as a dash mounted radio or DVD player in an automobile) but rather includes only a handheld device (also referred to as palm-sized device) for the purpose of displaying and/or playing media files. The hardware and/or software components embodied in the device for the displaying and playing of media files are collectively referred to as a media player. Examples of portable media player devices include the iPod available

from Apple Computer of Cupertino, CA; the Zune available from Microsoft Corporation of Redmond, WA; the ibiza™ Rhapsody® from Varia Mobil of Seattle, WA, and other like devices.

Media may be stored on a portable media player device (e.g., by downloading media such as music to the portable media player device), accessed via a portable media player device from a network site (e.g., by streaming from a network site), or acquired by a user via a portable media player device in one or more ways (e.g., by the purchase and installation of a flash memory card containing media). With the advance of storage technology, the amount of media that can be stored in a portable media player device has grown exponentially. Couple that with the advance of telecommunications and networking technology, the number of sites offering media and other media-rich environments to provide new and/or replacement media content for portable media player devices have also grown exponentially. As a result, portable media player devices are increasingly “connected”, and users almost never travel (leave home) without their personal portable media player devices.

BRIEF DESCRIPTION OF DRAWINGS

The present invention is illustrated by way of example and not by way of limitation in the figures of the accompanying drawings, in which like references indicate similar elements and in which:

Figure 1 illustrates a representative environment in which an embodiment of the invention is implemented;

Figure 2 is a flow chart illustrating an embodiment of the invention;

Figure 3 illustrates an internal component view of a portable media player device in accordance with an embodiment of the invention; and

Figure 4 illustrates an exemplary server apparatus, in accordance with an embodiment of the invention.

DETAILED DESCRIPTION

In the following detailed description of exemplary embodiments of the invention, reference is made to the accompanying drawings, which form a part hereof, and which show, by way of illustration, specific exemplary embodiments by which the invention may be practiced. Each embodiment is described in sufficient detail to enable those skilled in the art to practice the invention, and it is to be understood that other embodiments may be utilized, and other changes may be made, without departing from the spirit or scope of the present invention. The following detailed description is, therefore, not to be taken in a limiting sense, and the scope of the present invention is defined only by the appended claims.

Various operations will be described as multiple discrete operations. In turn, in a manner that is most helpful in understanding the present invention, however, the order of description should not be construed as to imply that these operations are necessarily order dependent. In particular, these operations need not be performed in the order of presentation.

Furthermore, reference throughout this specification to “one embodiment” or “an embodiment” means that a particular feature, structure, or characteristic described in connection with the embodiment is included in at least one embodiment of the present invention. Thus, the appearances of the phrases “in one embodiment” or “in an embodiment” in various places throughout this specification are not necessarily all referring to the same embodiment. Furthermore, the particular features, structures, or characteristics may be combined in any suitable manner in one or more embodiments.

A method and system for providing venue and/or event recommendations for a user of a portable media player device, thereby further increasing the user experience of the user of the portable media player device, is described. In various embodiments, the venue and/or event recommendations are for venues and/or events of potential interest to the user at locations proximally located to an inferred current location of the user, based at least in part on an inferred entertainment interest of the user. In various embodiments, the current location of the user is inferred based at least in part on current and/or recent geographic locations of the portable media player device, and the entertainment interest is inferred based at least in part on the media files or content stored in and/or accessed using the portable media player device. In various embodiments, the recommendations are provided to the users' portable media player devices.

Thus, in various embodiments, a user of a portable media player device having media of a particular genre stored on or accessed using the portable media player device may receive a recommendation for a venue or event that is related to that particular genre and is proximally located to the inferred current location of the user of the portable media player device. For example, a server may generate a recommendation for a nearby concert by an alternative rock band for a user of a portable media player device that has inferred interest in alterative rock, inferred based at least in part on media of an alternative rock or like genre stored on and/or accessed via his portable media player device. A recommendation may also be generated based in part upon interest inferred based at least in part image media stored in and/or accessed via the portable media player device. For example, images of a modern or

related art painting stored in and/or accessed via the portable media player device may infer a particular interest in art and influence the server to generate a recommendation for a Pablo Picasso modern art exhibit presently at a modern art museum or gallery proximally located to the inferred current location of the user of the portable media player device.

Recommended venues or events may include a wide variety of proximally located venues or events of interest to a user. In various embodiments, a proximally located venue may include a place of worship or a place of historic or cultural significance proximally located to the portable media player device. A proximally held event may include a cultural, community or political event that might occur at one of the aforementioned venues or at another location. In these embodiments, the recommendation for the proximally located event or venue may be based upon a subject preference of the user determined by podcast media stored in and/or accessed via the portable media player device. For example, a user traveling in France with his portable media player device may have Baroque art podcasts stored on or accessed using his or her portable media player device. In an embodiment, when the user as e.g. inferred by the locations of the portable media player device are within a proximal location of a Baroque era church, the server may generate a recommendation for visiting the church. In various embodiments, the server may also provide the user with directions and details related to visiting the church. In other embodiments, the server may generate recommendations for proximally located events such as a political rally or speech that are consistent with political podcasts stored on or accessed using the portable media player device.

Note that in other embodiments, the server may generate not only recommendations for events or venues but also information and/or media recommendations proximally associated with a current location of a user of the portable media player device. For example, if media stored on or accessed using the portable media player device suggests that the user is a fan of Jazz music, the server may generate and provide information about Jazz artists who began their careers in the current city the user is in. Alternatively or additionally the server may also generate and provide a recommendation for one or more podcasts, books (audio or print), and/or websites about the jazz artists for the user of the portable media player device. As another example, when the user travels to a new state with the portable media player device, the server may generate and directly push information about the state such as the state history, the state government, the state flower and/or state song to the portable media player device.

Referring now to Figure 1 which illustrates a representative environment 100 in which an embodiment of the invention may be implemented. In the embodiment shown, a portable media player device 10 having stored therein a number of media files ("media") is associated with a user. Additionally, computer 50 may be associated with portable media player device 10 and may or may not be located in proximity of portable media player device 10. In the illustrated embodiment, a server 20 may infer a current location of the user by determining a current location of the portable media player device 10 as well as receive and transmit information to and from portable media player device 10 (or other communication medium) via a wireless access point 30 and network 40. Other communication medium may include SMS or MMS messaging, email,

facsimile, paging message and/or phone calls. Network 40 may include for example a Wide Area Network (WAN), Local Area Network (LAN) (e.g. Ethernet), an intranet, internet, a public switched telephone network (PSTN) as well as a wired or wireless communications network (e.g. WiFi), or combination thereof. In the representative environment 100, the server 20 may receive a current location or successively receive a series of current locations of a portable media player device 10 as well as media or information about media stored on or accessed using portable media player device 10, and in response, server 20 may transmit one or more recommendations for a venue or event, or information of interest to the user, e.g. to portable media player device 10, to be described more fully below.

Figure 2 is a flow chart 200 that illustrates a method of generating by a server a recommendation for a venue or event of interest proximally located to (or information about) a current location of a user of the portable media player device in accordance with various embodiments of the invention. In the embodiments shown, a recommendation (or information) is generated and provided based at least in part on an inferred current location of the user, and inferred entertainment interest of the user. In various embodiments, the current location of the user is inferred based at least in part on the user's portable media player device's actual geographic location (otherwise referred to as the current location of a portable media player device) and the user's entertainment interest is inferred based at least in part on media and/or information about the media stored in and/or accessed using the portable media player device. The recommendation for the venue or event (or information) of interest may then be communicated to user, e.g. to the portable media player device, or alternatively to

another communication medium, such as SMS/MMS message, email, facsimile, paging and/or voice call.

The method begins at a block 204 where, in an embodiment, a server such as server 20 of Figure 1 infers a current location of the user. The inference may include receiving or determining a current location (or successively receiving a series of locations) of a portable media player device associated with the user. Note that in various embodiments, the server can determine the current location of the portable media player device by using various methods. The server may estimate the current location of the portable media player device based on a location of a wireless access point through which the portable media player device establishes a network connection to the server. Or, the server may estimate the current location of the portable media player device based upon the results of triangulating signals from various signal towers or based upon the server's communication with other portable media player devices having known current locations. The server might also receive the current location of the portable media player device from a global positioning system (GPS) module located within the portable media player device.

In other embodiments, the current location may be manually entered by the user into the portable media player device or other communication devices (such as a mobile phone) for transmission to the server. For example, the user may enter a code of an airport where she recently landed or a name of a city in which she is currently visiting (for business or pleasure). The server may also allow the user to enter one or more preferred geographic locations for which the user would like to receive a recommendation or information. For example, the user may know that she will be

traveling with the portable media player device to Denver the following week and may therefore desire to receive recommendations for events or venues in (or information about) the Denver area.

Returning to the method illustrated in flow chart 200, after the server infers a current location of the user in block 204, the server may infer an entertainment interest of the user at the next blocks 206/207. The inference may include retrieving media or information about media stored on and/or accessed using the user's portable media player device at a next block 206. This media or information about media stored on or accessed using the portable media player device may be retrieved by the server by various methods such as for example via network 40 and wireless access point 30 as described in conjunction with Figure 1. Information about media stored on or accessed using the portable media player device may also be retrieved from storage within the server itself. For example, in various embodiments, the server may have such information stored at the server (or in other storage accessible to the server) as a result of previous syncing of media between the portable media player device and the server or as a result of previous browsing of media on the server by the user of the portable media player device. The information may be gathered and retrieved in real time, or continuously over a usage period.

At a next block 207, the server may determine one or more media preferences or interest for the user based in part upon the media and/or information about the media stored on or accessed using the portable media player device. In various embodiments, the server can analyze the media and the information about the media stored on or accessed using the portable media player device to identify user preferences for

particular genres of media. Thus, in various embodiments, the server may analyze e.g. the meta data associated with a wide variety of media stored on or accessed using the portable media player device such as music, podcasts, books or audiobooks, video, photos or other images for various trends that can be translated into user preferences for a particular genre of music, film, video or art. The meta data may include data about the media title, media type, artist, subject matter, and so forth. For example, the server may determine that the user has a preference for a jazz music genre if the portable media player device stores or has been used to access a substantial amount of music by famous jazz artists such as Ella Fitzgerald or Louis Armstrong. What constitutes a substantial amount may be evolved dynamically overtime based on feedback on the relevance, success or usefulness of the recommendation and/or information provided to the user or a group of users. The server may also determine that the user has a preference for film genres related to science fiction if a significant number of science fiction movies such as Close Encounters of the Third Kind or Star Wars are stored as video media in or accessed using the portable media player device.

After one or more media preferences have been determined at block 207, the process then moves to a block 208. At block 208, the server may make a recommendation for a venue or event (or provide information) based at least in part on the inferred current location of the user and the determined media preference of the user of the portable media player device. In various embodiments, the server may generate the recommended venues/events (or information) using collaborative filtering, or other recommendation techniques that can take into account the media stored in or accessed using the user's portable media player device, other information about the

user's media preferences, and venues or events proximally located (or that will occur in a proximate location) to the current location of the user of the portable media player device. In generating a recommendation for a venue or event (or information), the server may access databases or information from various sources or service providers, e.g., a ticket sales and distribution company or an local online entertainment city guide. For example, the server may compare a user's preference for a particular genre of music to a database that includes citywide events or venues that are hosting or typically host bands which play music of that particular genre. The server may collect the venue and/or event information in real time or the server may gather the information periodically.

Thus, the server may transmit a recommendation (or information) to a user, e.g. his portable music player device having jazz music stored on or accessed using the portable music player device for a club that plays live jazz or blues within a convenient walking or driving distance to the current location of the user and the portable media player device. The server may also transmit a recommendation (or information) to a user, e.g. his portable music player device having gospel music stored on or accessed using the portable music player device for a church known for gospel music within a convenient walking or driving distance to the current location of the user and the portable media player device. The server may also transmit another recommendation for a theatrical or cinematography event such as a nearby science fiction film festival to the user determined to have user preferences for a science fiction film genre.

After the server generates the recommendation (or information), the process moves to block 210 where the server may communicate the recommendation to the

user by transmitting the recommendation (or information) to e.g. the portable media player device. In various embodiments, as alluded earlier, this may include transmitting the recommendation (or information) by sending either a short message service (SMS) message, an email message, a pager message or a facsimile message to the user or by placing a call to the user. In various embodiments, directions to the event, venue or other location of interest from the current location of the portable media player device can also be sent to the portable media player device (not shown). The process may end at a block 212.

Note that method 200 may be repeated. For example, if the user so desires, automatic recommendations (or information) may be pushed to the user on a periodic basis, or when the portable media player device detects that the user has changed a current geographic location. For example, a user arriving in Miami may find that the user's portable media player device has automatically received various recommended events or venues occurring in (or information about) Miami when the user arrives at the Miami airport.

Note also that in various embodiments, the server may perform the operations of method 200 in a different order than as presented in Figure 2. For example, the server may infer user preferences at the time media is added to the portable media player device. The media and/or information about the media as well as inferred media preferences may remain relatively static until a later time when the server infers a proximal location of the portable media player device. Thus, in some embodiments, the operations of blocks 206 and 207 or variations thereof, may be performed prior to the operation of block 204.

In various embodiments, a user of the portable media player device may be a subscriber of the service provided by the server. In various embodiments, the cost of the service may be borne by the recommended venue and/or organizers of the events of interest, or combination thereof.

Figure 3 illustrates an internal component view of an example handheld portable media player device 300 in an embodiment of the invention. In the embodiment shown, a handheld portable media player device 300 includes a processor 308 coupled to user interfaces 302, storage medium 304 and transmitter/receiver (TX/RX) 306 ("transceiver"). The storage medium 304 includes instructions implementing a media player 305. In alternate embodiments, all or portions of the media player may be implemented in hardware, e.g. hardware components dedicated to encoding/decoding, compression/decompression, encryption/decryption, digital rights management, signal filtering or other processing. The transceiver 306 may be a radiofrequency (RF) transceiver that in various embodiments may support WiFi, WiMax or other wireless local area network access. In some embodiments, the RF transceiver may support EDGE (Enhanced Data GSM Environment) or G3 communication protocols

In an embodiment, portable media player device 300 is configured to selectively play media and optionally, to provide a server with a current location of the portable media player device 300 via transceiver 306. The portable media player device 300 may be configured to receive in response, a recommendation for a venue or event of interest proximally located to (or information about) the current location of a portable media player device 300. The recommendation (or information) may be generated by the server based at least in part on an inferred current location of the user, and inferred

entertainment interest of user, based e.g. on media stored in storage medium 304, and/or accessed using the portable media player device 300. In various embodiments, the user interfaces 302 may include a display, touch pad, touch screen and other input/output (I/O) devices or the like (not shown). In the embodiment, a display or touch screen of user interfaces 302 may be adapted to display the received recommendation.

Finally, Figure 4 illustrates an internal view of an example computing device 400, suitable for use as server 20, in accordance with embodiments of the present invention. In an embodiment, computing device 400 includes a storage medium 410 for storing a plurality of programming instructions and a processor 402 for executing the plurality of programming instructions to enable the computing device 400 to generate a recommendation for a venue or an event of interest to be held at a venue proximally located to (or information about) an inferred current location of a user of a portable media player device. The venue or event of interest (or information) may be communicated to the user via communication interfaces 411. In various embodiments, communication interfaces 411 may include network interface cards, modems and so forth. In various embodiments, communication interfaces 411 may be configured to support a wire lined base local area networking protocol, e.g. Ethernet, or wireless communication protocol such as WiFi, GSM, EDGE, 3G.

Element 408 may include various elements such as but not limited to general purpose input/output (I/O) devices, mass storage or other suitable devices to facilitate the generation and transmission of the recommendation or information to the portable media player device. Note that the processor 402, storage medium 410, communication interfaces 411 and other 408 may be coupled to each other via system

bus 412, which represents one or more buses. In the case of multiple buses, they are bridged by one or more bus bridges (not shown). In alternate embodiments, other elements may be added, as well as having one or more of the illustrated elements omitted, without departing from the spirit and scope of the present invention.

Thus, it can be seen from the above description, methods and apparatuses for generating by a server, a recommendation for a venue or event of interest proximally located to (or information about) an inferred current location of a user of a portable media player device are described. As a result, a user of a portable media player device has an even more enriched experience from using portable media player device. As mentioned earlier, while the present invention has been described in terms of the above-illustrated embodiments, the present invention is not limited to the embodiments described. The present invention can be practiced with modification and alteration within the spirit and scope of the appended claims. Thus, the description is to be regarded as illustrative instead of restrictive on the present invention.

CLAIMS

What is claimed is:

1. A method comprising:

generating by a server, a recommendation for a venue of interest proximally located to or information about an inferred current location of a user of a portable media player device, wherein the recommendation is based at least in part on the inferred current location and inferred media preference of a user of the portable media player device, wherein the inferred media preference is determined based at least in part on media stored on or accessed using the portable media player device; and

communicating by the server, the recommendation to the user.

2. The method of claim 1; wherein the venue of interest is a club or a church proximally located to the inferred current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and a music genre preference of the user determined based at least in part on music media stored in or accessed using the portable media player device.

3. The method of claim 1; wherein the venue of interest is a either a theatre or a cinema proximally located to the inferred current location of the user of the portable media player device, and the recommendation is generated by the server, based at least in part on a genre of a play or movie played in the theatre or cinema respectively,

and a video genre preference of the user determined based at least in part on video media stored in or accessed using the portable media player device.

4. The method of claim 1; wherein the venue of interest is a either a museum or a gallery proximally located to the inferred current location of the user of the portable media player device, and the recommendation is generated by the server, based at least in part on a genre of painting or photo exhibited at the museum or gallery, and an image genre preference of the user determined based at least in part on image media stored in or accessed using the portable media player device.

5. The method of claim 1; wherein the venue of interest is either a place of worship or a place of historic or cultural significance proximally located to the inferred current location of the user of the portable media player device, and the recommendation is generated by the server, based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance respectively, and a subject preference of the user determined based at least in part on podcast media stored in or accessed using the portable media player device.

6. The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from the portable media player device.

7. The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server.

8. The method of claim 1, wherein said communicating comprises transmitting the recommendation to the portable media player device.

9. The method of claim 1, wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email message, a pager message or a facsimile message to the user, or by placing a call to the user.

10. The method of claim 1 further comprising determining by the server the media preference of the user based at least in part on media stored on or accessed using the portable media player device.

11. A method comprising:

providing by a portable media player device, having media stored in the portable media player device, a current location of the portable media player device to a server

to facilitate the server in inferring a current location of a user of the portable media player device; and

receiving by the portable media player device, from the server, a recommendation for an event of interest to be held at or information about a venue proximally located to an inferred current location of a user of the portable media player device, wherein the recommendation is based at least in part on the inferred current location and media preference of a user of the portable media player device, wherein the media preference is determined based at least in part on media stored on or accessed using the portable media player device.

12. The method of claim 11; wherein the event of interest is a music event, and the recommendation is based at least in part on a genre of music played at the event and a music genre preference of the user determined based at least in part on music media stored in or accessed using the portable media player device.

13. The method of claim 11; wherein the event of interest is a theatrical or a cinematography event, and the recommendation is generated by the server, based at least in part on a genre of the theatrical or cinematography event, and a video genre preference of the user determined based at least in part on video media stored in or accessed using the portable media player device.

14. The method of claim 11; wherein the event of interest is an exhibit, and the recommendation is generated by the server, based at least in part on a genre of the

exhibit, and an image genre preference of the user determined based at least in part on image media stored in or accessed using the portable media player device.

15. The method of claim 11; wherein the event of interest is a either a worship, cultural, community or political event, and the recommendation is generated by the server, based at least in part on an attribute of the worship, cultural, community or political event, and a subject preference of the user determined based at least in part on podcast media stored in or accessed using the portable media player device.

16. A portable media player device comprising:

storage medium to store media; and

a player coupled to the storage medium and configured to selectively play the media, to provide a server with a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device, and to receive in response, a recommendation for a venue of interest proximally located to or information about the current location of the user of the portable media player device, wherein the recommendation is generated by the server based at least in part on the inferred current location of the user, and inferred media preference of the user, wherein the media preference is determined based at least in part on the media stored on or accessed using the portable media player device.

17. The portable media player device of claim 16; wherein the venue of interest is a club proximally located to the inferred current location of the user of the portable

media player device, and the recommendation is based at least in part on a genre of music played in the club and a music genre preference of the user determined based at least in part on music media stored in or accessed using the portable media player device.

18. The portable media player device of claim 16; wherein the venue of interest is a either a theatre or a cinema proximally located to the current location of the portable media player device, and the recommendation is generated by the server, based at least in part on a genre of play or movie played in the theatre or cinema respectively, and a video genre preference of the user determined based at least in part on video media stored in or accessed using the portable media player device.

19. The portable media player device of claim 16, wherein the venue of interest is a either a museum or a gallery proximally located to the current location of the portable media player device, and the recommendation is generated by the server, based at least in part on a genre of painting or photo exhibited at the museum or gallery, and an image genre preference of the user determined based at least in part on image media stored in or accessed using the portable media player device.

20. The portable media player device of claim 16; wherein the venue of interest is a either a place of worship or a place of historic or cultural significance proximally located to the current location of the portable media player device, and the recommendation is generated by the server, based at least in part on a denomination of

religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance respectively, and a subject preference of the user determined based at least in part on podcast media stored in or accessed using the portable media player device.

21. A server comprising:

a storage medium to store a plurality of programming instructions; and

a processor coupled to the storage medium to execute the programming instructions to enable the server to generate a recommendation for an event of interest to be held at or information about a venue proximally located to a current location of a user of a portable media player device, and communicate the event of interest to the user of the portable media player device, wherein the recommendation is based at least in part on the current location and media preference of the user of the portable media player device, wherein the media preference is determined based at least in part on media stored on or accessed using the portable media player device.

22. The method of claim 21; wherein either

the event of interest is a music event, and the recommendation is based at least in part on a genre of music played at the event and a music genre preference of the user determined based at least in part on music media stored in or accessed using the portable media player device, or

the event of interest is a theatrical or a cinematography event, and the recommendation is generated by the server, based at least in part on a genre of the

theatrical or cinematography event, and a video genre preference of the user determined based at least in part on video media stored in or accessed using the portable media player device.

23. The server of claim 21; wherein either

the event of interest is an exhibit, and the recommendation is generated by the server, based at least in part on a genre of the exhibit, and an image genre preference of the user determined based at least in part on image media stored in or accessed using the portable media player device, or

the event of interest is a either a worship, cultural, community or political event, and the recommendation is generated by the server, based at least in part on an attribute of the worship, cultural, community or political event, and a subject preference of the user determined based at least in part on podcast media stored in or accessed using the portable media player device.

24. The server of claim 21, wherein the programming instructions are further configured to enable the server to determine the current location of the user of the portable media player device, including either receiving the current location of the portable media player device from the portable media player device, or from an access point through which the portable media player device establishes a network connection to the server.

25. The server of claim 21, wherein the programming instructions are further configured to determine the media preference of the user based at least in part on media stored on or accessed using the portable media player device.

VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

ABSTRACT OF THE DISCLOSURE

A method and system for generating by a server, a recommendation for a venue or an event of interest proximally located to an inferred current location of a user of a portable media player device. In an embodiment, a server may determine one or more media preferences for a user based at least in part on media stored on or accessed using the portable media player device of the user. The server may generate information related to the current location or a recommendation for a venue or an event of interest to the user based at least in part on the one or more media preferences and the inferred current location of the user. Once generated, the server then may communicate the recommendation (or the information) to the user, e.g. the portable media player device. Other embodiments may also be described and claimed.

COMBINED DECLARATION AND POWER OF ATTORNEY FOR A PATENT APPLICATION

INVENTORSHIP IDENTIFICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

SPECIFICATION IDENTIFICATION

the specification of which

__X__ is attached hereto.
_____ was filed on _____ as
United States Application _____
or PCT International Application Number _____
and was amended on _____.
(if applicable)

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above.

I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

PRIORITY CLAIM (35 U.S.C. § 119(a)-(d) or (f), or 365(b))

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which

designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed	
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No

POWER OF ATTORNEY

I hereby appoint the Practitioners at **Customer No. 000025943** as my patent attorney(s)/agent(s); with full power of substitution and revocation, to prosecute this application identified above, and to transact all business in the U.S. Patent and Trademark Office connected herewith.

Send all correspondence and direct telephone calls to: **Customer No. 000025943.**

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole/First Inventor: Evan Feldman

Inventor's Signature: _____ **Date:** 23 Jun 08

Residence: Woodinville, WA (City, State) **Citizenship:** US (Country)

Post Office Address: 16920 NE 166th Street, Woodinville, WA 98072

Attorney's Docket No. 109909-157809

Patent

Full Name of Joint/Second Inventor: Jonathan Nelson

Inventor's Signature: _____ **Date:** 6/23/08

Residence: Seattle, WA (City, State) **Citizenship:** US (Country)

Post Office Address: 1119 23rd Avenue South, Seattle, WA 98144

Title 37, Code of Federal Regulations, Section 1.56
Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct.

The Office encourages applicants to carefully examine:

(1) Prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

(e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

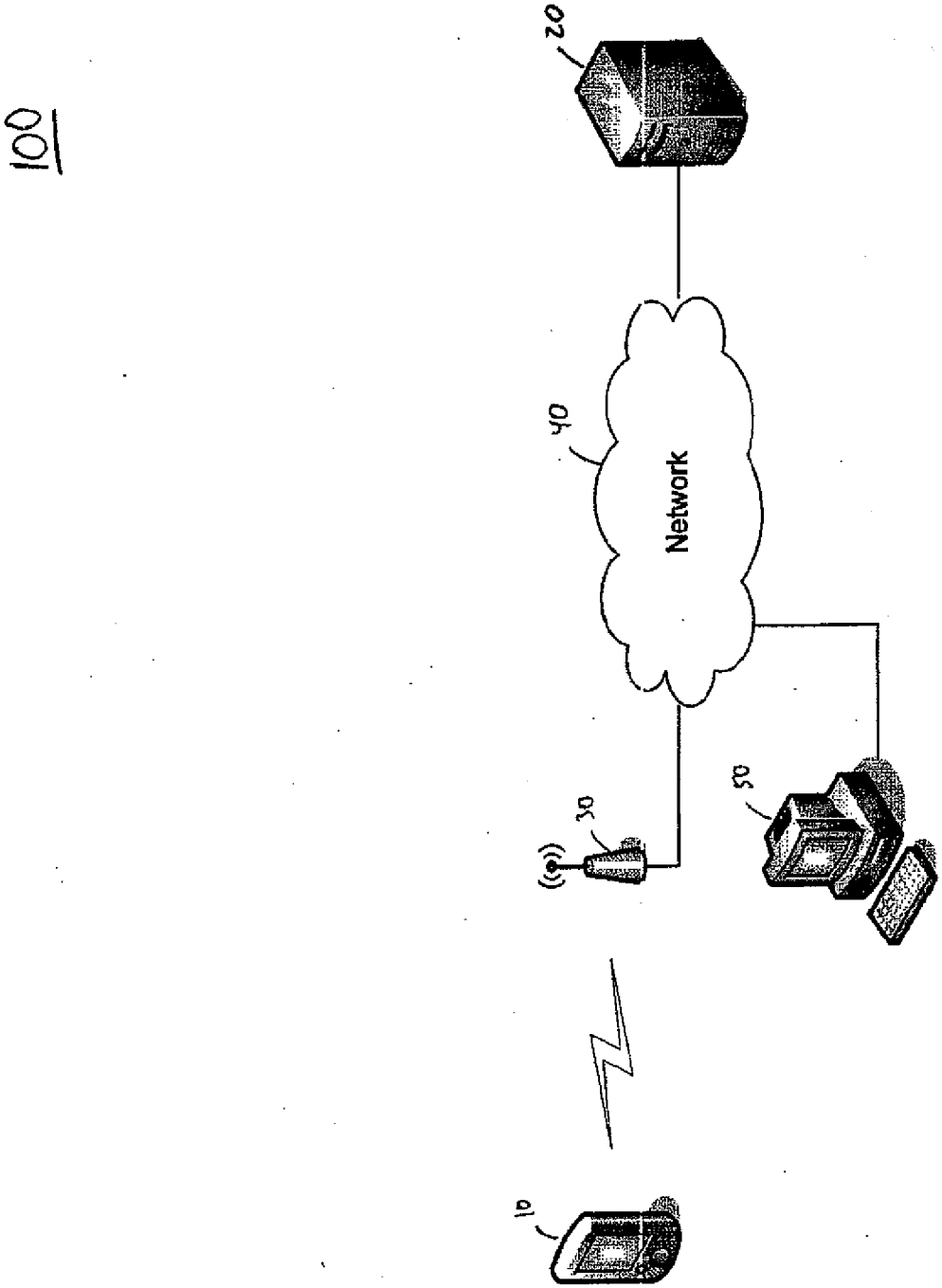

Figure 1

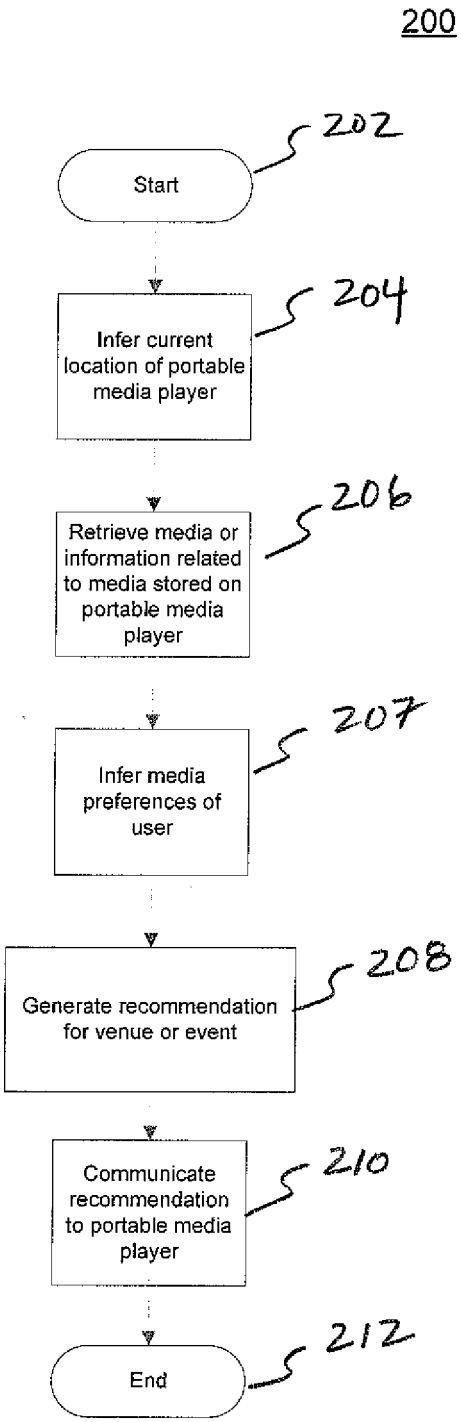
200
202
Start
204
Infer current location of portable media player
206
Retrieve media or information related to media stored on portable media player
207
Infer media preferences of user
208
Generate recommendation for venue or event
210
Communicate recommendation to portable media player
212
End

FIGURE 2

300

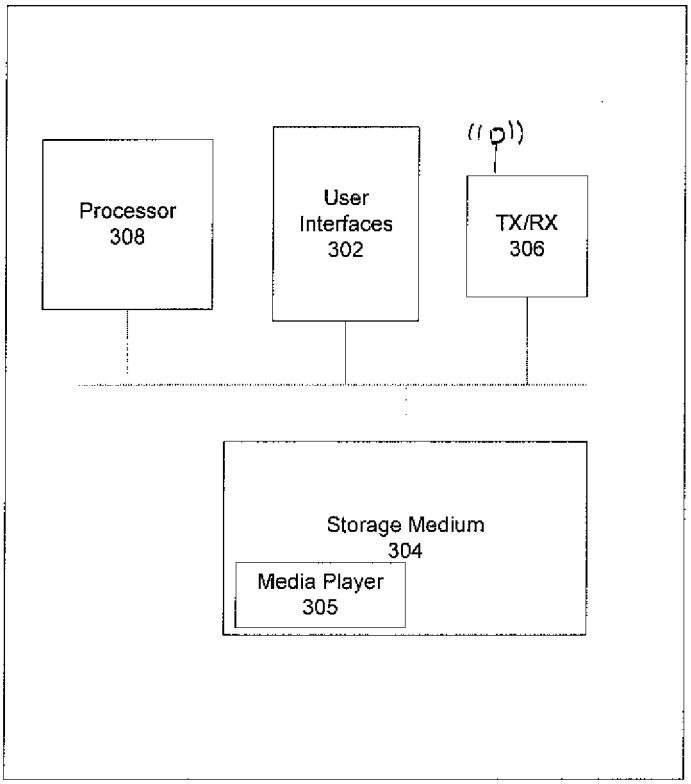
Processor
308
User
Interfaces
302
TX/RX
306
Storage Medium
304
Media Player
305

FIGURE 3

400

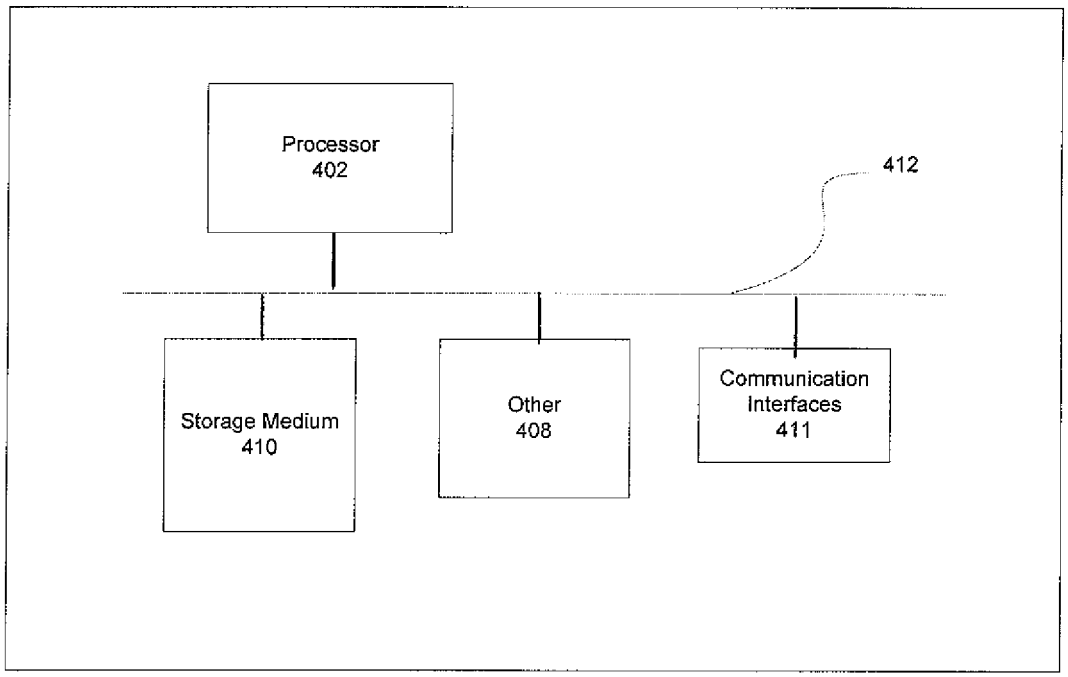
Processor
402
412
Storage Medium
410
Other
408
Communication
Interfaces
411

FIGURE 4

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Application Data Sheet 37 CFR 1.76	Attorney Docket Number	109909-157809
	Application Number	
Title of Invention	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE	

The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76.
This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application.

Secrecy Order 37 CFR 5.2

☐ Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)

Applicant Information:

Applicant 1 Remove

Applicant Authority ◉ Inventor ◯ Legal Representative under 35 U.S.C. 117 ◯ Party of Interest under 35 U.S.C. 118

Prefix	Given Name	Middle Name	Family Name	Suffix
	Evan		Feldman	

Residence Information (Select One) ◉ US Residency ◯ Non US Residency ◯ Active US Military Service

City	Woodinville	State/Province	WA	Country of Residence i	US

Citizenship under 37 CFR 1.41(b) i: US

Mailing Address of Applicant:

Address 1	16920 NE 166th Street
Address 2	
City	Woodinville
State/Province	WA
Postal Code	98072
Country i	US

Applicant 2 Remove

Applicant Authority ◉ Inventor ◯ Legal Representative under 35 U.S.C. 117 ◯ Party of Interest under 35 U.S.C. 118

Prefix	Given Name	Middle Name	Family Name	Suffix
	Jonathan		Nelson	

Residence Information (Select One) ◉ US Residency ◯ Non US Residency ◯ Active US Military Service

City	Seattle	State/Province	WA	Country of Residence i	US

Citizenship under 37 CFR 1.41(b) i: US

Mailing Address of Applicant:

Address 1	1119 23rd Avenue South
Address 2	
City	Seattle
State/Province	WA
Postal Code	98144
Country i	US

All Inventors Must Be Listed - Additional Inventor Information blocks may be generated within this form by selecting the **Add** button. Add

Correspondence Information:

Enter either Customer Number or complete the Correspondence Information section below.
For further information see 37 CFR 1.33(a).

☐ **An Address is being provided for the correspondence Information of this application.**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Application Data Sheet 37 CFR 1.76	Attorney Docket Number	109909-157809
	Application Number	
Title of Invention	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE	

Customer Number	60172		
Email Address		Add Email	Remove Email

Application Information:

Title of the Invention	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE		
Attorney Docket Number	109909-157809	**Small Entity Status Claimed**	☒
Application Type	Nonprovisional		
Subject Matter	Utility		
Suggested Class (if any)		**Sub Class (if any)**	
Suggested Technology Center (if any)			
Total Number of Drawing Sheets (if any)	3	**Suggested Figure for Publication (if any)**	

Publication Information:

☐ Request Early Publication (Fee required at time of Request 37 CFR 1.219)

☐ **Request Not to Publish.** I hereby request that the attached application not be published under 35 U.S. C. 122(b) and certify that the invention disclosed in the attached application **has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.

Representative Information:

Representative information should be provided for all practitioners having a power of attorney in the application. Providing this information in the Application Data Sheet does not constitute a power of attorney in the application (see 37 CFR 1.32).
Enter either Customer Number or complete the Representative Name section below. If both sections are completed the Customer Number will be used for the Representative Information during processing.

Please Select One:	◉ Customer Number	○ US Patent Practitioner	○ Limited Recognition (37 CFR 11.9)
Customer Number	60172		

Domestic Benefit/National Stage Information:

This section allows for the applicant to either claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) or indicate National Stage entry from a PCT application. Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78(a)(2) or CFR 1.78(a)(4), and need not otherwise be made part of the specification.

Prior Application Status	Pending		Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)
	non provisional of	60945677	2007-06-22

Additional Domestic Benefit/National Stage Data may be generated within this form by selecting the **Add** button. Add

Foreign Priority Information:

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Application Data Sheet 37 CFR 1.76	Attorney Docket Number	109909-157809
	Application Number	
Title of Invention	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE	

This section allows for the applicant to claim benefit of foreign priority and to identify any prior foreign application for which priority is not claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and 37 CFR 1.55(a).

Remove

Application Number	Country [i]	Parent Filing Date (YYYY-MM-DD)	Priority Claimed
			◉ Yes ◯ No

Additional Foreign Priority Data may be generated within this form by selecting the **Add** button. Add

Assignee Information:

Providing this information in the application data sheet does not substitute for compliance with any requirement of part 3 of Title 37 of the CFR to have an assignment recorded in the Office.

Assignee 1 Remove

If the Assignee is an Organization check here. ☒

Organization Name	Varia Mobil LLC		
Mailing Address Information:			
Address 1	1000 Dexter Avenue North, Suite 210		
Address 2			
City	Seattle	**State/Province**	WA
Country [i]	US	Postal Code	98109
Phone Number		Fax Number	
Email Address			

Additional Assignee Data may be generated within this form by selecting the **Add** button. Add

Signature:

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.

Signature	/Linda S. Zachariah/			Date (YYYY-MM-DD)	2008-06-23
First Name	Linda	Last Name	Zachariah	Registration Number	48057

This collection of information is required by 37 CFR 1.76. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 23 minutes to complete, including gathering, preparing, and submitting the completed application data sheet form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Patent Application Fee Transmittal

Application Number:	
Filing Date:	
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Filer:	Linda S. Zachariah/Yvette Chriscaden
Attorney Docket Number:	109909-157809

Filed as Small Entity

Utility Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Utility filing Fee (Electronic filing)	4011	1	75	75
Utility Search Fee	2111	1	255	255
Utility Examination Fee	2311	1	105	105
Pages:				
Claims:				
Claims in excess of 20	2202	5	25	125
Independent claims in excess of 3	2201	1	105	105
Miscellaneous-Filing:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Miscellaneous:				
			Total in USD ($)	**665**

Electronic Acknowledgement Receipt

EFS ID:	3504889
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Linda S. Zachariah/Yvette Chriscaden
Filer Authorized By:	Linda S. Zachariah
Attorney Docket Number:	109909-157809
Receipt Date:	23-JUN-2008
Filing Date:	
Time Stamp:	20:01:02
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$665
RAM confirmation Number	5671
Deposit Account	500393
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1		VM_070035_Specification.pdf	120345 185156fb2f3eabaa8c65870d904d1c4d50581091	yes	27
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Specification		1	17	
	Claims		18	26	
	Abstract		27	27	
Warnings:					
Information:					
2	Oath or Declaration filed	VM_070035_DecPOA.pdf	257357 d8cacf39a48b62e420eaa7af6e224f20ede70a22	no	4
Warnings:					
Information:					
3	Drawings-only black and white line drawings	VM_070035_Drawings.pdf	215058 7d3e2f256eae1a8c51cec7adc52b32a251985e16	no	4
Warnings:					
Information:					
4	Application Data Sheet	VM_070035_ADS.pdf	1153534 88507d4dd0f76de26bd4314ad5db5861cfefa86b	no	4
Warnings:					
Information:					
5	Fee Worksheet (PTO-06)	fee-info.pdf	8605 b30b2b53299b73657f3ad3696f96e43930d2e817	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	1754899		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Filing Date: 06/23/08

Approved for use through 7/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number: 12/144,532

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	75		N/A	
SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	255		N/A	
EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	105		N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	25 minus 20 =	5	X$ 25	125	OR	X$50	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	4 minus 3 =	* 1	X$105	105		X$210	
APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $260 ($130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR						
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))			185			370	
			TOTAL	665		TOTAL	

* If the difference in column 1 is less than zero, enter "0" in column 2.

APPLICATION AS AMENDED – PART II

AMENDMENT A

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDI-TIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDI-TIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	x =		OR	x =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	x =		OR	x =	
Application Size Fee (37 CFR 1.16(s))									
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))					N/A		OR	N/A	
					TOTAL ADD'T FEE		OR	TOTAL ADD'T FEE	

AMENDMENT B

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDI-TIONAL FEE ($)	OR	RATE ($)	ADDI-TIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	x =		OR	x =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	x =		OR	x =	
Application Size Fee (37 CFR 1.16(s))									
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))					N/A		OR	N/A	
					TOTAL ADD'T FEE		OR	TOTAL ADD'T FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Paten and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/144,532	06/23/2008	2627	665	109909-157809	25	4

CONFIRMATION NO. 1754

60172
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

FILING RECEIPT

OC000000030881700

Date Mailed: 07/10/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Evan Feldman, Woodinville, WA;
Jonathan Nelson, Seattle, WA;

Assignment For Published Patent Application

VARIA MOBIL LLC, Seattle, WA

Power of Attorney: The patent practitioners associated with Customer Number 000025943

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/945,677 06/22/2007

Foreign Applications

If Required, Foreign Filing License Granted: 07/08/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/144,532**

Projected Publication Date: 12/25/2008

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Preliminary Class

369

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PTO/SB/80 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:

[X] Practitioners associated with the Customer Number: 60172

OR

[ ] Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:

[X] The address associated with Customer Number: 60172

OR

[ ] Firm or Individual Name			
Address			
City		State	Zip
Country			
Telephone		Email	

Assignee Name and Address:
Varia LLC
1000 Dexter Ave N., Suite 210
Seattle, Washington 98109

A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.

SIGNATURE of Assignee of Record
The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature		Date	7/24/08
Name	John McQueen	Telephone	4254425698
Title	President - Varia LLC		

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

PTO/SB/96 (01-08)
Approved for use through 03/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Varia LLC

Application No./Patent No.: 12/144,532 Filed/Issue Date: June 23, 2008

Entitled: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Varia LLC, a limited liability company
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☑ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is_____ %)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☑ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: Feldman et al. To: Varia Mobil LLC
The document was recorded in the United States Patent and Trademark Office at
Reel 021137, Frame 0738, or for which a copy thereof is attached.

2. From: Varia Mobil LLC To: Varia Holdings LLC
The document was recorded in the United States Patent and Trademark Office at
Reel 021316, Frame 0437, or for which a copy thereof is attached.

3. From: Varia Holdings LLC To: Varia LLC
The document was recorded in the United States Patent and Trademark Office at
Reel 021316, Frame 0442, or for which a copy thereof is attached.

☑ Additional documents in the chain of title are listed on a supplemental sheet.

☑ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.,* a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

/Al AuYeung/	August 8, 2008
Signature	Date
Al AuYeung	503-222-9981
Printed or Typed Name	Telephone Number
Attorney at Law - Reg. No. 35,432	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Electronic Acknowledgement Receipt

EFS ID:	3754504
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Aloysius T.C. Auyeung/Yvette Chriscaden
Filer Authorized By:	Aloysius T.C. Auyeung
Attorney Docket Number:	109909-157809
Receipt Date:	08-AUG-2008
Filing Date:	23-JUN-2008
Time Stamp:	17:26:14
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	Varia_070035_POA373b.pdf	110993 c50e872a3694d8bcd2ce8ef3209a690eae27dde4	no	2

Warnings:

Information:

Total Files Size (in bytes):	110993

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/144,532	06/23/2008	Evan Feldman	109909-157809

CONFIRMATION NO. 1754

POA ACCEPTANCE LETTER

60172
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

OC000000031612079

Date Mailed: 08/20/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/gbien-aime/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/144,532	06/23/2008	Evan Feldman	109909-157809

CONFIRMATION NO. 1754

POWER OF ATTORNEY NOTICE

60172
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

OC000000031612072

Date Mailed: 08/20/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2008.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/gbien-aime/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	Examiner: To be determined
Feldman et al.	Art Unit: 2453
Application No.: 12/144,532	Confirmation No. 1754
Filed: June 23, 2008	
For: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE	

U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

ASSERTION OF SMALL ENTITY STATUS

Dear Sir:

Assignee, Varia LLC, is entitled to assert small entity status for the above-referenced patent application pursuant to 37 CFR 1.27 and requests that you amend your records in accordance with this assertion.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

Dated: November 13, 2008

/Linda S. Zachariah/
Linda S. Zachariah
Reg. No. 48,057

1420 Fifth Avenue, Suite 3010
Seattle, Washington 98101
Telephone: (206) 622-1711

Electronic Acknowledgement Receipt

EFS ID:	4290046
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Linda S. Zachariah/Allyson Dahmen
Filer Authorized By:	Linda S. Zachariah
Attorney Docket Number:	109909-157809
Receipt Date:	14-NOV-2008
Filing Date:	23-JUN-2008
Time Stamp:	12:49:48
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Miscellaneous Incoming Letter	Varia_070035_AssertSmallEntity.pdf	29139 736dbdf5901447e9836df32268de1dcbbbe2f60c	no	1

Warnings:

Information:

Total Files Size (in bytes):	29139

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/144,532	06/23/2008	Evan Feldman	109909-157809

CONFIRMATION NO. 1754

60172
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

PUBLICATION NOTICE

OC000000033806118

Title:VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Publication No.US-2008-0320078-A1
Publication Date:12/25/2008

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

The publication may be accessed through the USPTO's publically available Searchable Databases via the Internet at www.uspto.gov. The direct link to access the publication is currently http://www.uspto.gov/patft/.

The publication process established by the Office does not provide for mailing a copy of the publication to applicant. A copy of the publication may be obtained from the Office upon payment of the appropriate fee set forth in 37 CFR 1.19(a)(1). Orders for copies of patent application publications are handled by the USPTO's Office of Public Records. The Office of Public Records can be reached by telephone at (703) 308-9726 or (800) 972-6382, by facsimile at (703) 305-8759, by mail addressed to the United States Patent and Trademark Office, Office of Public Records, Alexandria, VA 22313-1450 or via the Internet.

In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at www.uspto.gov using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently http://pair.uspto.gov/. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at 1-866-217-9197.

Office of Data Managment, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

60172 7590 06/16/2010
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2449	

MAIL DATE	DELIVERY MODE
06/16/2010	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.

Office Action Summary	Application No.	Applicant(s)	
	12/144,532	FELDMAN ET AL.	
	Examiner	Art Unit	
	Evans Desrosiers	2449	

-- 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 23 June 2008.

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) 1-25 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) 1-25 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 23 June 2008 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 _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is in response to the amendment filed on 06/23/2008. In which Claims 1-25 are presented for examination.

Claim Rejections - 35 USC § 102

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.

Claims 1 is rejected under 35 U.S.C. 102(e) as being anticipated by NG US 20070155307 A1

<u>As to claim 1</u>, **NG** teaches a method comprising: generating by a server, a recommendation for a venue of interest proximally located to or information about an inferred current location of a user of a portable media player device (**NG [0014]**) [**determining whether the portable electronic device is proximate to the location; identifying data to be delivered to the portable electronic device, wherein at least a portion of the data pertains to the location**], wherein the recommendation is based at least in part on the inferred current location and inferred media preference of a user of the portable media player device (**NG [0100]**) **[The location of the venue and/or the**

media devices can infer the interest or preferences of the users], wherein the inferred media preference is determined based at least in part on media stored on or accessed using the portable media player device (**NG [0152]**) [**a remote shuffle operation can be performed with respect to media items stored on a mobile device, such as a portable media player**]; and communicating by the server, the recommendation to the user (**NG [0152]**) **[determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

<u>As to claim 2,</u> NG teaches wherein the venue of interest is a club or a church proximally located to the inferred current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and a music genre preference of the user determined based at least in part on music media stored in or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [0098] [The local media server can also provide information on what songs or other media is currently playing at the venue] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a club or a church]**

As to claim 3, **NG** teaches wherein the venue of interest is a either a theatre or a cinema proximally located to the inferred current location of the user of the portable media player device, and the recommendation is generated by the server, based at least in part on a genre of a play or movie played in the theatre or cinema respectively (**NG [0100]) [a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available] [NG [0152] [determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**, and a video genre preference of the user determined based at least in part on video media stored in or accessed using the portable media player device (**NG [0079]) [The preferences that have been essentially published can then be used by other mobile or stationary devices within the proximity to determine whether they have any data for sharing with the mobile device, where such data for sharing is determined in accordance with the preferences that were transmitted] [0079] [Media data," as used herein, is digital data that pertains to at least one of audio, video, and images]**

As to claim 4, **NG** teaches wherein the venue of interest is a either a museum or a gallery proximally located to the inferred current location of the user of the portable media player device, and the recommendation is generated by the server, based at least in part on a genre of painting or photo exhibited at the museum or gallery, and an

image genre preference of the user determined based at least in part on image media stored in or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a museum or gallery]**

As to claim 5, **NG** teaches wherein the venue of interest is either a place of worship or a place of historic or cultural significance proximally located to the inferred current location of the user of the portable media player device, and the recommendation is generated by the server, based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance respectively, and a subject preference of the user determined based at least in part on podcast media stored in or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a historic or cultural attribute of the place]**

As to claim 6, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of**

the venue and/or the media devices can infer the interest or preferences of the users], including receiving by the server a current location of the portable media player device from the portable media player device (**NG [0049]**) **[At a minimum, these electronic devices are capable of receiving and storing digital data, and may also be capable of transferring digital data]**

As to claim 7, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of the venue and/or the media devices can infer the interest or preferences of the users]**, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server (**NG [0014]**) [**determining whether the portable electronic device is proximate to the location; identifying data to be delivered to the portable electronic device, wherein at least a portion of the data pertains to the location**]

As to claim 8, **NG** teaches wherein said communicating comprises transmitting the recommendation to the portable media player device (**NG [0152]**) **[determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

As to claim 9, **NG** teaches wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email message, a pager message or a facsimile message to the user, or by placing a call to the user (**NG [0067]**) **[short range wireless capability, such as Bluetooth]**

As to claim 10, **NG** teaches further comprising determining by the server the media preference of the user based at least in part on media stored on or accessed using the portable media player device (**NG [0079]) [The preferences that have been essentially published can then be used by other mobile or stationary devices within the proximity to determine whether they have any data for sharing with the mobile device, where such data for sharing is determined in accordance with the preferences that were transmitted] [0079] [Media data," as used herein, is digital data that pertains to at least one of audio, video, and images]**

As to claim 11, claim 11 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 12,</u> claim 12 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

<u>As to claim 13,</u> claim 13 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

<u>As to claim 14,</u> claim 14 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

<u>As to claim 15,</u> claim 15 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

<u>As to claim 16,</u> claim 16 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 17,</u> claim 17 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

<u>As to claim 18,</u> claim 18 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

<u>As to claim 19,</u> claim 19 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

<u>As to claim 20,</u> claim 20 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

<u>As to claim 21,</u> claim 21 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 22,</u> claim 22 recites the claimed that contain similar limitations as claims 2, 3; therefore, it is rejected under the same rationale.

<u>As to claim 23,</u> claim 23 recites the claimed that contain similar limitations as claims 4, 5; therefore, it is rejected under the same rationale.

<u>As to claim 24,</u> claim 24 recites the claimed that contain similar limitations as claims 7, 8; therefore, it is rejected under the same rationale.

<u>As to claim 25,</u> claim 25 recites the claimed that contain similar limitations as claim 10; therefore, it is rejected under the same rationale.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evans Desrosiers whose telephone number is (571) 270-5438. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ashokkumar Patel can be reached on (571) 272-3972. 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.

ED

Evans Desrosiers
Examiner
Art Unit 2449

/Ashok B. Patel/
Primary Examiner, Art Unit 2449

Notice of References Cited	Application/Control No. 12/144,532	Applicant(s)/Patent Under Reexamination FELDMAN ET AL.	
	Examiner Evans Desrosiers	Art Unit 2449	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2007/0155307	07-2007	Ng et al.	455/3.01
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2449

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☒ **Claims renumbered in the same order as presented by applicant** ☐ **CPA** ☐ **T.D.** ☐ **R.1.47**

CLAIM		DATE								
Final	Original	06/11/2010								
	1	✓								
	2	✓								
	3	✓								
	4	✓								
	5	✓								
	6	✓								
	7	✓								
	8	✓								
	9	✓								
	10	✓								
	11	✓								
	12	✓								
	13	✓								
	14	✓								
	15	✓								
	16	✓								
	17	✓								
	18	✓								
	19	✓								
	20	✓								
	21	✓								
	22	✓								
	23	✓								
	24	✓								
	25	✓								

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2449

SEARCHED

Class	Subclass	Date	Examiner
709	231	6/10/2010	ED

SEARCH NOTES

Search Notes	Date	Examiner
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	6/10/2010	ED

INTERFERENCE SEARCH

Class	Subclass	Date	Examiner

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	0	varia$1holdings.as.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38
S2	12	nelson-jonathan feldman-evan.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38
S3	7	S2 and (portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:40
S4	3982	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:44
S5	14	S4 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:45
S6	0	S5 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:48
S7	1	(portable near5 media near5 player near5 device) with (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52
S8	1	(portable near5 media near5 player near5 device) same (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52

EAST Search History (Prior Art)

S9	13	(portable near5 media near5 player near5 device) near5 (venue or event)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:53
S10	1	S4 and (infer$5ed near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25
S11	4	S4 and (infer$5 near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25
S12	306	S4 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:58
S13	32	S12 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:59
S14	6	S13 and @ay<"2007"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 11:00

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BIB DATA SHEET

CONFIRMATION NO. 1754

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
12/144,532	06/23/2008 **RULE**	369	2449	120083-157809

APPLICANTS
Evan Feldman, Woodinville, WA;
Jonathan Nelson, Seattle, WA;

**** CONTINUING DATA ***************************
This appln claims benefit of 60/945,677 06/22/2007

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **
07/08/2008

Foreign Priority claimed	☐ Yes ☑ No		STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
35 USC 119(a-d) conditions met	☐ Yes ☑ No	☐ Met after Allowance	WA	4	25	4
Verified and Acknowledged	/EVANS DESROSIERS/ Examiner's Signature	Initials				

ADDRESS
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3400
SEATTLE, WA 98101-4010
UNITED STATES

TITLE
VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

FILING FEE RECEIVED		
665	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of:

Feldman et al.

Application No.: 12/144,532

Filed: June 23, 2008

For: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Examiner: Desrosiers, Evans

Group Art Unit: 2449

Confirmation No.: 1754

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

AMENDMENTS/REMARKS IN RESPONSE TO OFFICE ACTION

Dear Examiner:

In response to the Office Action mailed June 16, 2010, please enter the following amendments and remarks.

Amendments to the Claims are reflected in the listing of claims which begins on page **2** of this paper.

Remarks/Arguments begin on page **13** of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings of claims in the application:

Listing of Claims:

1. (Currently Amended) A method comprising:

retrieving, by a server, one or more of media and media-associated meta data stored on, or accessed by, a portable media player device;

inferring, by the server, based at least in part on the retrieved one or more of media or media-associated meta data, one or more entertainment preferences of a user of the portable media player device;

identifying, by the server, a venue or event located proximal to, or information about, a current location of the user as being of interest to the user based at least in part on the one or more entertainment preferences inferred and the current location of the user;

generating, by [[a]] the server, the identified information or a recommendation ~~for indicating a~~ the identified venue or event ~~of interest proximally located to or information about an inferred current location of a user of a portable media player device, wherein the recommendation is based at least in part on the inferred current location and inferred media preference of a user of the portable media player device, wherein the inferred media preference is determined based at least in part on media stored on or accessed using the portable media player device~~; and

communicating by the server, the identified information or the recommendation to the user.

2. (Currently Amended) The method of claim 1[[;]], wherein the venue of interest is a club or a church ~~proximally~~ located proximal to the ~~inferred~~ current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and on a music genre preference of the user ~~determined~~ inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

3. (Currently Amended) The method of claim 1[[;]], wherein the venue of interest is a either a theatre or a cinema ~~proximally~~ located proximal to the ~~inferred~~ current location of the user of the portable media player device, and the recommendation is ~~generated by the server,~~ based at least in part on a genre of a play or movie played in the theatre or cinema, respectively, and on a video genre preference of the user ~~determined~~ inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

4. (Currently Amended) The method of claim 1[[;]], wherein the venue of interest is a either a museum or a gallery ~~proximally~~ located proximal to the ~~inferred~~ current location of the user of the portable media player device, and the recommendation is ~~generated by the server,~~ based at least in part on a genre of painting or photo exhibited at the museum or gallery[[,]] and on an image genre preference of the user ~~determined~~ inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

5. (Currently Amended) The method of claim 1[[;]], wherein the venue of interest is either a place of worship or a place of historic or cultural significance ~~proximally~~ located proximal to the ~~inferred~~ current location of the user of the portable media player device, and the recommendation is ~~generated by the server,~~ based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance, respectively, and on a subject preference of the user ~~determined~~ inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

6. (Original) The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from the portable media player device.

7. (Original) The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server.

8. (Original) The method of claim 1, wherein said communicating comprises transmitting the recommendation to the portable media player device.

9. (Original) The method of claim 1, wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email message, a pager message or a facsimile message to the user, or by placing a call to the user.

10. (Currently Amended) The method of claim 1 further comprising ~~determining~~ retrieving, by the server, the media ~~preference of the user based at least in part on media stored on or accessed using the portable media player device~~or media-associated meta data from a storage within the server.

11. (Currently Amended) A method comprising:

providing to a server, by a portable media player device~~, having media stored in the portable media player device~~, a current location of the portable media player device to ~~a server to~~ facilitate the server in inferring a current location of a user of the portable media player device; and

receiving by the portable media player device, from the server, a recommendation ~~for~~ indicating an event or venue of interest ~~to be held at~~located proximal to, or information about, ~~a venue proximally located to an~~ the inferred current location of ~~a~~ the user ~~of the portable media player device~~, wherein the recommendation is generated by the server based at least in part on the inferred current location and one or ~~media~~ more entertainment preferences of ~~a~~ the user ~~of the portable media player device~~, wherein the ~~media~~ one or more entertainment preferences ~~is~~ are ~~determined~~ inferred by the server based at least in part on an

analysis, by the server, of one or more of media and media-associated meta data stored on, or accessed using, the portable media player device.

12. (Currently Amended) The method of claim 11[[;]], wherein the event or venue of interest is a music event or music venue, and the recommendation is based at least in part on a genre of music played at the event or venue and on a music genre preference of the user ~~determined~~ inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

13. (Currently Amended) The method of claim 11[[;]], wherein the event or venue of interest is a theatrical or ~~a~~ cinematography event or venue, and the recommendation is ~~generated by the server,~~ based at least in part on a genre of the theatrical or cinematography event[[,]] or venue and on a video genre preference of the user ~~determined~~ inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

14. (Currently Amended) The method of claim 11[[;]], wherein the event or venue of interest is an exhibit or exhibit venue, and the recommendation is ~~generated by the server,~~ based at least in part on a genre of the exhibit[[,]] and on an image genre preference of the user ~~determined~~ inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

15. (Currently Amended) The method of claim 11[[;]], wherein the event or venue of interest is a ~~either a~~ worship, cultural, community or political event or venue, and the recommendation is ~~generated by the server,~~ based at least in part on an attribute of the worship, cultural, community or political event[[,]] and on a subject preference of the user ~~determined~~ inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

16. (Currently Amended) A portable media player device comprising:

a storage medium configured to store one or more of media and media-associated meta data; and

a player coupled to the storage medium and ~~configured~~ endowed with executable instructions operable, upon execution, to

selectively play the media, ~~to~~

provide a server with a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device, and ~~to~~

receive from the server, in response to said providing the server with the current location, a recommendation ~~for~~ indicating a venue or event of interest ~~proximally~~ located proximal to, or information about, the current location of the user ~~of the portable media player device~~,

wherein the recommendation is generated by the server based at least in part on the inferred current location of the user[[,]] and at least one inferred ~~media~~ entertainment preference of the user, wherein the ~~media~~ at least one entertainment preference is

~~determined~~ inferred by the server based at least in part on an analysis, by the server, of the one or more of media and media-associated meta data stored on, or media and media-associated metadata accessed using, the portable media player device.

17. (Currently Amended) The portable media player device of claim 16[[;]], wherein the venue or event of interest is a club or club event ~~proximally~~ located proximal to the inferred current location of the user ~~of the portable media player device~~, and the recommendation is based at least in part on a genre of music played in the club and on a music genre preference of the user ~~determined~~ inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

18. (Currently Amended) The portable media player device of claim 16[[;]], wherein the venue or event of interest is ~~a either~~ a theatre, a cinema, a theatre event, or a cinema event ~~proximally~~ located proximal to the current location of the portable media player device, and the recommendation is ~~generated by the server,~~ based at least in part on a genre of play or movie played in the theatre or cinema, respectively, and on a video genre preference of the user ~~determined~~ inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

19. (Currently Amended) The portable media player device of claim 16, wherein the venue or event of interest is ~~a either~~ a museum, a gallery, a museum event, or a gallery event ~~proximally~~ located proximal to the current location of the portable media player device, and the recommendation is ~~generated by the server,~~ based at least in part on a genre of painting or

photo exhibited at the museum or gallery[[,]] and on an image genre preference of the user ~~determined~~ inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

20. (Currently Amended) The portable media player device of claim 16[[;]], wherein the venue or event of interest is ~~a either~~ a place of worship, a place of historic or cultural significance, or an event occurring in a place of worship or in a place of historic or cultural significance ~~proximally~~ located proximal to the current location of the portable media player device, and the recommendation is ~~generated by the server,~~ based at least in part on a denomination of religion or a historic or cultural attribute of the event or place of worship or place of historic or cultural significance, respectively, and on a subject preference of the user ~~determined~~ inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

21. (Currently Amended) A server comprising:

a storage medium to store a plurality of programming instructions; and

a processor coupled to the storage medium and comprising executable instructions operable, upon execution, ~~to execute the programming instructions~~ to enable the server to

retrieve at least one of media or media-associated meta data stored on, or accessed by, a portable media player device,

infer, based at least in part on the retrieved media or media-associated meta data, one or more entertainment preferences of a user of the portable media player device,

identify a venue or event located proximal to, or information about, a current location of the user as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;

generate the identified information or a recommendation ~~for~~ indicating ~~an~~ the identified venue or event ~~of interest to be held at or information about a venue proximally located to a current location of a user of a portable media player device~~, and

communicate the ~~event of interest~~identified information or the recommendation to the user of the portable media player device~~, wherein the recommendation is based at least in part on the current location and media preference of the user of the portable media player device, wherein the media preference is determined based at least in part on media stored on or accessed using the portable media player device~~.

22. (Currently Amended) The ~~method~~ server of claim 21[[;]], wherein ~~either~~

the venue or event of interest is a music event or music venue, and the recommendation is based at least in part on a genre of music played at the event and on a music genre preference of the user ~~determined~~ inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device, or

the venue or event of interest is a theatrical or a cinematography event, and the recommendation is ~~generated by the server,~~ based at least in part on a genre of the theatrical or cinematography event[[,]] and on a video genre preference of the user ~~determined~~ inferred

by the server based at least in part on video media stored in, or accessed using, the portable media player device.

23. (Currently Amended) The server of claim 21[[;]], wherein ~~either~~

the venue or event of interest is an exhibit or exhibit venue, and the recommendation is ~~generated by the server,~~ based at least in part on a genre of the exhibit[[,]] and on an image genre preference of the user ~~determined~~ inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device, or

the venue or event of interest is ~~a either~~ a worship, cultural, community or political event or venue, and the recommendation is ~~generated by the server,~~ based at least in part on an attribute of the worship, cultural, community or political event[[,]] and on a subject preference of the user ~~determined~~ inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

24. (Currently Amended) The server of claim 21, wherein the programming instructions are further ~~configured~~ operable, upon execution, to enable the server to determine the current location of the user of the portable media player device, including either receiving the current location of the portable media player device from the portable media player device, or from an access point through which the portable media player device establishes a network connection to the server.

25. (Currently Amended) The server of claim 21, wherein the programming instructions are further ~~configured~~ operable, upon execution, to enable the server to ~~determine~~ retrieve the

media or media-associated meta data from a storage of the server~~preference of the user based at least in part on media stored on or accessed using the portable media player device~~.

REMARKS/ARGUMENTS

This paper is responsive to the Office Action mailed June 16, 2010. Claims 1-25 were rejected and are currently pending. Claims 1-5 and 10-25 are amended herein. All amendments are supported by the original disclosure, and no new matter is added. Reconsideration of the claims in view of the amendment and the following remarks is respectfully requested.

Claim Rejections Under 35 USC § 102

Claims 1-25 were rejected under 35 USC 102(e) as being anticipated by US Publication No. 2007/0155307 A1, issued to Ng *et al*. ("Ng").

In order to anticipate a claim, the reference must teach **every element** of the claim. MPEP 2131. The prior art reference must also disclose the elements arranged or combined in the same way as recited in the claims. *Net Moneyin, Inc. v. Verisign, Inc.*, 545 F.3d 1359, 1370 (Fed. Cir. 2008).

Applicants respectfully disagree that Ng teaches the features of claims 1-25 as previously presented. Nonetheless, claims 1-5 and 10-25 are currently amended (without prejudice) for clarity and to advance prosecution.

As amended, claim 1 currently recites a method comprising:

retrieving, by a server, one or more of media and media-associated meta data stored on, or accessed by, a portable media player device; **[[pg. 10, lines 6-18; Fig.2]]**

inferring, by the server, based at least in part on the retrieved one or more of media or media-associated meta data, one or more entertainment preferences of a user of the portable media player device; **[[pg. 10, line 6 to pg. 11, line 15; Fig.2]]**

identifying, by the server, a venue or event located proximal to, or information about, a current location of the user as being of interest to the user based at least in part on the one or more entertainment preferences inferred and the current location of the user; **[[pg. 11, line 15 to pg. 12, line 10; Fig.2; *see also* pg. 5, lines 13-17; pg. 6, lines 6-11; and pg. 7, lines 1-13]]**

generating by a server, the identified information or a recommendation indicating the identified venue or event; and **[[pg. 11, line 15 to pg. 12, line 10; Fig.2]]**

communicating by the server, the identified information or the recommendation to the user. **[[pg. 12, line 22 to pg. 12, line 8; Fig.2]]**

Read properly as a whole, as required by law, amended claim 1 recites a method by which a portable media player device user is informed of an event/venue/information identified by a server, based at least in part on the user's location and entertainment preference(s), as being of potential interest to the user. In the recited method, the server retrieves media/media-associated meta data stored on the device (or accessed using the device), infers the user's entertainment preference(s) based on the retrieved media/media-associated metadata, and communicates the identified event/venue/information to the user. Thus, the recited method allows the user to receive customized current location- and inferred preference-based information or recommendations.

Ng does not teach these features of amended claim 1.

In particular, Ng does not teach "retrieving, by a server, one or more of media and media-associated meta data stored on, or accessed by, a portable media player device", "inferring, by the server, based at least in part on the retrieved one or more of media or media-associated meta data, one or more entertainment preferences of a user of the portable media player device" and "identifying, by the server, a venue or event located proximal to, or information about, a current location of the user as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user."

Ng discloses a wireless media sharing system in which a local media server, which can be coupled to a central medial server, is provided at a particular venue and offers wireless interaction to users of mobile devices while the users are at the venue (paragraphs [0096]-[0097]). The local media server may transfer media to the mobile devices, determine which media items are to be transmitted (e.g., broadcast) or played at the venue based on the characteristics of the mobile device users at the venue, and may also acquire information from the users (paragraph [0097]). Different users can received different or personalized media content at the venue based on their preference/criteria settings (paragraph [0099]). In

this context, Ng discloses that the "location of the venue/media device can infer the interest or preferences of the users" – for example, if the venue is an airport, the local media server may provide arrival and departure information (paragraph [0100], cited on pg. 2 of the Office Action). Thus, Ng teaches that a user "preference" is either entered by the user of the device (see e.g., paragraphs [0101] and [0144]) or inferred from the location of the venue/user, which is inferred from the location of server.

Ng also teaches a remote shuffle operation to update media on a mobile device (paragraph [0152], cited on pg. 3 of the Office Action). In this embodiment, a media depository receives a remote shuffle request from a mobile device, determines whether media in the depository is available to the device, selects media to be provided to the device based on various factors or criteria, and sends the selected media to the device (paragraphs [0154]-[0159]). The media depository may also send instructions the mobile device directing the deletion of previously stored media items from the device based on various factors or criteria (paragraphs [0156], [0159]).

Accordingly, the cited passages of Ng do not teach "***identifying***, by the server, ***a venue or event*** located proximate to, ***or information*** about, a current location of the user ***as being of interest to the user***" based at least on: (1) "the one or more user entertainment preferences inferred by the server (based on media or media-related metadata, stored on or accessed by the user' mobile device" ***and*** (2) "the current location of the user."

At most, Ng teaches that a local server selects **media** for broadcast or delivery within a particular venue based on characteristics (such as user-entered settings) of the mobile devices present within that particular venue, or based on location alone (user interest/preference inferred from location), or that a server selects **media updates** for a mobile device based on criteria such as account status, user ratings, play counts, etc. Applicants find no teaching in the cited reference of "identifying, by the server, **a venue or event** . . . as being of interest to the user . . . ." And while Ng discloses providing information such as flight information and maps based on the location of the venue and/or mobile device (paragraph [0100]), this information is not identified by the server "based at least in part on the retrieved one or more of media or media-associated meta data" stored in or accessed by the device.

Finally, while paragraph [0014] was cited for teaching "generating by a server, a recommendation . . ." this paragraph does not disclose a recommendation as recited in amended claim 1 (i.e., a recommendation indicating the identified venue or event). The cited passage merely discloses determining that a portable device is proximate to the location in which a wireless network has been provided, identifying data to be delivered to that device (at least some of the data pertaining to the location), and delivering the data to the device.

Therefore, Ng fails to teach every element of claim 1 in the recited arrangement. For at least the above reasons, claim 1 is allowable over Ng under 35 USC 102(e).

Independent claims 11, 16, and 21 have been amended to recite features substantially similar to those of amended claim 1. Therefore, claims 11, 16, and 21 are also allowable over Ng for at least the same reasons.

Claims 2-10, 12-15, 17-20, and 22-25 depend from claims 1, 11, 16, or 21, respectively, incorporating the recitations of their base claims. Therefore, claims 2-10, 12-15, 17-20, and 22-25 are also allowable over Ng by virtue of their dependency from allowable base claims. Claims 2-10, 12-15, 17-20, and 22-25 are also allowable by virtue of their additional recitations, which are not taught by Ng.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 622-1711 if the Examiner believes that an interview might be useful for any reason.

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a).

If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1569. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,

Date: September 16, 2010

By: /Jo Ann Schmidt/
Jo Ann Schmidt
Reg. No.: 62,255

SCHWABE, WILLIAMSON & WYATT, P.C.
U.S. Bank Centre
1420 5th Ave. Suite 3400
Seattle, WA 98101

Electronic Acknowledgement Receipt

EFS ID:	8436535
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Jo Ann Schmidt/Allyson Dahmen
Filer Authorized By:	Jo Ann Schmidt
Attorney Docket Number:	120083-157809
Receipt Date:	16-SEP-2010
Filing Date:	23-JUN-2008
Time Stamp:	18:50:54
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Varia_07_0035_Resp_NF_OA.pdf	764504 732fd523339ed46becc8b49cfbb6da55b68d4921	yes	17

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	12
	Applicant Arguments/Remarks Made in an Amendment	13	17

Warnings:	
Information:	
Total Files Size (in bytes):	764504

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

<u>New Applications Under 35 U.S.C. 111</u>
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

<u>National Stage of an International Application under 35 U.S.C. 371</u>
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

<u>New International Application Filed with the USPTO as a Receiving Office</u>
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
12/144,532	06/23/2008	

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY ☒ RATE ($)	SMALL ENTITY FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).						
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))							
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT 09/16/2010	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 25	Minus	** 25	= 0	X $26 =	0	OR	X $ =	
Independent (37 CFR 1.16(h))	* 4	Minus	***4	= 0	X $110 =	0	OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

AMENDMENT	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
/VIKKI SHORT/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

60172 7590 11/10/2010
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2491	

MAIL DATE	DELIVERY MODE
11/10/2010	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.

Office Action Summary	Application No.	Applicant(s)	
	12/144,532	FELDMAN ET AL.	
	Examiner	Art Unit	
	Evans Desrosiers	2491	

-- 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 *16 September 2010*.

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) *1-25* 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) *1-25* 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 *23 June 2008* 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 _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-25 remain for examination. Claims 1-5 and 10-25 have been amended. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment. Accordingly, this action has been made FINAL.

Examiner's Note

Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claim Rejections - 35 USC § 112

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

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The scope of the claim language: "meta data stored **on, or** accessed by, a portable media player device" is unclear. For examination purpose, the " The scope of the claim language: "meta data stored **on, or** accessed by, a portable media player device" is read as an abstraction of any data stored.

Claim Rejections - 35 USC § 102

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.

Claims 1 is rejected under 35 U.S.C. 102(e) as being anticipated by NG US 20070155307 A1

As to claim 1, **NG** teaches a method comprising: retrieving by a server, one or more of media and media-associated meta data stored on, or accessed by, a portable media player device (**NG [0006]**) **[these portable electronic devices store media data for use by their user. In the case of MP3 players or PDAs, media data is typically downloaded from a host computer when the MP3 player or PDA is connected to the host computer];** inferring by the server, based at least in part on the retrieved one

or more of media or media-associated meta data **(NG [0012]) [retrieving stored data from the at least one portable electronic device; determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device],** one or more entertainment preferences of a user of the portable media player device (**NG [0009]**) **[a local server is provided at a particular location, such as at an establishment, venue, etc. The local server can operate to locally wirelessly transmit data to mobile devices];** identifying by the server a venue or event located proximal to **(NG [0044]) [The local server can also provide customized data to the mobile devices, individually or as a group. The customization can be based on location, characteristics, interests, preferences and/or requests of the users of the mobile devices],** or information about a current location of the user as being of interest to the user based at least in part on the one or more entertainment preferences inferred and the current location of the user; generating by the server, the identified information or a recommendation indicating the identified venue or event **(NG [0097]) [The local media server can provide access to a central media server. The local media server can transfer (e.g., broadcast, anycast or multicast) media to the mobile devices. The local media server can also dynamically determine** *which media items* **are to be transmitted (e.g., broadcast) or played at the venue based on the characteristics of the users of the mobile devices at the venue. Still further, the local media server could also acquire information from users of the mobile devices. For example, the acquired**

information can pertain to user characteristics, user ratings of media items, how long users have been in the store, what portions of the store they found most interesting, and what media items they were receiving] and communicating by the server, the identified information or the recommendation to the user (**NG [0152]**) **[determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

<u>As to claim 2,</u> NG teaches wherein the venue of interest is a club or a church located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and on a music genre preference of the user inferred by the server based at least in part on music media stored in or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [0098] [The local media server can also provide information on what songs or other media is currently playing at the venue] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a club or a church]**

<u>As to claim 3</u>, **NG** teaches wherein the venue of interest is a either a theatre or a cinema located proximal to the inferred- current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of a play or movie played in the theatre or cinema respectively (**NG [0100]) [a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available] [NG [0152] [determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**, and on a video genre preference of the user inferred by the server based at least in part on video media stored in~ or accessed using~ the portable media player device (**NG [0079]) [The preferences that have been essentially published can then be used by other mobile or stationary devices within the proximity to determine whether they have any data for sharing with the mobile device, where such data for sharing is determined in accordance with the preferences that were transmitted] [0079] [Media data," as used herein, is digital data that pertains to at least one of audio, video, and images]**

<u>As to claim 4,</u> NG teaches wherein the venue of interest is a either a museum or a gallery located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user

inferred by the server based at least in part on image media stored in~ or accessed using~ the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a museum or gallery]**

As to claim 5, **NG** teaches wherein the venue of interest is either a place of worship or a place of historic or cultural significance located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance~ respectively, and on a subject preference of the user deter mined inferred by the server based at least in part on podcast media stored in~ or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a historic or cultural attribute of the place]**

As to claim 6, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of**

the venue and/or the media devices can infer the interest or preferences of the users], including receiving by the server a current location of the portable media player device from the portable media player device (**NG [0049]**) **[At a minimum, these electronic devices are capable of receiving and storing digital data, and may also be capable of transferring digital data]**

As to claim 7, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of the venue and/or the media devices can infer the interest or preferences of the users]**, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server (**NG [0014]**) [**determining whether the portable electronic device is proximate to the location; identifying data to be delivered to the portable electronic device, wherein at least a portion of the data pertains to the location**]

As to claim 8, **NG** teaches wherein said communicating comprises transmitting the recommendation to the portable media player device (**NG [0152]**) **[determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

As to claim 9, **NG** teaches wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email message, a pager message or a facsimile message to the user, or by placing a call to the user (**NG [0067]**) **[short range wireless capability, such as Bluetooth]**

As to claim 10, **NG** teaches further comprising retrieving by the server the media or media-associated meta data from a storage within the server **[retrieving stored data from the at least one portable electronic device; determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

As to claim 11, claim 11 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 12,</u> claim 12 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

<u>As to claim 13,</u> claim 13 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

<u>As to claim 14,</u> claim 14 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

<u>As to claim 15,</u> claim 15 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

<u>As to claim 16,</u> claim 16 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 17,</u> claim 17 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

<u>As to claim 18,</u> claim 18 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

<u>As to claim 19,</u> claim 19 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

<u>As to claim 20,</u> claim 20 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

<u>As to claim 21,</u> claim 21 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 22,</u> claim 22 recites the claimed that contain similar limitations as claims 2, 3; therefore, it is rejected under the same rationale.

<u>As to claim 24,</u> claim 24 recites the claimed that contain similar limitations as claims 7, 8; therefore, it is rejected under the same rationale.

<u>As to claim 25,</u> claim 25 recites the claimed that contain similar limitations as claim 10; therefore, it is rejected under the same rationale.

Response to Arguments

On page 14 of the Applicant's Response, applicant argues that "Ng does not teach these features of amended claim 1. In particular, Ng does not teach "retrieving, by a

server, one or more of media and media-associated meta data stored on, or accessed by, a portable media player device", "inferring, by the server, based at least in part on the retrieved one or more of media or media-associated meta data. one or more entertainment preferences of a user of the portable media player device" and "identifying, by the server, a venue or event located proximal to, or information about, a current location of the user as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user."

The Examiner respectfully disagrees with Applicant's argument because Ng Explicitly discloses "retrieving, by a server, one or more of media and media-associated meta data stored on, or accessed by, a portable media player device [0006] [these portable electronic devices store media data for use by their user. In the case of MP3 players or PDAs, media data is typically downloaded from a host computer when the MP3 player or PDA is connected to the host computer]" "inferring, by the server, based at least in part on the retrieved one or more of media or media-associated meta data; [0012] [retrieving stored data from the at least one portable electronic device; determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device], one or more entertainment preferences of a user of the portable media player device [0009] [a local server is provided at a particular location, such as at an establishment, venue, etc. The local server can operate to locally wirelessly transmit data to mobile devices]" and "identifying, by the

server, a venue or event located proximal to [0044] [The local server can also provide customized data to the mobile devices, individually or as a group. The customization can be based on location, characteristics, interests, preferences and/or requests of the users of the mobile devices], or information about, a current location of the user as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user [0097] [The local media server can provide access to a central media server. The local media server can transfer (e.g., broadcast, anycast or multicast) media to the mobile devices. The local media server can also dynamically determine which media items are to be transmitted (e.g., broadcast) or played at the venue based on the characteristics of the users of the mobile devices at the venue. Still further, the local media server could also acquire information from users of the mobile devices. For example, the acquired information can pertain to user characteristics, user ratings of media items, how long users have been in the store, what portions of the store they found most interesting, and what media items they were receiving] "

Conclusion

THIS ACTION IS MADE FINAL. 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 mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evans Desrosiers whose telephone number is (571) 270-5438. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ashokkumar Patel can be reached on (571) 272-3972. 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.

ED

Evans Desrosiers
Examiner
Art Unit 2491

/Ashok B. Patel/
Supervisory Patent Examiner, Art Unit 2491

Notice of References Cited	Application/Control No. 12/144,532	Applicant(s)/Patent Under Reexamination FELDMAN ET AL.	
	Examiner Evans Desrosiers	Art Unit 2491	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2007/0155307	07-2007	Ng et al.	455/3.01
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	4566	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
L2	4566	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
L3	335	L2 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
L4	335	L1 and L3	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
L5	35	L3 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
L6	35	L4 and L5	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
L7	0	L6 and 709/205-209.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
S1	0	varia$1holdings.as.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38

EAST Search History (Prior Art)

S2	12	nelson-jonathan feldman-evan.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38
S3	7	S2 and (portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:40
S4	3982	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:44
S5	14	S4 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:45
S6	0	S5 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:48
S7	1	(portable near5 media near5 player near5 device) with (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52
S8	1	(portable near5 media near5 player near5 device) same (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52
S9	13	(portable near5 media near5 player near5 device) near5 (venue or event)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:53

EAST Search History (Prior Art)

S10	1	S4 and (infer$5ed near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25
S11	4	S4 and (infer$5 near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25
S12	306	S4 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:58
S13	32	S12 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:59
S14	6	S13 and @ay<"2007"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 11:00

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2491

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☒ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	06/11/2010	11/06/2010							
	1	✓	✓							
	2	✓	✓							
	3	✓	✓							
	4	✓	✓							
	5	✓	✓							
	6	✓	✓							
	7	✓	✓							
	8	✓	✓							
	9	✓	✓							
	10	✓	✓							
	11	✓	✓							
	12	✓	✓							
	13	✓	✓							
	14	✓	✓							
	15	✓	✓							
	16	✓	✓							
	17	✓	✓							
	18	✓	✓							
	19	✓	✓							
	20	✓	✓							
	21	✓	✓							
	22	✓	✓							
	23	✓	✓							
	24	✓	✓							
	25	✓	✓							

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2491

SEARCHED

Class	Subclass	Date	Examiner
709	231	6/10/2010	ED
709	205-209	11/6/2010	ED

SEARCH NOTES

Search Notes	Date	Examiner
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	6/10/2010	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	11/6/2010	ED

INTERFERENCE SEARCH

Class	Subclass	Date	Examiner

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of:

Feldman et al.

Application No.: 12/144,532

Filed: June 23, 2008

For: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Examiner: Desrosiers, Evans

Group Art Unit: 2491

Confirmation No.: 1754

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

AMENDMENTS/REMARKS AFTER FINAL

Dear Examiner:

In response to the Final Office Action mailed November 10, 2010, Applicants offer the following amendments and remarks.

Amendments to the Claims are reflected in the listing of claims which begins on page **2** of this paper.

Remarks/Arguments begin on page **12** of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings of claims in the application:

Listing of Claims:

1. (Currently Amended) A method comprising:

retrieving, by a server, ~~one or more~~a plurality of media ~~and media-associated meta data~~ stored on[[,]] or accessed [[by,]]using a portable media player device, or information about said plurality of media;

inferring, by the server, based at least in part on the retrieved ~~one or more of~~ plurality of media or the retrieved information about said plurality of media~~media-associated meta data~~, one or more entertainment preferences of a user of the portable media player device;

accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user;

identifying, by the server, at least one of said venues or events ~~located proximal to, or information about, a current location of the user~~ as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;

generating, by the server, ~~the identified information or~~ a recommendation indicating the identified venue or event as a venue or event of interest to the user; and

communicating, by the server, the ~~identified information or the~~ recommendation to the user.

2. (Previously Presented) The method of claim 1, wherein the venue of interest is a club or a church located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

3. (Previously Presented) The method of claim 1, wherein the venue of interest is a either a theatre or a cinema located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of a play or movie played in the theatre or cinema, respectively, and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

4. (Previously Presented) The method of claim 1, wherein the venue of interest is a either a museum or a gallery located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

5. (Previously Presented) The method of claim 1, wherein the venue of interest is either a place of worship or a place of historic or cultural significance located proximal to the current location of the user of the portable media player device, and the recommendation is

based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance, respectively, and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

6. (Original) The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from the portable media player device.

7. (Original) The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server.

8. (Original) The method of claim 1, wherein said communicating comprises transmitting the recommendation to the portable media player device.

9. (Original) The method of claim 1, wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email message, a pager message or a facsimile message to the user, or by placing a call to the user.

10. (Currently Amended) The method of claim 1 further comprising retrieving, by the server, the plurality of media or ~~media-associated meta data~~the information about said plurality of media from a storage within the server.

11. (Currently Amended) A method comprising:

providing to a server, by a portable media player device, a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device; and

receiving by the portable media player device, from the server, a recommendation indicating an event or venue of interest located proximal to~~, or information about,~~ the inferred current location of the user as being of interest to the user,

wherein the recommendation is generated by the server based at least in part on the inferred current location, data accessed by the server from one or more sources of information about venues or events proximal to the current location of the user, and one or more entertainment preferences of the user, the event or venue of interest being one of said venues or events, and

wherein the one or more entertainment preferences are inferred by the server based at least in part on an analysis, by the server, of ~~one or more~~a plurality of media ~~and media-associated meta data~~ stored on[[,]] or accessed using[[,]] the portable media player device or information about said plurality of media.

12. (Previously Presented) The method of claim 11, wherein the event or venue of interest is a music event or music venue, and the recommendation is based at least in part on a genre of music played at the event or venue and on a music genre preference of the user

inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

13. (Previously Presented) The method of claim 11, wherein the event or venue of interest is a theatrical or cinematography event or venue, and the recommendation is based at least in part on a genre of the theatrical or cinematography event or venue and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

14. (Previously Presented) The method of claim 11, wherein the event or venue of interest is an exhibit or exhibit venue, and the recommendation is based at least in part on a genre of the exhibit and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

15. (Previously Presented) The method of claim 11, wherein the event or venue of interest is a worship, cultural, community or political event or venue, and the recommendation is based at least in part on an attribute of the worship, cultural, community or political event and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

16. (Currently Amended) A portable media player device comprising:

a storage medium configured to store one or more of a plurality of media and ~~media-associated meta data~~information about said plurality of media; and

a player coupled to the storage medium and endowed with executable instructions operable, upon execution, to

selectively play the media,

provide a server with a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device, and

receive from the server, in response to said providing the server with the current location, a recommendation indicating a venue or event of interest located proximal to~~, or information about,~~ the current location of the user as being of interest to the user,

wherein the recommendation is generated by the server based at least in part on the inferred current location of the user, data accessed by the server from one or more sources of information about venues or events proximal to the current location of the user, and at least one inferred entertainment preference of the user, the event or venue of interest being one of said venues or events, and

wherein the at least one entertainment preference is inferred by the server based at least in part on an analysis, by the server, of the ~~one or more~~plurality of media ~~and media-associated meta data~~ stored on[[,]] or ~~media and media-associated metadata~~ accessed using[[,]] the portable media player device or the information about said plurality of media.

17. (Previously Presented) The portable media player device of claim 16, wherein the venue or event of interest is a club or club event located proximal to the inferred current

location of the user, and the recommendation is based at least in part on a genre of music played in the club and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

18. (Previously Presented) The portable media player device of claim 16, wherein the venue or event of interest is a theatre, a cinema, a theatre event, or a cinema event located proximal to the current location of the portable media player device, and the recommendation is based at least in part on a genre of play or movie played in the theatre or cinema, respectively, and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

19. (Previously Presented) The portable media player device of claim 16, wherein the venue or event of interest is a museum, a gallery, a museum event, or a gallery event located proximal to the current location of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

20. (Previously Presented) The portable media player device of claim 16, wherein the venue or event of interest is a place of worship, a place of historic or cultural significance, or an event occurring in a place of worship or in a place of historic or cultural significance located proximal to the current location of the portable media player device, and the recommendation is based at least in part on a denomination of religion or a historic or

cultural attribute of the event or place of worship or place of historic or cultural significance, respectively, and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

21. (Currently Amended) A server comprising:

a storage medium to store a plurality of programming instructions; and

a processor coupled to the storage medium and comprising executable instructions operable, upon execution, to enable the server to

retrieve ~~at least one~~a plurality of media ~~or media-associated meta data~~ stored on[[,]] or accessed [[by,]]using a portable media player device or information about said plurality of media,

infer, based at least in part on the retrieved plurality of media or ~~media-associated meta data~~the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device,

access one or more sources of information about venues or events proximal to a current location of the user,

identify at least one of said venues or events ~~located proximal to, or information about, a current location of the user~~ as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user[[;]],

generate ~~the identified information or~~ a recommendation indicating the identified venue or event as a venue or event of interest to the user, and

communicate ~~the identified information or~~ the recommendation to the user of the portable media player device.

22. (Previously Presented) The server of claim 21, wherein

the venue or event of interest is a music event or music venue, and the recommendation is based at least in part on a genre of music played at the event and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device, or

the venue or event of interest is a theatrical or a cinematography event, and the recommendation is based at least in part on a genre of the theatrical or cinematography event and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

23. (Previously Presented) The server of claim 21, wherein

the venue or event of interest is an exhibit or exhibit venue, and the recommendation is based at least in part on a genre of the exhibit and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device, or

the venue or event of interest is a worship, cultural, community or political event or venue, and the recommendation is based at least in part on an attribute of the worship, cultural, community or political event and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

24. (Previously Presented) The server of claim 21, wherein the programming instructions are further operable, upon execution, to enable the server to determine the current location of the user of the portable media player device, including either receiving the current location of the portable media player device from the portable media player device, or from an access point through which the portable media player device establishes a network connection to the server.

25. (Currently Amended) The server of claim 21, wherein the programming instructions are further operable, upon execution, to enable the server to retrieve the plurality of media or ~~media-associated meta data~~the information about said plurality of media from a storage of the server.

REMARKS/ARGUMENTS

This paper is responsive to the Final Office Action mailed November 10, 2010. Claims 1-25 were rejected and are currently pending. Applicant offers to amend claims 1, 10, 11, 16, 21, and 25 to address the issues raised by the Examiner. All amendments are supported by the original disclosure, and no new matter will be added. As the amendments are clarification in nature, no new search is required. Further, for reasons set forth below, Applicant submits the claims as amended are in condition of allowance. Reconsideration of the claims in view of the amendment and the following remarks is respectfully requested.

Claim Rejections Under 35 USC § 112

Claim 1 was rejected under 35 USC § 112, second paragraph, as allegedly being indefinite. The scope of the claim language "meta data stored on, or accessed by, a portable media player device" was found to be unclear.

In response, claim 1 is currently amended to recite ". . . retrieving, by a server, one or more of media stored on or accessed using a portable media player device and information about said media . . . ." This amendment is believed to overcome the rejection. Therefore, reconsideration and withdrawal of the rejection is respectfully requested.

Claim Rejections Under 35 USC § 102

Claims 1-25 were rejected under 35 USC 102(e) as being anticipated by US Publication No. 2007/0155307 A1, issued to Ng *et al.* ("Ng").

In order to anticipate a claim, the reference must teach **every element** of the claim. MPEP 2131. The prior art reference must also disclose the elements arranged or combined in the same way as recited in the claims. *Net Moneyin, Inc. v. Verisign, Inc.*, 545 F.3d 1359, 1370 (Fed. Cir. 2008).

As discussed in Applicants' response filed September 16, 2010, Applicants respectfully disagree that Ng teaches the features of claims 1-25 as previously presented. Nonetheless, in the interest of furthering prosecution and without conceding on the eligible of NG as eligible 102(e) reference, independent claims 1, 11, 16, and 21 are currently amended (without prejudice) in order to advance prosecution.

Amended claim 1 recites, in part, "A method comprising:

retrieving, by a server, a plurality of media stored on or accessed using a portable media player device or information about said plurality of media;

inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device;

accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user;

identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;

generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and

communicating, by the server, the recommendation to the user."

Accordingly, amended claim 1 now recites "communicating, by the server, [a] recommendation to the user," "indicating … identified venue or event as a venue or event of interest to the user," where the "identified venue or event," are identified "based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user." Further, the "one or more entertainment preferences," are inferred by the server "based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, [by the server]."

Ng does not teach these features of amended claim 1. Ng merely discloses a wireless media sharing system in which a local media server, which can be coupled to a central medial server, delivers data to users of mobile devices present at a particular venue such as a coffee shop, theater, or retail store (paragraphs [0096]-[0097]). The local media server may determine which media items are to be transmitted or played at the venue based on the characteristics of the users at the venue (paragraph [0097], cited on page 4 of the Final Office Action). A user can receive different or personalized media content at the venue based on that user's preference or criteria **settings** (paragraph [0099]). Ng also discloses that the

"location of the venue/media device can infer the interest or preferences of the users" (paragraph [0100]). Thus, Ng teaches that a user "preference" is either *entered by the user* of the device (see e.g., paragraphs [0101] and [0144]) or is *inferred based on the user's location*, which is in turn inferred from the location of the local server.

Ng also teaches another embodiment in which a remote shuffle operation is used to update media on a mobile device (paragraph [0152], cited on pg. 5 of the Final Office Action). In this embodiment, a media depository receives a remote shuffle request from a mobile device, determines whether media in the depository is available to the device, selects media to be provided to the device based on various factors or criteria (e.g., permissions, user ratings, play counts, genre, play history, time and location), and sends the selected media to the device (paragraphs [0154]-[0159]). The media depository may also send instructions the mobile device directing the deletion of previously stored media items from the device based on various factors or criteria (paragraphs [0156], [0159]).

First, Applicants respectfully note that the cited passages of Ng do not teach "retrieving, by a server, one or more of a plurality of media stored on or accessed using a portable media player device and information about said plurality of media." The cited paragraph [0006] merely describes the downloading of media data **to** a portable electronic device (i.e., from a host computer and/or wirelessly). Applicants further note that Ng teaches the retrieval of 'patron data' or an 'identifier' from a portable electronic device (see e.g., paragraph [0117] and Fig. 8, block 810; paragraph [0137] and Fig. 12, block 1204). 'Patron data' is described in paragraph [0117] as characteristics, preferences and/or requests of a patron that are **stored in the mobile device** associated with the patron (see paragraphs [0111] and [0117]). The 'identifier' is an identifier retrieved from the mobile device to determine whether the patron has an electronic subscription service that is supported by the local server at the establishment (paragraph [0137]). Therefore, should the rejections be maintained, Applicants respectfully request a clear explanation, on the record, as to which portion(s) of Ng are cited for teaching the above feature.

Second, Ng does not teach "inferring, by the server, based at least in part on the retrieved media or the retrieved information about the media, one or more entertainment preferences of a user of the portable media player device." Cited paragraphs [0009] and

[0012] summarize a system for data delivery to mobile devices in which customized data is provided to the mobile device based on stored data retrieved by the server from the mobile device. As further described in paragraphs [0109] and [0117], the "stored data" is 'patron data' – characteristics, preferences and/or requests of a patron that are **stored in the mobile device** associated with the patron (see paragraphs [0111] and [0117]). Updated media content can be determined based on the **obtained** characteristics, preferences and/or requests. (see paragraph [0112]). Thus, the server of Ng does not *infer* "one or more entertainment preferences of a user" based at least on a retrieved plurality of media or retrieved information about the plurality of media.

Third, the cited passages of Ng do not teach "accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user" and "identifying, by the server, at least one of said venues or events *as being of interest to the user* based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user." At most, Ng teaches that a central server interacts with several local servers to provide delivery of media content to devices within the range of one of the local servers (see e.g., paragraph [0102]. Even if one assumes, for the sake of argument, that one or more of the local servers includes information about the venue it serves, Applicants find no teaching in the cited reference of "identifying, by the server, at least one of said venues or events **as being of interest to the user**" based at least in part on (1) the retrieved plurality of media or the information about said plurality of media, **and** (2) the current location of the user.

Finally, while paragraph [0014] was cited for teaching "generating by a server, a recommendation . . ." this paragraph does not disclose a recommendation as recited in amended claim 1 (i.e., a recommendation indicating the identified venue or event as a venue or event of interest to the user). The cited passage, further described in paragraphs [0140]-[0141], merely delivering data pertaining to a location/venue to a portable device via a local wireless network provided at the location/venue. Applicants find no teaching in Ng of a recommendation indicating a venue or event [identified by the server from among the "venues or events" for which information is provided by a source(s) accessed by the server, based on the inferred entertainment preferences and user location,] "as a venue or event of interest to the user."

Therefore, Ng fails to teach every feature of claim 1 in the recited arrangement. For at least the above reasons, claim 1 is allowable over Ng under 35 USC 102(e).

Independent claims 11, 16, and 21 have been amended to recite features substantially similar to those of amended claim 1. Therefore, claims 11, 16, and 21 are also allowable over Ng for at least the same reasons.

Claims 2-10, 12-15, 17-20, and 22-25 depend from claims 1, 11, 16, or 21, respectively, incorporating the recitations of their base claims. Therefore, claims 2-10, 12-15, 17-20, and 22-25 are allowable over Ng by virtue of their dependency from allowable base claims. Claims 2-10, 12-15, 17-20, and 22-25 are also allowable by virtue of their additional recitations, which are not taught by Ng.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited.

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a).

If the Examiner has any questions concerning the present paper or believes that an interview might be useful for any reason, the Examiner is kindly requested to contact the undersigned at (206) 407-1569.

If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,

Date: January 20, 2011 By: / Jo Ann Schmidt/
Jo Ann Schmidt
Reg. No.: 62,255

SCHWABE, WILLIAMSON & WYATT, P.C.
U.S. Bank Centre
1420 5th Ave. Suite 3400
Seattle, WA 98101

Electronic Acknowledgement Receipt

EFS ID:	9273656
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Jo Ann Schmidt/Allyson Dahmen
Filer Authorized By:	Jo Ann Schmidt
Attorney Docket Number:	120083-157809
Receipt Date:	20-JAN-2011
Filing Date:	23-JUN-2008
Time Stamp:	17:54:43
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Varia_070035_Resp_AfterFinal.pdf	691283 fb9943114b12b91adfd48f1c056b146dfe450d28	yes	17

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment After Final	1	1
	Claims	2	11
	Applicant Arguments/Remarks Made in an Amendment	12	17

Warnings:	
Information:	
Total Files Size (in bytes):	691283

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

<u>New Applications Under 35 U.S.C. 111</u>
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

<u>National Stage of an International Application under 35 U.S.C. 371</u>
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

<u>New International Application Filed with the USPTO as a Receiving Office</u>
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	
12/144,532	06/23/2008	☐ To be Mailed

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY ☒ RATE ($)	SMALL ENTITY FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).						
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))							
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT 01/20/2011	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 25	Minus	** 25	= 0	X $26 =	0	OR	X $ =	
Independent (37 CFR 1.16(h))	* 4	Minus	***4	= 0	X $110 =	0	OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

AMENDMENT	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
/Wanda Meredith/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

60172 7590 02/02/2011
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2491	

MAIL DATE	DELIVERY MODE
02/02/2011	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.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 12/144,532	**Applicant(s)** FELDMAN ET AL.	
	Examiner Evans Desrosiers	**Art Unit** 2491	

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

THE REPLY FILED 20 January 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-25*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Ashok B. Patel/
Supervisory Patent Examiner, Art Unit 2491

/Evans Desrosiers/
Examiner, Art Unit 2491

Continuation of 3. NOTE: The proposed amendment to claims 1, 11, 16, 21, will not be entered because the newly added features such as "accessing_by the server, one or more sources of information about venues or events proximal to a current location of the user; of media or the retrieved information about said plurality_ of medial", raise new isue that would require further search and consideration. Further, the scope of the claims would be changed by the newly added features. .

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of:

Feldman et al.

Application No.: 12/144,532

Filed: June 23, 2008

For: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Examiner: Desrosiers, Evans

Group Art Unit: 2491

Confirmation No.: 1754

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

AMENDMENTS/REMARKS AFTER FINAL

Dear Examiner:

In response to the Final Office Action mailed November 10, 2010, Applicants offer the following amendments and remarks.

Amendments to the Claims are reflected in the listing of claims which begins on page **2** of this paper.

Remarks/Arguments begin on page **12** of this paper.

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	12/144,532
Filing Date	2008-06-23
First Named Inventor	Evan Feldman
Art Unit	2491
Examiner Name	Evans Desrosiers
Attorney Docket Number	120083-157809

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

   a. [X] Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
      i. [ ] Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
      ii. [X] Other Amendment After Final Filed on January 20, 2011

   b. [ ] Enclosed
      i. [ ] Amendment/Reply
      ii [ ] Affidavit(s)/Declaration(s)
      iii. [ ] Information Disclosure Statement (IDS)
      iv. [ ] Other _____

2. Miscellaneous

   a. [ ] Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

   b. [ ] Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

   a. [X] The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 500393.
      i. [X] RCE fee required under 37 CFR 1.17(e)
      ii. [X] Extension of time fee (37 CFR 1.136 and 1.17)
      iii. [ ] Other _____

   b. [ ] Check in the amount of $ _____ enclosed

   c. [ ] Payment by credit card (Form PTO-2038 enclosed)

   WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	/Ryan C. Fox/	*Date*	February 15, 2011
Name (Print /Type)	Ryan C. Fox	*Registration No.*	65,369

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature			
Name (Print /Type)		*Date*	

SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Electronic Patent Application Fee Transmittal

Application Number:	12144532
Filing Date:	23-Jun-2008
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Filer:	Ryan Christopher Fox/Allyson Dahmen
Attorney Docket Number:	120083-157809

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Extension - 1 month with $0 paid	2251	1	65	65

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Request for continued examination	2801	1	405	405
		Total in USD ($)		**470**

Electronic Acknowledgement Receipt

EFS ID:	9449622
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Ryan Christopher Fox/Allyson Dahmen
Filer Authorized By:	Ryan Christopher Fox
Attorney Docket Number:	120083-157809
Receipt Date:	15-FEB-2011
Filing Date:	23-JUN-2008
Time Stamp:	16:56:45
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$470
RAM confirmation Number	3662
Deposit Account	500393
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)

1	Extension of Time	Varia_070035_EOT.pdf	42970 e9158e5b8ddd1ca2e5a332ea5729878aa11fe0da	no	1
Warnings:					
Information:					
2	Request for Continued Examination (RCE)	Varia_070035_RCE.pdf	51465 d58b5c7b3ea321486b8271b046e48ce5eb32eb3f	no	1
Warnings:					
This is not a USPTO supplied RCE SB30 form.					
Information:					
3	Fee Worksheet (PTO-875)	fee-info.pdf	32298 33d6c43eba2f94a62a83ce08752fd4bb65d620b8	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	126733	

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

<u>New Applications Under 35 U.S.C. 111</u>
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

<u>National Stage of an International Application under 35 U.S.C. 371</u>
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

<u>New International Application Filed with the USPTO as a Receiving Office</u>
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2009 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)	Docket Number (Optional) 120083-157809
Application Number 12/144,532	Filed 2008-06-23
For VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE	
Art Unit 2491	Examiner Evans Desrosiers

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	
[X] One month (37 CFR 1.17(a)(1))	$130	$65	$65
[ ] Two months (37 CFR 1.17(a)(2))	$490	$245	$_____
[ ] Three months (37 CFR 1.17(a)(3))	$1110	$555	$_____
[ ] Four months (37 CFR 1.17(a)(4))	$1730	$865	$_____
[ ] Five months (37 CFR 1.17(a)(5))	$2350	$1175	$_____

[X] Small entity status is claimed. See 37 CFR 1.27.

[ ] A check in the amount of the fee is enclosed.

[ ] Payment by credit card. Form PTO-2038 is attached.

[ ] The Director has already been authorized to charge fees in this application to a Deposit Account.

[X] The Director is hereby authorized to charge the above fees, or credit any overpayment, to Deposit Account Number 50-0393.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the [ ] applicant/inventor.

[ ] assignee of record of the entire interest. See 37 CFR 3.71
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

[x] attorney or agent of record. Registration No. 65,369

[ ] attorney or agent under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. _____ .

/Ryan C. Fox/	February 15, 2011
Signature	Date
Ryan C. Fox	206-622-1711
Typed or printed name	Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required.

SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
12/144,532	06/23/2008	

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY ☒ RATE ($)	SMALL ENTITY FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).						
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))							
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT 02/15/2011	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 25	Minus	** 25	= 0	X $26 =	0	OR	X $ =	
Independent (37 CFR 1.16(h))	* 4	Minus	***4	= 0	X $110 =	0	OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

AMENDMENT	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))									
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
/DONNA D. SMALLS LOGAN/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

60172 7590 03/02/2011
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2491	

MAIL DATE	DELIVERY MODE
03/02/2011	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.

Office Action Summary	Application No.	Applicant(s)	
	12/144,532	FELDMAN ET AL.	
	Examiner	Art Unit	
	Evans Desrosiers	2491	

-- 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 *15 February 2011*.

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) *1-25* 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) *1-25* 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 *06/23/2008* 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 _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is in response to the amendment filed on 02/15/2011. In which Claims 1-25 are presented for examination.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/15/2011 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over NG US 20070155307 A1 in view of Moon US 20040023666 A1

<u>As to claim 1</u>, **NG** teaches a method comprising: retrieving by a server a plurality of media stored on or accessed using a portable media player device or information about said plurality of media **(NG [0006]) [these portable electronic devices store media**

data for use by their user. In the case of MP3 players or PDAs, media data is typically downloaded from a host computer when the MP3 player or PDA is connected to the host computer]; inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device **(NG [0100]) [The location of the venue and/or the media devices can infer the interest or preferences of the users. For example, if the venue is an airport, a local media server could provide airport arrival and departure information, weather, etc. that a traveler might desire; a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available]**.

However, it is noted that **NG** fails to teach accessing by the server, one or more sources of information about venues or events proximal to a current location of the user identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user.

In an analogous art, **Moon** discloses accessing by the server, one or more sources of information about venues or events proximal to a current location of the user **(Moon [0105]) [service finds a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile]**

identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user (**Moon [0110]) [personal preferences such as music, art and food and any other preferences or parameters of interest. This information is used by the CRM engine to sort events matching a user's interests]**; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user (**Moon [0137]) [Start command preferably triggers a search by the CRM engine to return an original recommendation of <u>events for the user, in accordance with a current location</u> (preferably the user's) and profile data]**

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to combine the teaching of **Moon** regarding accessing by the server, one or more sources of information about venues or events proximal to a current location of the user identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user with the method of **NG** to add service finds a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile; personal preferences such as music, art and food and any other preferences or

parameters of interest. This information is used by the CRM engine to sort events matching a user's interests as taught by **Moon,** because that would provide the system of **NG** the ability to requests for particular services may elicit information about sales, promotions, products, services, or events associated with a user profile or preference, preferably arranged in a sorted list for selection of one or more entries (**Moon [0241])**

As to claim 2, **NG** teaches wherein the venue of interest is a club or a church located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and on a music genre preference of the user inferred by the server based at least in part on music media stored in or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [0098] [The local media server can also provide information on what songs or other media is currently playing at the venue] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a club or a church]**

As to claim 3, **NG** teaches wherein the venue of interest is a either a theatre or a cinema located proximal to the inferred- current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of a play or movie played in the theatre or cinema respectively (**NG [0100]) [a venue, such**

as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available] [NG [0152] [determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device], and on a video genre preference of the user inferred by the server based at least in part on video media stored in~ or accessed using~ the portable media player device (**NG [0079]) [The preferences that have been essentially published can then be used by other mobile or stationary devices within the proximity to determine whether they have any data for sharing with the mobile device, where such data for sharing is determined in accordance with the preferences that were transmitted] [0079] [Media data," as used herein, is digital data that pertains to at least one of audio, video, and images]**

<u>As to claim 4,</u> NG teaches wherein the venue of interest is a either a museum or a gallery located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user inferred by the server based at least in part on image media stored in~ or accessed using~ the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG**

discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a museum or gallery]

As to claim 5, **NG** teaches wherein the venue of interest is either a place of worship or a place of historic or cultural significance located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance~ respectively, and on a subject preference of the user deter mined inferred by the server based at least in part on podcast media stored in~ or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a historic or cultural attribute of the place]**

As to claim 6, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of the venue and/or the media devices can infer the interest or preferences of the users]**, including receiving by the server a current location of the portable media player device from the portable media player device (**NG [0049]**) **[At a minimum, these**

electronic devices are capable of receiving and storing digital data, and may also be capable of transferring digital data]

As to claim 7, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of the venue and/or the media devices can infer the interest or preferences of the users]**, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server (**NG [0014]**) [**determining whether the portable electronic device is proximate to the location; identifying data to be delivered to the portable electronic device, wherein at least a portion of the data pertains to the location**]

As to claim 8, **NG** teaches wherein said communicating comprises transmitting the recommendation to the portable media player device (**NG [0152]**) **[determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

As to claim 9, **NG** teaches wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email

message, a pager message or a facsimile message to the user, or by placing a call to the user (**NG [0067]**) **[short range wireless capability, such as Bluetooth]**

As to claim 10, **NG** teaches further comprising retrieving, by the server, the plurality of media or the information about said of media from a storage within the server **[retrieving stored data from the at least one portable electronic device; determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

As to claim 11, claim 11 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 12,</u> claim 12 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

<u>As to claim 13,</u> claim 13 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

<u>As to claim 14,</u> claim 14 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

<u>As to claim 15,</u> claim 15 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

<u>As to claim 16,</u> claim 16 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 17,</u> claim 17 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

<u>As to claim 18,</u> claim 18 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

<u>As to claim 19,</u> claim 19 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

<u>As to claim 20,</u> claim 20 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

<u>As to claim 21,</u> claim 21 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 22,</u> claim 22 recites the claimed that contain similar limitations as claims 2, 3; therefore, it is rejected under the same rationale.

<u>As to claim 24,</u> claim 24 recites the claimed that contain similar limitations as claims 7, 8; therefore, it is rejected under the same rationale.

<u>As to claim 25,</u> claim 25 recites the claimed that contain similar limitations as claim 10; therefore, it is rejected under the same rationale.

Response to Arguments

<u>Argument 1</u>

On page 14-15 of the Applicant's Response, applicant argues that "First, Applicants respectfully note that the cited passages of Ng do not teach "retrieving, by a server, one or more of a plurality of media stored on or accessed using a portable media player device and information about said plurality of media." Second, Ng does not teach "inferring, by the server, based at least in part on the retrieved media or the retrieved information about the media, one or more entertainment preferences of a user of the portable media player device." Third, the cited passages of Ng do not teach "accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user" and "identifying, by the server, at least one of said venues or events *as being of interest to the user* based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user."

Responses 1

Examiner respectfully submits that a new prior art has been introduced to address claims 1-25; therefore, a new ground of rejections has been made.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evans Desrosiers whose telephone number is (571) 270-5438. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ashokkumar Patel can be reached on (571) 272-3972. 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.

ED

Evans Desrosiers
Examiner
Art Unit 2491

/Ashok B. Patel/
Supervisory Patent Examiner, Art Unit 2491

Notice of References Cited	Application/Control No. 12/144,532	Applicant(s)/Patent Under Reexamination FELDMAN ET AL.	
	Examiner Evans Desrosiers	Art Unit 2491	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2007/0155307	07-2007	Ng et al.	455/3.01
*	B	US-2004/0023666	02-2004	Moon et al.	455/456.1
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2491

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☒ **Claims renumbered in the same order as presented by applicant** ☐ **CPA** ☐ **T.D.** ☐ **R.1.47**

CLAIM		DATE								
Final	Original	06/11/2010	11/06/2010	02/24/2011						
	1	✓	✓	✓						
	2	✓	✓	✓						
	3	✓	✓	✓						
	4	✓	✓	✓						
	5	✓	✓	✓						
	6	✓	✓	✓						
	7	✓	✓	✓						
	8	✓	✓	✓						
	9	✓	✓	✓						
	10	✓	✓	✓						
	11	✓	✓	✓						
	12	✓	✓	✓						
	13	✓	✓	✓						
	14	✓	✓	✓						
	15	✓	✓	✓						
	16	✓	✓	✓						
	17	✓	✓	✓						
	18	✓	✓	✓						
	19	✓	✓	✓						
	20	✓	✓	✓						
	21	✓	✓	✓						
	22	✓	✓	✓						
	23	✓	✓	✓						
	24	✓	✓	✓						
	25	✓	✓	✓						

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L4	269	(venue$ or event) near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
L5	54	L4 and ((venue or event) near5 ((interest$5 or preference) near6 user))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
L6	26	L5 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
L7	2	L6 and 709/205-209.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
S1	0	varia$1holdings.as.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38
S2	12	nelson-jonathan feldman-evan.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38
S3	7	S2 and (portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:40
S4	3982	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:44

EAST Search History (Prior Art)

S5	14	S4 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:45
S6	0	S5 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:48
S7	1	(portable near5 media near5 player near5 device) with (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52
S8	1	(portable near5 media near5 player near5 device) same (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52
S9	13	(portable near5 media near5 player near5 device) near5 (venue or event)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:53
S10	1	S4 and (infer$5ed near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25
S11	4	S4 and (infer$5 near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25
S12	306	S4 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:58

EAST Search History (Prior Art)

S13	32	S12 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:59
S14	6	S13 and @ay<"2007"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 11:00
S15	4566	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S16	4566	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S17	335	S16 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S18	335	S15 and S17	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S19	35	S17 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
S20	35	S18 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49

EAST Search History (Prior Art)

S21	0	S20 and 709/205-209.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
S22	0	("ep1530115").PN.	US-PGPUB; USPAT; EPO; IBM_TDB	OR	OFF	2011/02/24 09:32
S23	1	("20060025068").PN.	US-PGPUB; USPAT; EPO; IBM_TDB	OR	OFF	2011/02/24 09:33
S24	5008	(portable$ near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:40
S25	18	S24 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:40
S26	6	S25 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:41
S27	2	(media near5 player near5 device) with (recommend$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:47
S28	9	(venue$ or event) near5 proxim$5 near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:12
S29	269	(venue$ or event) near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:18

EAST Search History (Prior Art)

S30	22	S29 and (media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:18
S31	0	S30 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:19
S32	54	S29 and ((venue or event) near5 ((interest$5 or preference) near6 user))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:27
S33	26	S32 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:27
S34	1	("20040023666").PN.	US-PGPUB; USPAT; IBM_TDB	OR	OFF	2011/02/24 11:57

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2491

SEARCHED

Class	Subclass	Date	Examiner
709	231	6/10/2010	ED
709	205-209	11/6/2010	ED
709	205-209	2/24/2011	ED

SEARCH NOTES

Search Notes	Date	Examiner
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	6/10/2010	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	11/6/2010	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	2/24/2011	ED

INTERFERENCE SEARCH

Class	Subclass	Date	Examiner

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of:

Feldman et al.

Application No.: 12/144,532

Filed: June 23, 2008

For: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Examiner: Desrosiers, Evans

Group Art Unit: 2491

Confirmation No.: 1754

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

AMENDMENTS

To the Commissioner of Patents:

This communication is submitted in response to the Office Action (the "Action") mailed March 2, 2011. Reconsideration of the above-identified application is respectfully requested in view of the following remarks.

Amendments to the Claims are reflected in the listing of claims which begins on page **2** of this paper.

Remarks/Arguments begin on page **9** of this paper.

AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior versions, and listings of claims in the application:

Listing of Claims:

1. (Previously Presented) A method comprising:

retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media;

inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device;

accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user;

identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;

generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and

communicating, by the server, the recommendation to the user.

2. (Previously Presented) The method of claim 1, wherein the venue of interest is a club or a church located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

3. (Previously Presented) The method of claim 1, wherein the venue of interest is a either a theatre or a cinema located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of a play or movie played in the theatre or cinema, respectively, and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

4. (Previously Presented) The method of claim 1, wherein the venue of interest is a either a museum or a gallery located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

5. (Previously Presented) The method of claim 1, wherein the venue of interest is either a place of worship or a place of historic or cultural significance located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance, respectively, and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

6. (Original) The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from the portable media player device.

7. (Original) The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server.

8. (Original) The method of claim 1, wherein said communicating comprises transmitting the recommendation to the portable media player device.

9. (Original) The method of claim 1, wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message,

an email message, a pager message or a facsimile message to the user, or by placing a call to the user.

10. (Previously Presented) The method of claim 1 further comprising retrieving, by the server, the plurality of media or the information about said plurality of media from a storage within the server.

11. (Currently Amended) A method comprising:

providing to a server, by a portable media player device, a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device; and

receiving by the portable media player device, from the server, a recommendation indicating an event or venue of interest located proximal to the inferred current location of the user as being of interest to the user~~,~~;

wherein the recommendation is generated by the server based at least in part on the inferred current location, data accessed by the server from one or more sources of information about venues or events proximal to the current location of the user, and one or more entertainment preferences of the user, the event or venue of interest being one of said venues or events~~,~~; and

wherein the one or more entertainment preferences are inferred by the server based at least in part on an analysis, by the server, of a plurality of media stored on or accessed using the portable media player device or information about said plurality of media.

12. (Previously Presented) The method of claim 11, wherein the event or venue of interest is a music event or music venue, and the recommendation is based at least in part on a genre of music played at the event or venue and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

13. (Previously Presented) The method of claim 11, wherein the event or venue of interest is a theatrical or cinematography event or venue, and the recommendation is based at

least in part on a genre of the theatrical or cinematography event or venue and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

14. (Previously Presented) The method of claim 11, wherein the event or venue of interest is an exhibit or exhibit venue, and the recommendation is based at least in part on a genre of the exhibit and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

15. (Previously Presented) The method of claim 11, wherein the event or venue of interest is a worship, cultural, community or political event or venue, and the recommendation is based at least in part on an attribute of the worship, cultural, community or political event and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

16. (Currently Amended) A portable media player device comprising:

a storage medium configured to store one or more of a plurality of media and information about said plurality of media; and

a player coupled to the storage medium and endowed with executable instructions operable, upon execution, to cause the portable media player device to:

selectively play the media~~,~~;

provide a server with a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device~~,~~; and

receive from the server, in response to said providing the server with the current location, a recommendation indicating a venue or event of interest located proximal to the current location of the user as being of interest to the user~~,~~;

wherein the recommendation is generated by the server based at least in part on the inferred current location of the user, data accessed by the server from one or more sources of information about venues or events proximal to the current location

of the user, and at least one inferred entertainment preference of the user, the event or venue of interest being one of said venues or events~~,~~; and

wherein the at least one entertainment preference is inferred by the server based at least in part on an analysis, by the server, of the plurality of media stored on or accessed using the portable media player device or the information about said plurality of media.

17. (Previously Presented) The portable media player device of claim 16, wherein the venue or event of interest is a club or club event located proximal to the inferred current location of the user, and the recommendation is based at least in part on a genre of music played in the club and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

18. (Previously Presented) The portable media player device of claim 16, wherein the venue or event of interest is a theatre, a cinema, a theatre event, or a cinema event located proximal to the current location of the portable media player device, and the recommendation is based at least in part on a genre of play or movie played in the theatre or cinema, respectively, and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

19. (Previously Presented) The portable media player device of claim 16, wherein the venue or event of interest is a museum, a gallery, a museum event, or a gallery event located proximal to the current location of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

20. (Previously Presented) The portable media player device of claim 16, wherein the venue or event of interest is a place of worship, a place of historic or cultural significance, or an event occurring in a place of worship or in a place of historic or cultural significance located proximal to the current location of the portable media player device, and the

recommendation is based at least in part on a denomination of religion or a historic or cultural attribute of the event or place of worship or place of historic or cultural significance, respectively, and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

21. (Currently Amended) A server comprising:

a storage medium to store a plurality of programming instructions; and

a processor coupled to the storage medium and comprising executable instructions operable, upon execution, to enable the server to:

retrieve a plurality of media stored on or accessed using a portable media player device or information about said plurality of media~~,~~;

infer, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device~~,~~;

access one or more sources of information about venues or events proximal to a current location of the user~~,~~;

identify at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user~~,~~;

generate a recommendation indicating the identified venue or event as a venue or event of interest to the user~~,~~; and

communicate the recommendation to the user of the portable media player device.

22. (Previously Presented) The server of claim 21, wherein

the venue or event of interest is a music event or music venue, and the recommendation is based at least in part on a genre of music played at the event and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device, or

the venue or event of interest is a theatrical or a cinematography event, and the recommendation is based at least in part on a genre of the theatrical or cinematography event

and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

23. (Previously Presented) The server of claim 21, wherein
the venue or event of interest is an exhibit or exhibit venue, and the recommendation is based at least in part on a genre of the exhibit and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device, or
the venue or event of interest is a worship, cultural, community or political event or venue, and the recommendation is based at least in part on an attribute of the worship, cultural, community or political event and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

24. (Previously Presented) The server of claim 21, wherein the programming instructions are further operable, upon execution, to enable the server to determine the current location of the user of the portable media player device, including either receiving the current location of the portable media player device from the portable media player device, or from an access point through which the portable media player device establishes a network connection to the server.

25. (Previously Presented) The server of claim 21, wherein the programming instructions are further operable, upon execution, to enable the server to retrieve the plurality of media or the information about said plurality of media from a storage of the server.

REMARKS

This paper is responsive to the Office Action (the "Action") mailed March 2, 2011. Claims 1-25 were pending before submission of this paper. Claims 1-25 presently stand rejected. Editorial amendments are made to the claims herein. Support for all claims as amended can be found in the specification, and no new matter had been added by these amendments. Reconsideration of the claims in view of the following remarks is respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1-25 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication No. 2007/0155307 issued to Ng ("Ng") in view of U.S. Patent Publication No 2004/0023666 issued to Moon ("Moon"). However, Ng and Moon, taken either separately or in combination, do not teach or suggest each and every recitation of the claims.

Claims 1-10

Independent claim 1 recites, in part:

> retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media;
> *inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device . . . .*

[Emphasis added.] The Action argued that Ng allegedly taught the above-emphasized recitation of claim 1. [Action, at page 3.] This allegation is respectfully traversed.

In the rejection of the "inferring" recitation of claim 1, the Action cited to Ng's description of inferring user preferences *based on location*:

> *The location of the venue and/or the media devices can infer the interest or preferences of the users.* For example, if the venue is an airport, a local media server could provide airport arrival and departure information, weather, etc. that a traveler might desire. As another example, if the user is visiting a city (e.g., one that they have not lived in for some time), the local city map may be of interest and available from a local server. As still another example, a venue, such as a movie theater, can provide a local media server

> that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available.

[Ng, at paragraph 0100; emphasis added.] The cited passage clearly and explicitly describes inferring of a user's preferences based on a location of a media device or a venue. In contrast, claim 1 recites "inferring, by the server, *based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media*, one or more entertainment preferences of a user." Since the cited passage is limited to inferring preferences based on location and *not* based on "media" or "information about . . . media," no teaching is found in the cited passage that would suggest to a person of ordinary skill in the art the "inferring …" recitation of claim 1.

No other teaching is found in Ng that reads on or suggest this recitation of claim 1. It is noted, however, that Ng does discuss known user preferences. For example, Ng discusses customizing broadcast information using already-known customer preferences:

> In general, content received at a predetermined location can be customized or personalized for the user of the mobile device. For example, the customization or personalization can be based on user preferences, user characteristics, listening habits and/or the environment. For example, if your user preferences or listening habits indicate that you like country music, then, when visiting a business, the business can provide information to your mobile device that is customized or personalized for users that like country music. For example, if the user enters a music store to browse music, the user's mobile device can be presented with information concerning country songs or associated products that may be of interest to the user.

[Ng, at paragraph 0095.] However, while this passage of Ng discusses using "user preferences," "user characteristics," and "listening habits," it should be noted that this passage Ng does not discuss how this information is obtained. Instead, Ng merely assumes that user preferences are known, somehow, by its system, and that the information can be used for customization. And while the method of obtaining these preferences is not taught nor suggested in this passage, elsewhere Ng describe that user preferences may be stored in a profile:

> As previously noted, the venue can also gather information concerning the users of the mobile devices 608 and 610. Such information can include when and how often the users were in the venue. *Further, different users, based on their preference or criteria settings, can receive different or personalized media content while at the venue.* In another embodiment, users could make requests for particular media content, such as through making

> selection with reference to a user interface for the mobile devices 608 and 610.

[Ng, at paragraph 0099; emphasis added.] It should be noted that, while the passage describes "gather[ing] information," that gathered information appears to be limited to "when and how often . . . users were in the venue." In contrast, the passage's discussion of user preferences makes clear that these preferences are stored in "preference or criteria settings." Once again no teaching or suggestion is found in Ng for the "*inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user*" recitation of claim 1.

For at least the reasons discussed above, Ng does not teach or suggest each and every recitation of Ng. Further, the Action cited to Moon as teaching "find[ing] a list of events that are of interest to a service subscriber of other user, based on the user's location and preferences stored in a profile." [Moon, at paragraph 0105.] No relevant teaching is found in Moon which remedies the above-discussed deficiency of Ng.

Ng and Moon, taken either separately or in combination, do not teach or suggest each and every recitation of claim 1. Therefore, the Action failed to meet the burden of establishing a prima facie case of obviousness. Claim 1 is allowable over Ng and Moon. Further, claims 2-10 each depend from independent claim 1 and incorporate its recitations. Thus, for at least the reasons discussed above, claims 2-10 are allowable as well. It is respectfully requested that the rejection of claims 1-10 under 35 U.S.C. 103(a) be withdrawn and that claims 1-10 be allowed.

Claims 11-15

Independent claim 11, as amended, similarly recites, in part:

> receiving by the portable media player device, from the server, a recommendation indicating an event or venue of interest located proximal to the inferred current location of the user as being of interest to the user;
>
> . . .
>
> *wherein the one or more entertainment preferences are inferred by the server based at least in part on an analysis, by the server, of a plurality of media stored on or accessed using the portable media player device or information about said plurality of media.*

[Emphasis added.] The Action rejected claim 11 "under the same rationale" as used in the rejection of claim 1. [Action, at page 9.] It is therefore submitted that, for at least the

reasons discussed above with respect to claim 1, Ng and Moon, taken either separately or in combination, do not teach or suggest at least the above-emphasized recitation of claim 11. As such, Ng and Moon do not teach or suggest each and every recitation of claim 11. The Action failed to meet the burden of establishing the prima facie case of obviousness. Claim 11 is allowable over the cited references. Further, claims 12-15 each depend from independent claim 11 and incorporate its recitations. Thus, for at least the reasons discussed above, claims 12-15 are allowable over the cited references as well. It is respectfully requested that the rejection of claims 11-15 under 35 U.S.C. 103(a) be withdrawn and that claims 11-15 be allowed.

Claims 16-20

Independent claim 16, as amended, similarly recites, in part:

> receive from the server, in response to said providing the server with the current location, a recommendation indicating a venue or event of interest located proximal to the current location of the user as being of interest to the user;
>
> . . .
>
> *wherein the at least one entertainment preference is inferred by the server based at least in part on an analysis, by the server, of the plurality of media stored on or accessed using the portable media player device or the information about said plurality of media.*

[Emphasis added.] The Action rejected claim 16 "under the same rationale" as used in the rejection of claim 1. [Action, at page 10.] It is therefore submitted that, for at least the reasons discussed above with respect to claim 1, Ng and Moon, taken either separately or in combination, do not teach or suggest at least the above-emphasized recitation of claim 16. As such, Ng and Moon do not teach or suggest each and every recitation of claim 16. The Action failed to meet the burden of establishing the prima facie case of obviousness. Claim 16 is allowable over the cited references. Further, claims 17-20 each depend from independent claim 16 and incorporate its recitations. Thus, for at least the reasons discussed above, claims 17-20 are allowable over the cited references as well. It is respectfully requested that the rejection of claims 16-20 under 35 U.S.C. 103(a) be withdrawn and that claims 16-20 be allowed.

Claims 21-25

Independent claim 21, as amended, similarly recites, in part:

> retrieve a plurality of media stored on or accessed using a portable media player device or information about said plurality of media;
>
> infer, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device . . . .

[Emphasis added.] The Action rejected claim 21 "under the same rationale" as used in the rejection of claim 1. [Action, at page 11.] It is therefore submitted that, for at least the reasons discussed above with respect to claim 1, Ng and Moon, taken either separately or in combination, do not teach or suggest at least the above-emphasized recitation of claim 21. As such, Ng and Moon do not teach or suggest each and every recitation of claim 21. The Action failed to meet the burden of establishing the prima facie case of obviousness. Claim 21 is allowable over the cited references. Further, claims 22-25 each depend from independent claim 21 and incorporate its recitations. Thus, for at least the reasons discussed above, claims 22-25 are allowable over the cited references as well. It is respectfully requested that the rejection of claims 21-25 under 35 U.S.C. 103(a) be withdrawn and that claims 21-25 be allowed.

CONCLUSION

In view of the foregoing amendments and remarks, it is believed that the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (503) 796-2446 if the Examiner believes that an interview might be useful for any reason.

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

Date: June 1, 2011

By: /Ryan C. Fox/
Ryan C. Fox
Reg. No.: 65,369

Electronic Acknowledgement Receipt

EFS ID:	10215415
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Ryan Christopher Fox/Allyson Dahmen
Filer Authorized By:	Ryan Christopher Fox
Attorney Docket Number:	120083-157809
Receipt Date:	02-JUN-2011
Filing Date:	23-JUN-2008
Time Stamp:	13:55:16
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Varia_070035_Resp.pdf	624339 4b9698b2a6e865cbb00cac7935e20e6b568efabc	yes	14

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	8
	Applicant Arguments/Remarks Made in an Amendment	9	14

Warnings:	
Information:	
Total Files Size (in bytes):	624339

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

<u>New Applications Under 35 U.S.C. 111</u>
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

<u>National Stage of an International Application under 35 U.S.C. 371</u>
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

<u>New International Application Filed with the USPTO as a Receiving Office</u>
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

60172 7590 08/31/2011
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2491	

MAIL DATE	DELIVERY MODE
08/31/2011	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.

Office Action Summary	Application No.	Applicant(s)	
	12/144,532	FELDMAN ET AL.	
	Examiner	Art Unit	
	EVANS DESROSIERS	2491	

-- 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 *02 June 2011*.

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) *1-25* 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) *1-25* 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 *23 June 2008* 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 _____.

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

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claims 1-25 remain for examination. Applicant's arguments with respect to claims 1-25 have been considered but they not persuasive. Accordingly, this action has been made FINAL.

Examiner's Note

Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over NG US 20070155307 A1 in view of Moon US 20040023666 A1

As to claim 1, **NG** teaches a method comprising: retrieving by a server a plurality of media stored on or accessed using a portable media player device or information about said plurality of media **(NG [0006]) [these portable electronic devices store media data for use by their user. In the case of MP3 players or PDAs, media data is typically downloaded from a host computer when the MP3 player or PDA is connected to the host computer]**; inferring, by the server, based at least in part on the retrieved plurality of media **or** the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device **(NG [0100]) [The location of the venue and/or the media devices can infer the interest or preferences of the users. For example, if the venue is an airport, a local media server could provide airport arrival and departure information, weather, etc. that a traveler might desire; a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available]**.

However, it is noted that **NG** fails to teach accessing by the server, one or more sources of information about venues or events proximal to a current location of the user identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user.

In an analogous art, **Moon** discloses accessing by the server, one or more sources of information about venues or events proximal to a current location of the user **(Moon [0105]) [service finds a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile]** identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user (**Moon [0110]) [personal preferences such as music, art and food and any other preferences or parameters of interest. This information is used by the CRM engine to sort events matching a user's interests]**; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user (**Moon [0137]) [Start command preferably triggers a search by the CRM engine to return an original recommendation of <u>events for the user, in accordance with a current location</u> (preferably the user's) and profile data]**

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to combine the teaching of **Moon** regarding accessing by the server, one or more sources of information about venues or events proximal to a current location of the user identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest

to the user; and communicating by the server, the recommendation to the user with the method of **NG** to add service finds a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile; personal preferences such as music, art and food and any other preferences or parameters of interest. This information is used by the CRM engine to sort events matching a user's interests as taught by **Moon,** because that would provide the system of **NG** the ability to requests for particular services may elicit information about sales, promotions, products, services, or events associated with a user profile or preference, preferably arranged in a sorted list for selection of one or more entries (**Moon [0241])**

As to claim 2, **NG** teaches wherein the venue of interest is a club or a church located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and on a music genre preference of the user inferred by the server based at least in part on music media stored in or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [0098] [The local media server can also provide information on what songs or other media is currently playing at the venue] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a club or a church]**

<u>As to claim 3</u>, **NG** teaches wherein the venue of interest is a either a theatre or a cinema located proximal to the inferred- current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of a play or movie played in the theatre or cinema respectively (**NG [0100]) [a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available] [NG [0152] [determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**, and on a video genre preference of the user inferred by the server based at least in part on video media stored in~ or accessed using~ the portable media player device (**NG [0079]) [The preferences that have been essentially published can then be used by other mobile or stationary devices within the proximity to determine whether they have any data for sharing with the mobile device, where such data for sharing is determined in accordance with the preferences that were transmitted] [0079] [Media data," as used herein, is digital data that pertains to at least one of audio, video, and images]**

<u>As to claim 4,</u> NG teaches wherein the venue of interest is a either a museum or a gallery located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user

inferred by the server based at least in part on image media stored in~ or accessed using~ the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a museum or gallery]**

As to claim 5, **NG** teaches wherein the venue of interest is either a place of worship or a place of historic or cultural significance located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance~ respectively, and on a subject preference of the user deter mined inferred by the server based at least in part on podcast media stored in~ or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a historic or cultural attribute of the place]**

As to claim 6, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of**

the venue and/or the media devices can infer the interest or preferences of the users], including receiving by the server a current location of the portable media player device from the portable media player device (**NG [0049]**) **[At a minimum, these electronic devices are capable of receiving and storing digital data, and may also be capable of transferring digital data]**

As to claim 7, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of the venue and/or the media devices can infer the interest or preferences of the users]**, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server (**NG [0014]**) [**determining whether the portable electronic device is proximate to the location; identifying data to be delivered to the portable electronic device, wherein at least a portion of the data pertains to the location**]

As to claim 8, **NG** teaches wherein said communicating comprises transmitting the recommendation to the portable media player device (**NG [0152]**) **[determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

<u>As to claim 9</u>, **NG** teaches wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email message, a pager message or a facsimile message to the user, or by placing a call to the user (**NG [0067]**) **[short range wireless capability, such as Bluetooth]**

<u>As to claim 10</u>, **NG** teaches further comprising retrieving, by the server, the plurality of media or the information about said of media from a storage within the server **[retrieving stored data from the at least one portable electronic device; determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

<u>As to claim 11,</u> claim 11 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 12,</u> claim 12 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

<u>As to claim 13,</u> claim 13 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

<u>As to claim 14,</u> claim 14 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

<u>As to claim 15,</u> claim 15 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

<u>As to claim 16,</u> claim 16 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 17,</u> claim 17 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

<u>As to claim 18,</u> claim 18 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

<u>As to claim 19,</u> claim 19 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

<u>As to claim 20,</u> claim 20 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

<u>As to claim 21,</u> claim 21 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

<u>As to claim 22,</u> claim 22 recites the claimed that contain similar limitations as claims 2, 3; therefore, it is rejected under the same rationale.

<u>As to claim 24,</u> claim 24 recites the claimed that contain similar limitations as claims 7, 8; therefore, it is rejected under the same rationale.

<u>As to claim 25,</u> claim 25 recites the claimed that contain similar limitations as claim 10; therefore, it is rejected under the same rationale.

Response to Arguments

<u>Argument 1</u>

On page 9 of the Applicant's Response, applicant argues that "Independent claim 1 recites, in part: retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media; inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device .... [Emphasis added.] The Action argued that Ng allegedly taught the above-emphasized recitation of claim 1. [Action, at page 3.] This allegation is respectfully traversed.

Responses 1

Examiner respectfully disagrees with the Applicant argument because NG discloses : retrieving by a server a plurality of media stored on or accessed using a portable media player device or information about said plurality of media [0006] [these portable electronic devices store media data for use by their user. In the case of MP3 players or PDAs, media data is typically downloaded from a host computer when the MP3 player or PDA is connected to the host computer] The above limitation has been read as access media content in storage device.

Argument 2

On page 10 of the Applicant's Response, applicant argues that "[Ng, at paragraph 0100; emphasis added.] The cited passage clearly and explicitly describes inferring of a user's preferences based on a location of a media device or a venue. In contrast, claim 1 recites "inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment

preferences of a user." Since the cited passage is limited to inferring preferences based on location and *not* based on "media" or "information about.., media," no teaching is found in the cited passage that would suggest to a person of ordinary skill in the art the "inferring ..." recitation of claim 1. No other teaching is found in Ng that reads on or suggest this recitation of claim 1. It is noted, however, that Ng does discuss known user preferences. For example, Ng discusses customizing broadcast information using already-known customer preferences.

Responses 2

Examiner respectfully disagrees with the Applicant argument because NG discloses inferring, by the server, based at least in part on the retrieved plurality of media **or** the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device (NG [0100]) [The location of the venue and/or the media devices can infer the interest or preferences of the users. For example, if the venue is an airport, a local media server could provide airport arrival and departure information, weather, etc. that a traveler might desire; a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available].

Argument 3

On page 11 of the Applicant's Response, applicant argues that "Ng and Moon, taken either separately or in combination, do not teach or suggest each and every recitation of

claim 1. Therefore, the Action failed to meet the burden of establishing a prima facie case of obviousness. Claim 1 is allowable over Ng and Moon. Further, claims 2-10 each depend from independent claim 1 and incorporate its recitations. Thus, for at least the reasons discussed above, claims 2-10 are allowable as well. It is respectfully requested that the rejection of claims 1 - 10 under 35 U.S.C. 103 (a) be withdrawn and that claims 1-10 be allowed.

Responses 3

In response to applicant's argument that the action fails to meet the burden in establishing a prima facie case of obviousness, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Argument/Response 4

In response to applicant's argument regarding claims 11, 16, and 21, Examiner respectfully submits that claims 11, 16, and 21 recite the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

Conclusion

THIS ACTION IS MADE FINAL. 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 mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVANS DESROSIERS whose telephone number is (571)270-5438. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ashokkumar Patel can be reached on (571) 272-3972. 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.

ED

Evans Desrosiers
Examiner
Art Unit 2491

/Ashok B. Patel/
Supervisory Patent Examiner, Art Unit 2491

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	5248	(portable near4 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:53
L2	20	L1 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:53
L3	1	L2 and (portable near5 media near5 player near5 device) near5 (venue or event)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:53
L4	0	L2 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:54
L5	56	L1 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:54
S1	0	varia$1holdings.as.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38
S2	12	nelson-jonathan feldman-evan.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38
S3	7	S2 and (portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:40

EAST Search History (Prior Art)

S4	3982	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:44
S5	14	S4 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:45
S6	0	S5 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:48
S7	1	(portable near5 media near5 player near5 device) with (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52
S8	1	(portable near5 media near5 player near5 device) same (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52
S9	13	(portable near5 media near5 player near5 device) near5 (venue or event)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:53
S10	1	S4 and (infer$5ed near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25
S11	4	S4 and (infer$5 near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25

EAST Search History (Prior Art)

S12	306	S4 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:58
S13	32	S12 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:59
S14	6	S13 and @ay<"2007"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 11:00
S15	4566	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S16	4566	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S17	335	S16 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S18	335	S15 and S17	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S19	35	S17 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49

EAST Search History (Prior Art)

S20	35	S18 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
S21	0	S20 and 709/205-209.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
S22	0	("ep1530115").PN.	US-PGPUB; USPAT; EPO; IBM_TDB	OR	OFF	2011/02/24 09:32
S23	1	("20060025068").PN.	US-PGPUB; USPAT; EPO; IBM_TDB	OR	OFF	2011/02/24 09:33
S24	5008	(portable$ near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:40
S25	18	S24 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:40
S26	6	S25 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:41
S27	2	(media near5 player near5 device) with (recommend$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:47
S28	9	(venue$ or event) near5 proxim$5 near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:12

EAST Search History (Prior Art)

S29	269	(venue$ or event) near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:18
S30	22	S29 and (media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:18
S31	0	S30 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:19
S32	54	S29 and ((venue or event) near5 ((interest$5 or preference) near6 user))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:27
S33	26	S32 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:27
S34	1	("20040023666").PN.	US-PGPUB; USPAT; IBM_TDB	OR	OFF	2011/02/24 11:57
S35	269	(venue$ or event) near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
S36	54	S35 and ((venue or event) near5 ((interest$5 or preference) near6 user))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
S37	26	S36 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38

EAST Search History (Prior Art)

S38	2	S37 and 709/205-209.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2491

SEARCHED

Class	Subclass	Date	Examiner
709	231	6/10/2010	ED
709	205-209	11/6/2010	ED
709	205-209	2/24/2011	ED
709	231	8/4/2011	ED

SEARCH NOTES

Search Notes	Date	Examiner
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	6/10/2010	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	11/6/2010	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	2/24/2011	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	8/4/2011	ED

INTERFERENCE SEARCH

Class	Subclass	Date	Examiner

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2491

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☒ **Claims renumbered in the same order as presented by applicant** ☐ **CPA** ☐ **T.D.** ☐ **R.1.47**

CLAIM		DATE								
Final	Original	06/11/2010	11/06/2010	02/24/2011	08/04/2011					
	1	✓	✓	✓	✓					
	2	✓	✓	✓	✓					
	3	✓	✓	✓	✓					
	4	✓	✓	✓	✓					
	5	✓	✓	✓	✓					
	6	✓	✓	✓	✓					
	7	✓	✓	✓	✓					
	8	✓	✓	✓	✓					
	9	✓	✓	✓	✓					
	10	✓	✓	✓	✓					
	11	✓	✓	✓	✓					
	12	✓	✓	✓	✓					
	13	✓	✓	✓	✓					
	14	✓	✓	✓	✓					
	15	✓	✓	✓	✓					
	16	✓	✓	✓	✓					
	17	✓	✓	✓	✓					
	18	✓	✓	✓	✓					
	19	✓	✓	✓	✓					
	20	✓	✓	✓	✓					
	21	✓	✓	✓	✓					
	22	✓	✓	✓	✓					
	23	✓	✓	✓	✓					
	24	✓	✓	✓	✓					
	25	✓	✓	✓	✓					

NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES	Docket Number (Optional) 120083-157809

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____

Signature _____

Typed or printed name _____

In re Application of Feldman et al.	
Application Number 12/144,532	Filed 06/23/2008
For VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE	
Art Unit 2491	Examiner Evans Desrosiers

The last decision of the examiner is hereby **appealed** to the Board of Patent Appeals and Interferences.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) $ 620

[X] Small entity status is claimed. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: $ 310

[ ] A check in the amount of the fee is enclosed.

[ ] Payment by credit card. Form PTO-2038 is attached.

[ ] The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.

[X] The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-0393.

[ ] A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22 or equivalent) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

[ ] applicant/inventor.

[ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.

[X] attorney or agent of record. Registration No. 65,369

[ ] attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____.

/Ryan C. Fox/
Signature

Ryan C. Fox
Typed or Printed Name

503-222-9981
Telephone Number

November 28, 2011
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[X] *Total of [X] form(s) are submitted.

SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Electronic Patent Application Fee Transmittal

Application Number:	12144532
Filing Date:	23-Jun-2008
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Filer:	Ryan Christopher Fox/Allyson Dahmen
Attorney Docket Number:	120083-157809

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Notice of appeal	2401	1	310	310
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
			Total in USD ($)	**310**

Electronic Acknowledgement Receipt

EFS ID:	11491122
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Ryan Christopher Fox/Allyson Dahmen
Filer Authorized By:	Ryan Christopher Fox
Attorney Docket Number:	120083-157809
Receipt Date:	28-NOV-2011
Filing Date:	23-JUN-2008
Time Stamp:	17:19:57
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$310
RAM confirmation Number	4261
Deposit Account	500393
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)

1	Notice of Appeal Filed	Varia_070035_Ntc_of_Appeal.pdf	42970 93a86d8bc235e7622f7077b7e0897866036 5b818	no	1
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30178 fbef83600323645f6661dd6ddc394257bb7 d2265	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	73148	

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

<u>New Applications Under 35 U.S.C. 111</u>
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

<u>National Stage of an International Application under 35 U.S.C. 371</u>
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

<u>New International Application Filed with the USPTO as a Receiving Office</u>
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of:

Feldman, et al.

Application No.: 12/144,532

Filed: June 23, 2008

For: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Examiner: Desrosiers, Evans.

Group Art Unit: 2491

Confirmation No.: 1754

Mail Stop Appeal Brief-Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

APPELLANT'S APPEAL BRIEF

TO THE HONORABLE COMMISSIONER FOR PATENTS:

This is Appellant's Brief submitted in support of the Notice of Appeal to the Board of Patent Appeals and Interferences filed on November 28, 2011.

The fees required under 37 CFR 41.20(b)(2), and any required request for extension of time for filing this Appellant's Brief and fees therefor, are dealt with in the accompanying papers, including authorization provided herewith to charge any additional fees due by way of this Appellant's Brief, or credit any overpayment, to our Deposit Account No. 500393.

Appellant respectfully requests consideration of this Appeal by the Board of Patent Appeals and Interferences for allowance of the subject patent application.

TABLE OF CONTENTS

I. REAL PARTY IN INTEREST 3

II. RELATED APPEALS AND INTERFERENCES 4

III. STATUS OF THE CLAIMS 5

IV. STATUS OF AMENDMENTS 6

V. SUMMARY OF THE CLAIMED SUBJECT MATTER 7

A. Independent Claim 1 7

B. Independent Claim 11 8

C. Independent Claim 16 9

D. Independent Claim 21 10

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL 12

VII. ARGUMENT 13

A. Claims 1-25 Are Patentable over Ng in View of Moon. 13

1. Claims 1-10 Are Patentable over Ng and Moon 13

a. Ng's Inference of User Preferences Based on Location Does Not Teach or Suggest the "Inferring" Operation of Claim 1 13

b. Ng's Further Discussion of User Preferences Does Not Teach or Suggest the "Inferring" Operation of Claim 1 15

c. Moon Does Not Remedy the Deficiencies of Ng 16

d. The Rejection of Claims 1-10 over Ng and Moon is Improper 16

2. Claims 11-15 Are Patentable over Ng and Moon 17

3. Claims 16-20 Are Patentable over Ng and Moon 18

4. Claims 21-25 Are Patentable over Ng and Moon 18

VIII. CONCLUSION 20

I. REAL PARTY IN INTEREST

The real party in interest in the above-identified application is Varia Holdings LLC of Brooklyn, New York.

II. RELATED APPEALS AND INTERFERENCES

The Appellant's undersigned attorney and the assignee identified above are not aware of other appeals or interferences that would directly affect, or be directly affected by, or have a bearing on the Board's decision in the subject Appeal.

III. STATUS OF THE CLAIMS

Claims 1-25 are pending and stand finally rejected.

No claims are cancelled.

The rejection of claims 1-25 is being appealed herein

IV. STATUS OF AMENDMENTS

There are no outstanding amendments. Appellant filed an Amendment on June 2, 2011, which was entered. A final Office Action was mailed on August 31, 2011 (hereinafter "the Action") which finally rejected claims 1-25.

Appellant filed a Notice of Appeal on November 28, 2011, and the present Appellant's Brief is filed to address the rejections set forth in the Action.

A copy of the pending claims involved in the appeal is provided in the Claims Appendix, attached hereto.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The following discusses independent claims 1, 11, 16, and 21. Each of the independent claims involved in the appeal is summarized below inside brackets and using italics, with reference to column and line numbers from the specification and to the drawings as required by 37 CFR 41.37(c)(1)(v), which requires an Appellant's Brief to have "A concise explanation of the subject matter defined in each of the independent claims involved in the appeal". The reference numbers and other bracketed information are illustrative only and are not intended to limit the claims to only the exact embodiments shown and described in the specification and figures of the present application.

A. Independent Claim 1

A method comprising:

retrieving [*page 10, lines 6-18; 206 of Figure 2*], by a server [*Abstract; page 7, lines 19-23; page 15, lines 6-18; 20 of Figure 1; 400 of Figure 4*], a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media [*page 5, lines 9 and 10; page 8, lines 5-7; page 10, lines 8-17; page 12, lines 11-21; page 15, lines 1 and 2; 304 of Figure 3*];

inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device [*Abstract; page 5, line 6; page 5, lines 8-10; page 5, line 19 to page 6, line 2; page 8, lines 19-21; page 10, lines 5 and 6; page 10, line 19 to page 11, line 15; page 13, lines 17-21; 207 of Figure 2*];

accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user [*page 12, lines 3-10*];

identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user [*Abstract; page 5, line 13 to page 7, line 13; page 11, line 17 to page 12, line 21; 208 of Figure 2*];

generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user [*Abstract; page 5, line 13 to page 7, line 13; page 11, line 17 to page 12, line 21; page 14, line 22 to page 15, line 2; 208 of Figure 2*]; and

communicating, by the server, the recommendation to the user [*Abstract; page 5, lines 10-12; page 8, lines 8-10; page 12, line 22 to page 13, line 8; page 14, lines 19-22; 210 of Figure 2*].

B. Independent Claim 11

A method comprising:

providing [*Abstract; page 5, lines 6-8; page 7, line 19 to page 8, line 10; page 9, lines 3-16; 204 of Figure 2*] to a server [*Abstract; page 7, lines 19-23; page 15, lines 6-18; 20 of Figure 1; 400 of Figure 4*], by a portable media player device [*Abstract; page 7, lines 15-19; page 14, line 5 to page 15, line 5; 10 of Figure 1; 300 of Figure 3*], a current location of the portable media player device [*Abstract; page 5, lines 6-8; page 7, line 19 to page 8, line 10; page 9, line 3 to page 10, line 3; 204 of Figure 2*] to facilitate the server in inferring a current location of a user of the portable media player device [*Abstract; page 5, lines 6-8; page 7, line 19 to page 8, line 10; page 9, lines 3-16; 204 of Figure 2*]; and

receiving by the portable media player device, from the server, a recommendation indicating an event or venue of interest located proximal to the inferred current location of the user as being of interest to the user [*Abstract; page 5, lines 10-12; page 8, lines 8-10; page 12, line 22 to page 13, line 8; page 14, lines 19-22; 210 of Figure 2*];

wherein the recommendation is generated by the server based at least in part on the inferred current location, data accessed by the server from one or more sources of information about venues or events proximal to the current location of the user, and one or more entertainment preferences of the user, the event or venue of interest being one of said venues or events [*Abstract; page 5, line 13 to page 7, line 13; page 11, line 17 to page 12, line 21; page 14, line 22 to page 15, line 2; 208 of Figure 2*]; and

wherein the one or more entertainment preferences are inferred by the server based at least in part on an analysis, by the server, of a plurality of media stored on or accessed using the portable media player device or information about said plurality of media [*Abstract; page 5, line*

6; page 5, lines 8-10; page 5, line 19 to page 6, line 2; page 8, lines 19-21; page 10, lines 5 and 6; page 10, line 19 to page 11, line 15; page 13, lines 17-21; 207 of Figure 2].

C. Independent Claim 16

A portable media player device [*Abstract; page 7, lines 15-19; page 14, line 5 to page 15, line 5; 10 of Figure 1; 300 of Figure 3*] comprising:

a storage medium configured to store one or more of a plurality of media and information about said plurality of media [*page 14, lines 9-13; page 15, line 1; 304 of Figure 3*]; and

a player coupled to the storage medium and endowed with executable instructions [page 14, lines 9-13; 305 of Figure 3] operable, upon execution, to cause the portable media player device to:

selectively play the media [page 14, lines 17 and 18];

provide a server with a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device [*Abstract; page 5, lines 6-8; page 7, line 19 to page 8, line 10; page 9, line 3 to page 10, line 3; 204 of Figure 2*]; and

receive from the server, in response to said providing the server with the current location, a recommendation indicating a venue or event of interest located proximal to the current location of the user as being of interest to the user [*Abstract; page 5, lines 10-12; page 8, lines 8-10; page 12, line 22 to page 13, line 8; page 14, lines 19-22; 210 of Figure 2*];

wherein the recommendation is generated by the server based at least in part on the inferred current location of the user, data accessed by the server from one or more sources of information about venues or events proximal to the current location of the user, and at least one inferred entertainment preference of the user, the event or venue of interest being one of said venues or events [*Abstract; page 5, line 13 to page 7, line 13; page 11, line 17 to page 12, line 21; page 14, line 22 to page 15, line 2; 208 of Figure 2*]; and

wherein the at least one entertainment preference is inferred by the server based at least in part on an analysis, by the server, of the plurality of media stored on or accessed using the

portable media player device or the information about said plurality of media [*Abstract; page 5, line 6; page 5, lines 8-10; page 5, line 19 to page 6, line 2; page 8, lines 19-21; page 10, lines 5 and 6; page 10, line 19 to page 11, line 15; page 13, lines 17-21; 207 of Figure 2*].

D. Independent Claim 21

A server [*Abstract; page 7, lines 19-23; page 15, lines 6-18; 20 of Figure 1; 400 of Figure 4*] comprising:

a storage medium to store a plurality of programming instructions [page 15, lines 8 and 9; page 15, line 22 to page 16, line 1; 410 of Figure 4]; and

a processor [page 15, lines 9 and 10; page 15, line 22 to page 16, line 1; 402 of Figure 4] coupled to the storage medium and comprising executable instructions operable, upon execution, to enable the server to:

retrieve a plurality of media stored on or accessed using a portable media player device or information about said plurality of media [*page 5, lines 9 and 10; page 8, lines 5-7; page 10, lines 6-17; page 12, lines 11-21; page 15, lines 1 and 2; 206 of Figure 2; 304 of Figure 3*];

infer, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device [*Abstract; page 5, line 6; page 5, lines 8-10; page 5, line 19 to page 6, line 2; page 8, lines 19-21; page 10, lines 5 and 6; page 10, line 19 to page 11, line 15; page 13, lines 17-21; 207 of Figure 2*];

access one or more sources of information about venues or events proximal to a current location of the user [*page 12, lines 3-10*];

identify at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user [*Abstract; page 5, line 13 to page 7, line 13; page 11, line 17 to page 12, line 21; 208 of Figure 2*];

generate a recommendation indicating the identified venue or event as a venue or event of interest to the user [*Abstract; page 5, line 13 to page 7, line 13; page 11, line 17 to page 12, line 21; page 14, line 22 to page 15, line 2; 208 of Figure 2*]; and

communicate the recommendation to the user of the portable media player device [*Abstract; page 5, lines 10-12; page 8, lines 8-10; page 12, line 22 to page 13, line 8; page 14, lines 19-22; 210 of Figure 2*].

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 1-25 are unpatentable over U.S. Patent Application No. 2007/0155307 to Ng et al. (hereinafter, "Ng") in view of U.S. Patent Application No. 2004/0023666 to Moon et al. (hereinafter "Moon").

VII. ARGUMENT

A. Claims 1-25 Are Patentable over Ng in View of Moon.

As indicated above, as previously in the record, claims 1-25 were rejected in the Action under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ng in view of Moon. [Action, at pages 2-11.]

In order to make a *prima facie* case of obviousness, all claim limitations must be considered. [See, M.P.E.P. § 2143.03.] However, Ng and Moon, taken either separately or in combination, fail to teach or suggest each and every recitation of the claims. Therefore, Appellant respectfully submits that the appealed Action failed to make a *prima facie* case of obviousness and the rejection is therefore improper.

1. Claims 1-10 Are Patentable over Ng and Moon

Independent claim 1 recites, in part:

> retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media;
> *inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device . . . .*

[Emphasis added.] In the Action, the Examiner argued that Ng allegedly taught the above-emphasized recitation of claim 1. [Action, at page 3.] Appellant respectfully traverses the Examiner's Arguments.

a. Ng's Inference of User Preferences Based on Location Does Not Teach or Suggest the "Inferring" Operation of Claim 1

In the course of rejecting claim 1, the Examiner cited to a description in Ng's of inferring user preferences as allegedly teaching the "inferring" recitation of claim 1. However, the cited passage is directed to inferring user preferences *based on location*:

> *The location of the venue and/or the media devices can infer the interest or preferences of the users.* For example, if the venue is an airport, a local media server could provide airport arrival and departure information, weather, etc. that a traveler might desire. As another example, if the user is visiting a city (e.g., one that they have not lived in for some time), the local city map may be of interest and

> available from a local server. As still another example, a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available.

[Ng, at paragraph 0100; emphasis added.] Appellant respectfully notes that the cited passage clearly and explicitly describes inferring of a user's preferences based on a "location of [a] venue and/or [a] media device." In contrast, claim 1 recites "inferring, by the server, *based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media*, one or more entertainment preferences of a user." Appellant respectfully submits that a description of inferring user preferences based solely on location does not teach or suggest inferring entertainment preferences based on "media" or "information about . . . media," as recited in claim 1. As such, Appellant finds no teaching in the cited passage that would suggest to a person of ordinary skill in the art the "inferring …" recitation of claim 1. As the passage of Ng cited in the Action does not appear to teach or suggest this recitation of claim 1, Appellant respectfully submits that the Examiner has no made a *prima facie* case of unpatentability as required under M.P.E.P. § 2143.03.

Appellant notes, however, that the Examiner attempted to address this argument, as it was previously presented in a response to the Examiner. Appellant notes initially that the Examiner, in the Action, cited to paragraph 0006 of Ng. [*See*, Action, at "Responses 1," page 12.] This cited passage of Ng, however, merely describes MP3 players and Personal Digital Assistants that, in the Examiner's words, "store media data for use by their user" and which may download media data "from a host computer when the MP3 play or PDA is connected to the host computer." Appellant respectfully submits that this mere teaching of media devices does not remedy the above-discussed deficiency of Ng.

In the Action's "Response 2" section, the Examiner again quoted paragraph 0100 of Ng (quoted above) and emphasized the claim language as follows: "inferring, by the server, based at least in part on the retrieved plurality of media **<u>or</u>** the retrieved information about said plurality of media, <u>one or more entertainment preferences of a user of the portable media player device</u>." [Action, at "Responses 2," page 13.] Appellant notes that this argument is non-responsive to the arguments previously made during prosecution, as it merely repeats the claim language and the already-quoted cited passage of Ng.

Notwithstanding the lack of argument, Appellant notes that the Examiner emphasized the that "inferring" results in "one or more entertainment preferences of a user of the portable media player device" but still did not demonstrate that the "inferring" was "based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media." And while the Examiner appeared to place some emphasis on the fact that the claim recited that the inferring could be based on either "the retrieved plurality of media <u>or</u> the retrieved information about said plurality of media," the Action still fails to demonstrate that <u>either</u> of these recitations was taught or suggested in Ng.

b. <u>Ng's Further Discussion of User Preferences Does Not Teach or Suggest the "Inferring" Operation of Claim 1</u>

Appellant finds no other disclosure in Ng that teaches or suggests the "inferring" recitation of claim 1 discussed above. It is noted, however, that Ng does discuss known user preferences. For example, Ng discusses customizing broadcast information using already-known customer preferences:

> In general, content received at a predetermined location can be customized or personalized for the user of the mobile device. For example, the customization or personalization can be based on user preferences, user characteristics, listening habits and/or the environment. For example, if your user preferences or listening habits indicate that you like country music, then, when visiting a business, the business can provide information to your mobile device that is customized or personalized for users that like country music. For example, if the user enters a music store to browse music, the user's mobile device can be presented with information concerning country songs or associated products that may be of interest to the user.

[Ng, at paragraph 0095.] Appellant notes, however, that while this passage of Ng discusses using "user preferences," "user characteristics," and "listening habits," Ng does not discuss how this information is obtained. Instead, Ng merely assumes that user preferences are known, somehow, by its system, and that the information can be used for customization. And while the method of obtaining these preferences is not taught nor suggested in this passage, elsewhere Ng describes that user preferences may be stored in a profile:

> As previously noted, the venue can also gather information concerning the users of the mobile devices 608 and 610. Such information can include when and how often the users were in the venue. *Further, different users, based on their*

> *preference or criteria settings, can receive different or personalized media content while at the venue.* In another embodiment, users could make requests for particular media content, such as through making selection with reference to a user interface for the mobile devices 608 and 610.

[Ng, at paragraph 0099; emphasis added.] Appellant notes that, while the passage describes "gather[ing] information," that gathered information appears to be limited to "when and how often . . . users were in the venue." In contrast, the passage's discussion of user preferences makes clear that these preferences are stored in "preference or criteria settings." Once again Appellant finds no teaching or suggestion in Ng for the "inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user" recitation of claim 1.

c. Moon Does Not Remedy the Deficiencies of Ng

For at least the reasons discussed above, Appellant respectfully submits that Ng does not teach or suggest each and every recitation of claim 1. Further, Appellant respectfully submits that Moon does not remedy this deficiency of Ng. The Action cited to Moon as allegedly teaching "service find[ing] a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile," "personal preferences . . . and any other preferences or parameters of interest," and "trigger[ing] a search by the CRM engine to return an original recommendation of events for the user, in accordance with a current location." [Action, at page 4; emphasis in original.] Appellant respectfully submits that, even if Moon were to teach these features as claimed by the Action, that would still not remedy the above-discussed deficiency of Ng. Further, Appellant finds no additional relevant teaching or suggestion in Moon.

d. The Rejection of Claims 1-10 over Ng and Moon is Improper

For at least the reasons discussed above, Ng and Moon, taken either separately or in combination, do not teach or suggest each and every recitation of claim 1. Therefore, the Action failed to meet the burden of establishing a *prima facie* case of unpatentability of claim 1 under 35 U.S.C. § 103. The rejection of claim 1 is therefore improper, and claim 1 should be allowable over Ng and Moon.

Claims 2-10 each depend from independent claim 1 and incorporate its recitations. Therefore, for at least similar reasons as those discussed above, the Action failed to meet the burden of establishing a *prima facie* case of unpatentability of claims 2-10 under 35 U.S.C. § 103(a) over Ng and Moon. The rejection of claims 2-10 is therefore improper and claims 2-10 should be allowable over Ng and Moon.

Appellant respectfully requests that the rejection of claims 1-10 under 35 U.S.C. 103(a) be withdrawn and that claims 1-10 be allowed.

2. Claims 11-15 Are Patentable over Ng and Moon

Independent claim 11 recites, in part:

> receiving by the portable media player device, from the server, a recommendation indicating an event or venue of interest located proximal to the inferred current location of the user as being of interest to the user;
>
> . . .
>
> *wherein the one or more entertainment preferences are inferred by the server based at least in part on an analysis, by the server, of a plurality of media stored on or accessed using the portable media player device or information about said plurality of media.*

In its rejection of claim 11, the Action stated that "claim 11 recites the claimed that contain similar limitations as claim 1; therefore it is rejected under the same rationale." [*See*, Action, at page 9.]

Thus, for at least the reasons discussed above, Ng and Moon fail to teach or suggest each and every recitation of claim 11. The Action thus the Action failed to meet the burden of establishing a *prima facie* case of unpatentability of claim 11 under 35 U.S.C. § 103. The rejection of claim 11 is therefore improper, and claim 11 should be allowable over Ng and Moon.

Claims 12-15 each depend from independent claim 11 and incorporate its recitations. Therefore, for at least similar reasons as those discussed above, the Action failed to meet the burden of establishing a *prima facie* case of unpatentability of claims 12-15 under 35 U.S.C. § 103(a) over Ng and Moon. The rejection of claims 12-15 is therefore improper, and claims 12-15 should be allowable over Ng and Moon.

Appellant respectfully requests that the rejection of claims 11-15 be withdrawn and that claims 11-15 be allowed.

3. Claims 16-20 Are Patentable over Ng and Moon

Independent claim 16 recites, in part:

> receive from the server, in response to said providing the server with the current location, a recommendation indicating a venue or event of interest located proximal to the current location of the user as being of interest to the user;
>
> . . .
>
> *wherein the at least one entertainment preference is inferred by the server based at least in part on an analysis, by the server, of the plurality of media stored on or accessed using the portable media player device or the information about said plurality of media.*

In its rejection of claim 16, the Action stated that "claim 16 recites the claimed that contain similar limitations as claim 1; therefore it is rejected under the same rationale." [*See*, Action, at page 10.]

Thus, for at least the reasons discussed above, Ng and Moon fail to teach or suggest each and every recitation of claim 16. The Action thus the Action failed to meet the burden of establishing a *prima facie* case of unpatentability of claim 16 under 35 U.S.C. § 103. The rejection of claim 16 is therefore improper, and claim 16 should be allowable over Ng and Moon.

Claims 17-20 each depend from independent claim 16 and incorporate its recitations. Therefore, for at least similar reasons as those discussed above, the Action failed to meet the burden of establishing a *prima facie* case of unpatentability of claims 17-20 under 35 U.S.C. § 103(a) over Ng and Moon. The rejection of claims 17-20 is therefore improper, and claims 17-20 should be allowable over Ng and Moon.

Appellant respectfully requests that the rejection of claims 16-20 be withdrawn and that claims 16-20 be allowed.

4. Claims 21-25 Are Patentable over Ng and Moon

Independent claim 21 recites, in part:

> retrieve a plurality of media stored on or accessed using a portable media player device or information about said plurality of media;
>
> *infer, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device . . . .*

In its rejection of claim 21, the Action stated that "claim 21 recites the claimed that contain similar limitations as claim 1; therefore it is rejected under the same rationale." [*See*, Action, at page 11.]

Thus, for at least the reasons discussed above, Ng and Moon fail to teach or suggest each and every recitation of claim 21. The Action thus the Action failed to meet the burden of establishing a *prima facie* case of unpatentability of claim 21 under 35 U.S.C. § 103. The rejection of claim 21 is therefore improper, and claim 21 should be allowable over Ng and Moon.

Claims 22-25 each depend from independent claim 21 and incorporate its recitations. Therefore, for at least similar reasons as those discussed above, the Action failed to meet the burden of establishing a *prima facie* case of unpatentability of claims 22-25 under 35 U.S.C. § 103(a) over Ng and Moon. The rejection of claims 22-25 is therefore improper, and claims 22-25 should be allowable over Ng and Moon.

Appellant respectfully requests that the rejection of claims 21-25 be withdrawn and that claims 21-25 be allowed.

VIII. CONCLUSION

Appellant respectfully submits that all the appealed claims in this application are allowable and requests that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

Submitted herewith is payment of $310 to cover the fee for filing a brief in support of an appeal as specified in 37 C.F.R. § 41.20(b)(2). Appellant does not believe any other fees are needed. However, should that be necessary, please charge Deposit Account No. 500393. In addition, please credit any overages to the same account.

SCHWABE, WILLIAMSON & WYATT, P.C.

Dated: January 30, 2012

/Ryan C. Fox/
Ryan C. Fox
Registration No. 65,369

CLAIMS APPENDIX

In accordance with 37 CFR 41.37(c)(1)(viii), provided herewith is an appendix containing a copy of the "claims involved in the appeal," which are claims 1-25.

1. A method comprising:

retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media;

inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device;

accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user;

identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;

generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and

communicating, by the server, the recommendation to the user.

2. The method of claim 1, wherein the venue of interest is a club or a church located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

3. The method of claim 1, wherein the venue of interest is a either a theatre or a cinema located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of a play or movie played in the theatre or cinema, respectively, and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

4. The method of claim 1, wherein the venue of interest is a either a museum or a gallery located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

5. The method of claim 1, wherein the venue of interest is either a place of worship or a place of historic or cultural significance located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance, respectively, and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

6. The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from the portable media player device.

7. The method of claim 1, further comprising inferring by the server the current location of the user of the portable media player device, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server.

8. The method of claim 1, wherein said communicating comprises transmitting the recommendation to the portable media player device.

9. The method of claim 1, wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email message, a pager message or a facsimile message to the user, or by placing a call to the user.

10. The method of claim 1 further comprising retrieving, by the server, the plurality of media or the information about said plurality of media from a storage within the server.

11. A method comprising:

providing to a server, by a portable media player device, a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device; and

receiving by the portable media player device, from the server, a recommendation indicating an event or venue of interest located proximal to the inferred current location of the user as being of interest to the user;

wherein the recommendation is generated by the server based at least in part on the inferred current location, data accessed by the server from one or more sources of information about venues or events proximal to the current location of the user, and one or more entertainment preferences of the user, the event or venue of interest being one of said venues or events; and

wherein the one or more entertainment preferences are inferred by the server based at least in part on an analysis, by the server, of a plurality of media stored on or accessed using the portable media player device or information about said plurality of media.

12. The method of claim 11, wherein the event or venue of interest is a music event or music venue, and the recommendation is based at least in part on a genre of music played at the event or venue and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

13. The method of claim 11, wherein the event or venue of interest is a theatrical or cinematography event or venue, and the recommendation is based at least in part on a genre of the theatrical or cinematography event or venue and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

14. The method of claim 11, wherein the event or venue of interest is an exhibit or exhibit venue, and the recommendation is based at least in part on a genre of the exhibit and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

15. The method of claim 11, wherein the event or venue of interest is a worship, cultural, community or political event or venue, and the recommendation is based at least in part on an attribute of the worship, cultural, community or political event and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

16. A portable media player device comprising:

a storage medium configured to store one or more of a plurality of media and information about said plurality of media; and

a player coupled to the storage medium and endowed with executable instructions operable, upon execution, to cause the portable media player device to:

selectively play the media;

provide a server with a current location of the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device; and

receive from the server, in response to said providing the server with the current location, a recommendation indicating a venue or event of interest located proximal to the current location of the user as being of interest to the user;

wherein the recommendation is generated by the server based at least in part on the inferred current location of the user, data accessed by the server from one or more sources of information about venues or events proximal to the current location of the user, and at least one inferred entertainment preference of the user, the event or venue of interest being one of said venues or events; and

wherein the at least one entertainment preference is inferred by the server based at least in part on an analysis, by the server, of the plurality of media stored on or accessed using the portable media player device or the information about said plurality of media.

17. The portable media player device of claim 16, wherein the venue or event of interest is a club or club event located proximal to the inferred current location of the user, and the recommendation is based at least in part on a genre of music played in the club and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device.

18. The portable media player device of claim 16, wherein the venue or event of interest is a theatre, a cinema, a theatre event, or a cinema event located proximal to the current location of the portable media player device, and the recommendation is based at least in part on a genre of play or movie played in the theatre or cinema, respectively, and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

19. The portable media player device of claim 16, wherein the venue or event of interest is a museum, a gallery, a museum event, or a gallery event located proximal to the current location of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user inferred by the server based at least in part on image media stored in, or accessed using, the portable media player device.

20. The portable media player device of claim 16, wherein the venue or event of interest is a place of worship, a place of historic or cultural significance, or an event occurring in a place of worship or in a place of historic or cultural significance located proximal to the current location of the portable media player device, and the recommendation is based at least in part on a denomination of religion or a historic or cultural attribute of the event or place of worship or place of historic or cultural significance, respectively, and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

21. A server comprising:

a storage medium to store a plurality of programming instructions; and

a processor coupled to the storage medium and comprising executable instructions operable, upon execution, to enable the server to:

retrieve a plurality of media stored on or accessed using a portable media player device or information about said plurality of media;

infer, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device;

access one or more sources of information about venues or events proximal to a current location of the user;

identify at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;

generate a recommendation indicating the identified venue or event as a venue or event of interest to the user; and

communicate the recommendation to the user of the portable media player device.

22. The server of claim 21, wherein

the venue or event of interest is a music event or music venue, and the recommendation is based at least in part on a genre of music played at the event and on a music genre preference of the user inferred by the server based at least in part on music media stored in, or accessed using, the portable media player device, or

the venue or event of interest is a theatrical or a cinematography event, and the recommendation is based at least in part on a genre of the theatrical or cinematography event and on a video genre preference of the user inferred by the server based at least in part on video media stored in, or accessed using, the portable media player device.

23. The server of claim 21, wherein

the venue or event of interest is an exhibit or exhibit venue, and the recommendation is based at least in part on a genre of the exhibit and on an image genre preference of the user inferred by the

server based at least in part on image media stored in, or accessed using, the portable media player device, or

the venue or event of interest is a worship, cultural, community or political event or venue, and the recommendation is based at least in part on an attribute of the worship, cultural, community or political event and on a subject preference of the user inferred by the server based at least in part on podcast media stored in, or accessed using, the portable media player device.

24. The server of claim 21, wherein the programming instructions are further operable, upon execution, to enable the server to determine the current location of the user of the portable media player device, including either receiving the current location of the portable media player device from the portable media player device, or from an access point through which the portable media player device establishes a network connection to the server.

25. The server of claim 21, wherein the programming instructions are further operable, upon execution, to enable the server to retrieve the plurality of media or the information about said plurality of media from a storage of the server.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.

Electronic Patent Application Fee Transmittal

Application Number:	12144532
Filing Date:	23-Jun-2008
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Filer:	Ryan Christopher Fox/Allyson Dahmen
Attorney Docket Number:	120083-157809

Filed as Small Entity

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Filing a brief in support of an appeal	2402	1	310	310
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
			Total in USD ($)	**310**

Electronic Acknowledgement Receipt

EFS ID:	11949371
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Ryan Christopher Fox/Allyson Dahmen
Filer Authorized By:	Ryan Christopher Fox
Attorney Docket Number:	120083-157809
Receipt Date:	30-JAN-2012
Filing Date:	23-JUN-2008
Time Stamp:	16:15:10
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$310
RAM confirmation Number	3332
Deposit Account	500393
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)

1	Appeal Brief Filed	Varia_070035_Appeal_Brief.pdf	973660 79b6978546b70b764d30564457c0d31471a81836	no	29
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30354 2027ec04a18248ba4f5c73e3aee6ea9ea10af077	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	1004014		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

60172 7590 05/03/2012
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2491	

MAIL DATE	DELIVERY MODE
05/03/2012	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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 12/144,532
Filing Date: June 23, 2008
Appellant(s): Evan Feldman

Ryan C. Fox
No. 65,369
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/30/2012 appealing from the Office action mailed 08/31/2011.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-25 are pending and rejected.

(4) Status of Amendments After Final

There were no amendments made after the final office action dated 08/31/2011.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2007/0155307	NG	07-2007
2004/0023666	Moon	02-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over NG US 20070155307 A1 in view of Moon US 20040023666 A1

As to claim 1, **NG** teaches a method comprising: retrieving by a server a plurality of media stored on or accessed using a portable media player device or information about said plurality of media **(NG [0006]) [these portable electronic devices store media data for use by their user. In the case of MP3 players or PDAs, media data is typically downloaded from a host computer when the MP3 player or PDA is connected to the host computer]**; inferring, by the server, based at least in part on the retrieved plurality of media **or** the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device **(NG [0100]) [The location of the venue and/or the media devices can infer the interest or preferences of the users. For example, if the venue is an airport, a local media server could provide airport arrival and departure information, weather, etc. that a traveler might desire; a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available]**.

However, it is noted that **NG** fails to teach accessing by the server, one or more sources of information about venues or events proximal to a current location of the user identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user.

In an analogous art, **Moon** discloses accessing by the server, one or more sources of information about venues or events proximal to a current location of the user **(Moon [0105]) [service finds a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile]** identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user (**Moon [0110]) [personal preferences such as music, art and food and any other preferences or parameters of interest. This information is used by the CRM engine to sort events matching a user's interests]**; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user (**Moon [0137]) [Start command preferably triggers a search by the CRM engine to return an original recommendation of <u>events for the user, in accordance with a current location</u> (preferably the user's) and profile data]**

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to combine the teaching of **Moon** regarding accessing by the server, one or more sources of information about venues or events proximal to a current location of the user identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest

to the user; and communicating by the server, the recommendation to the user with the method of **NG** to add service finds a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile; personal preferences such as music, art and food and any other preferences or parameters of interest. This information is used by the CRM engine to sort events matching a user's interests as taught by **Moon,** because that would provide the system of **NG** the ability to requests for particular services may elicit information about sales, promotions, products, services, or events associated with a user profile or preference, preferably arranged in a sorted list for selection of one or more entries (**Moon [0241])**

As to claim 2, **NG** teaches wherein the venue of interest is a club or a church located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and on a music genre preference of the user inferred by the server based at least in part on music media stored in or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [0098] [The local media server can also provide information on what songs or other media is currently playing at the venue] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a club or a church]**

<u>As to claim 3</u>, **NG** teaches wherein the venue of interest is a either a theatre or a cinema located proximal to the inferred- current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of a play or movie played in the theatre or cinema respectively (**NG [0100]) [a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available] [NG [0152] [determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**, and on a video genre preference of the user inferred by the server based at least in part on video media stored in~ or accessed using~ the portable media player device (**NG [0079]) [The preferences that have been essentially published can then be used by other mobile or stationary devices within the proximity to determine whether they have any data for sharing with the mobile device, where such data for sharing is determined in accordance with the preferences that were transmitted] [0079] [Media data," as used herein, is digital data that pertains to at least one of audio, video, and images]**

<u>As to claim 4,</u> NG teaches wherein the venue of interest is a either a museum or a gallery located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user

inferred by the server based at least in part on image media stored in~ or accessed using~ the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a museum or gallery]**

As to claim 5, **NG** teaches wherein the venue of interest is either a place of worship or a place of historic or cultural significance located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance~ respectively, and on a subject preference of the user deter mined inferred by the server based at least in part on podcast media stored in~ or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a historic or cultural attribute of the place]**

As to claim 6, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of**

the venue and/or the media devices can infer the interest or preferences of the users], including receiving by the server a current location of the portable media player device from the portable media player device (**NG [0049]**) **[At a minimum, these electronic devices are capable of receiving and storing digital data, and may also be capable of transferring digital data]**

As to claim 7, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of the venue and/or the media devices can infer the interest or preferences of the users]**, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server (**NG [0014]**) [**determining whether the portable electronic device is proximate to the location; identifying data to be delivered to the portable electronic device, wherein at least a portion of the data pertains to the location**]

As to claim 8, **NG** teaches wherein said communicating comprises transmitting the recommendation to the portable media player device (**NG [0152]**) **[determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

As to claim 9, **NG** teaches wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email message, a pager message or a facsimile message to the user, or by placing a call to the user (**NG [0067]**) **[short range wireless capability, such as Bluetooth]**

As to claim 10, **NG** teaches further comprising retrieving, by the server, the plurality of media or the information about said of media from a storage within the server **[retrieving stored data from the at least one portable electronic device; determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

As to claim 11, claim 11 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 12/144,532
Filing Date: June 23, 2008
Appellant(s): Evan Feldman

Ryan C. Fox
No. 65,369
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/30/2012 appealing from the Office action mailed 08/31/2011.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-25 are pending and rejected.

(4) Status of Amendments After Final

There were no amendments made after the final office action dated 08/31/2011.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2007/0155307	NG	07-2007
2004/0023666	Moon	02-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over NG US 20070155307 A1 in view of Moon US 20040023666 A1

As to claim 1, **NG** teaches a method comprising: retrieving by a server a plurality of media stored on or accessed using a portable media player device or information about said plurality of media **(NG [0006]) [these portable electronic devices store media data for use by their user. In the case of MP3 players or PDAs, media data is typically downloaded from a host computer when the MP3 player or PDA is connected to the host computer]**; inferring, by the server, based at least in part on the retrieved plurality of media **or** the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device **(NG [0100]) [The location of the venue and/or the media devices can infer the interest or preferences of the users. For example, if the venue is an airport, a local media server could provide airport arrival and departure information, weather, etc. that a traveler might desire; a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available]**.

However, it is noted that **NG** fails to teach accessing by the server, one or more sources of information about venues or events proximal to a current location of the user identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user.

In an analogous art, **Moon** discloses accessing by the server, one or more sources of information about venues or events proximal to a current location of the user **(Moon [0105]) [service finds a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile]** identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user (**Moon [0110]) [personal preferences such as music, art and food and any other preferences or parameters of interest. This information is used by the CRM engine to sort events matching a user's interests]**; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user (**Moon [0137]) [Start command preferably triggers a search by the CRM engine to return an original recommendation of <u>events for the user, in accordance with a current location</u> (preferably the user's) and profile data]**

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to combine the teaching of **Moon** regarding accessing by the server, one or more sources of information about venues or events proximal to a current location of the user identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest

to the user; and communicating by the server, the recommendation to the user with the method of **NG** to add service finds a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile; personal preferences such as music, art and food and any other preferences or parameters of interest. This information is used by the CRM engine to sort events matching a user's interests as taught by **Moon,** because that would provide the system of **NG** the ability to requests for particular services may elicit information about sales, promotions, products, services, or events associated with a user profile or preference, preferably arranged in a sorted list for selection of one or more entries (**Moon [0241])**

As to claim 2, **NG** teaches wherein the venue of interest is a club or a church located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of music played in the club or the church and on a music genre preference of the user inferred by the server based at least in part on music media stored in or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [0098] [The local media server can also provide information on what songs or other media is currently playing at the venue] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a club or a church]**

<u>As to claim 3</u>, **NG** teaches wherein the venue of interest is a either a theatre or a cinema located proximal to the inferred- current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of a play or movie played in the theatre or cinema respectively (**NG [0100]) [a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available] [NG [0152] [determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**, and on a video genre preference of the user inferred by the server based at least in part on video media stored in~ or accessed using~ the portable media player device (**NG [0079]) [The preferences that have been essentially published can then be used by other mobile or stationary devices within the proximity to determine whether they have any data for sharing with the mobile device, where such data for sharing is determined in accordance with the preferences that were transmitted] [0079] [Media data," as used herein, is digital data that pertains to at least one of audio, video, and images]**

<u>As to claim 4,</u> NG teaches wherein the venue of interest is a either a museum or a gallery located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a genre of painting or photo exhibited at the museum or gallery and on an image genre preference of the user

inferred by the server based at least in part on image media stored in~ or accessed using~ the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a museum or gallery]**

As to claim 5, **NG** teaches wherein the venue of interest is either a place of worship or a place of historic or cultural significance located proximal to the current location of the user of the portable media player device, and the recommendation is based at least in part on a denomination of religion or a historic or cultural attribute of the place of worship or place of historic or cultural significance~ respectively, and on a subject preference of the user deter mined inferred by the server based at least in part on podcast media stored in~ or accessed using the portable media player device **(NG [0097])** [**The venue can also participate in co-branding of the media being provided to the mobile devices at the venue. For example, the venue could be a coffee shop, theater or a retail store] [Also, NG discloses airport, movie theater, coffee shop, retail store as venues. Inherently, the venue could be also a historic or cultural attribute of the place]**

As to claim 6, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of**

the venue and/or the media devices can infer the interest or preferences of the users], including receiving by the server a current location of the portable media player device from the portable media player device (**NG [0049]**) **[At a minimum, these electronic devices are capable of receiving and storing digital data, and may also be capable of transferring digital data]**

As to claim 7, **NG** teaches further comprising inferring by the server the current location of the user of the portable media player device (**NG [0100]**) **[The location of the venue and/or the media devices can infer the interest or preferences of the users]**, including receiving by the server a current location of the portable media player device from an access point through which the portable media player device establishes a network connection to the server (**NG [0014]**) [**determining whether the portable electronic device is proximate to the location; identifying data to be delivered to the portable electronic device, wherein at least a portion of the data pertains to the location**]

As to claim 8, **NG** teaches wherein said communicating comprises transmitting the recommendation to the portable media player device (**NG [0152]**) **[determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

As to claim 9, **NG** teaches wherein said communicating comprises transmitting the recommendation by either sending a short message service (SMS) message, an email message, a pager message or a facsimile message to the user, or by placing a call to the user (**NG [0067]**) **[short range wireless capability, such as Bluetooth]**

As to claim 10, **NG** teaches further comprising retrieving, by the server, the plurality of media or the information about said of media from a storage within the server **[retrieving stored data from the at least one portable electronic device; determining data to be provided from the local server to the at least one portable electronic device based on the retrieved stored data; and transmitting the determined data from the local server to the at least one portable electronic device]**

As to claim 11, claim 11 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

As to claim 12, claim 12 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

As to claim 13, claim 13 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

As to claim 14, claim 14 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

As to claim 15, claim 15 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

As to claim 16, claim 16 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

As to claim 17, claim 17 recites the claimed that contain similar limitations as claim 2; therefore, it is rejected under the same rationale.

As to claim 18, claim 18 recites the claimed that contain similar limitations as claim 3; therefore, it is rejected under the same rationale.

As to claim 19, claim 19 recites the claimed that contain similar limitations as claim 4; therefore, it is rejected under the same rationale.

As to claim 20, claim 20 recites the claimed that contain similar limitations as claim 5; therefore, it is rejected under the same rationale.

As to claim 21, claim 21 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale.

As to claim 22, claim 22 recites the claimed that contain similar limitations as claims 2, 3; therefore, it is rejected under the same rationale.

As to claim 23, claim 23 recites the claimed that contain similar limitations as claims 4, 5; therefore, it is rejected under the same rationale.

As to claim 24, claim 24 recites the claimed that contain similar limitations as claims 7, 8; therefore, it is rejected under the same rationale.

As to claim 25, claim 25 recites the claimed that contain similar limitations as claim 10; therefore, it is rejected under the same rationale.

(10) Response to Argument

Appellant's argument A:

In order to make *aprimafacie* case of obviousness, all claim limitations must be considered. [See, M.P.E.P. § 2143.03.] However, Ng and Moon, taken either separately or in combination, fail to teach or suggest each and every recitation of the claims.

Therefore, Appellant respectfully submits that the appealed Action failed to make *aprimafacie* case of obviousness and the rejection is therefore improper *(Appeal Brief page 13)*

Examiner's response A:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, NG's teaching relates to data exchange with portable electronic devices, and Moon's teaching relates to management of mobile device locations information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of NG and Moon before him or her to modify and configure the computing environment of NG to include parameters that would allow to sort events matching a user's interests as taught by Moon**.** Thus, the motivation for doing so would have been to a service to find a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile (Moon pa. [0105])

Appellant's argument 1.a:

In the Action, the Examiner argued that Ng allegedly taught the above-emphasized recitation of claim 1. [Action, at page 3] Appellant respectfully traverses the Examiner's Arguments. a. **Ng's Inference of User Preferences Based on Location Does Not Teach or Suggest the "Inferring" Operation of Claim 1**

In the course of rejecting claim 1, the Examiner cited to a description in Ng's of inferring user preferences as allegedly teaching the "inferring" recitation of claim 1. However, the cited passage is directed to inferring user preferences based on location *(Appeal Brief page 13)*

Examiner's response 1.a:

In response to applicant's argument, Examiner respectfully submits that the word **"infer"** is defined as the **formulation of a conclusion** based on specific information, by applying a set of rules of formal logic, or by generalizing from a set of observations. In addition, the claimed limitation "inferring, by the server, based at least in part on one or more entertainment preferences of a user of the portable media player device" has been interpreted as**: inference based on user's entertainment preferences;** in this case, Examiner's interpretation is that: the server has made decision based on "specific information" which is user's entertainment preferences. Therefore, NG clearly discloses the above limitation in paragraphs [0093 and 0100] **[inferring the interest or preferences of the users]**

Appellant's argument 1.a:

Appellant respectfully notes that the cited passage clearly and explicitly describes inferring of a user's preferences based on a "location of [a] venue and/or [a] media device." In contrast, claim 1 recites "inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user." **Appellant respectfully submits that a description of inferring user preferences based solely on location does not teach or suggest inferring entertainment preferences based on "media" or "information about.., media," as recited in claim 1**. As such, Appellant finds no teaching in the cited passage that would suggest to a person of ordinary skill in the art the "inferring ..." recitation of claim 1. As the passage of Ng cited in the Action does not appear to teach or suggest this recitation of claim 1, Appellant respectfully submits that the Examiner has no made a primafacie case of unpatentability as required under M.P.E.P. § 2143.03 *(Appeal Brief page 14)*

Examiner's response 1.a:

Examiner respectfully submits that the claimed limitation "inferring, by the server, based at least in part on one or more entertainment preferences of a user of the portable media player device" has been interpreted as**: inference based on user's entertainment preferences;** in this case, Examiner's interpretation is that: the server has made decision based on "specific information" which is user's entertainment preferences. Therefore, NG clearly discloses the above limitation in paragraphs [0093 and 0100] **[inferring the interest or preferences of the users]**

Appellant's argument 1.a:

Notwithstanding the lack of argument, Appellant notes that the **Examiner emphasized the that "inferring" results in "one or more entertainment preferences of a user of the portable media player device" but still did not demonstrate that the "inferring" was "based at least in part on the retrieved plurality of media or the retrieved information about said plurality of medi**a." And while the Examiner appeared to place some emphasis on the fact that the claim recited that the inferring could be based on either "the retrieved plurality of media or the retrieved information about said plurality of media," the Action still fails to demonstrate that either of these recitations was taught or suggested in Ng *(Appeal Brief page 15)*

Examiner's response 1.a:

Examiner respectfully submits that to address this limitation several choices can be made, because of use of **"or"** between descriptive elements in the limitation. In this case, Examiner has the option to address either: "inferring, by the server, based at least in part on "***the retrieved plurality of media"*** **or** "***the retrieved information about said plurality of media"***, **or** ***"one or more entertainment preferences of a user of the portable media player device".*** Therefore, the rejection of ""inferring, by the server, based at least in part on" one or more entertainment preferences of a user of the portable media player device is proper. *(see NG pa. [0093 and 0100] [Inferring the interest or preferences of the users])*

Appellant's argument 1.b:

Ng's Further Discussion of User Preferences Does Not Teach or Suggest the "Inferring" Operation of Claim 1. Appellant finds no other disclosure in Ng that teaches or suggests the "inferring" recitation of claim 1 discussed above. It is noted, however, that Ng does discuss known user preferences. For example, Ng discusses customizing broadcast information using already-known customer preferences:.. [Ng, at paragraph 0095] Appellant notes, however, that while this passage of Ng discusses using "user preferences," "user characteristics," and "listening habits," Ng does not discuss how this information is obtained. Instead, Ng merely assumes that user preferences are known, somehow, by its system, and that the information can be used for customization. And while the method of obtaining these preferences is not taught nor suggested in this passage, elsewhere Ng describes that user preferences may be stored in a profile *(Appeal Brief page 15)*

Examiner's response 1.b:

In response to applicant's argument, Examiner respectfully submits that the word **"infer"** is defined as the **formulation of a conclusion** based on specific information, by applying a set of rules of formal logic, or by generalizing from a set of observations. In addition, the claimed limitation "inferring, by the server, based at least in part on one or more entertainment preferences of a user of the portable media player device" has been interpreted as**: inference based on user's entertainment preferences;** in this case,

Examiner's interpretation is that: the server has made decision based on "specific information" which is user's entertainment preferences. Therefore, NG clearly discloses the above limitation in paragraphs [0093 and 0100] **[inferring the interest or preferences of the users]**

Appellant's argument 1.b:

[Ng, at paragraph 0099; emphasis added.] Appellant notes that, while the passage describes "gather[ing] information," that gathered information appears to be limited to "when and how often.., users were in the venue." In contrast, the passage's discussion of user preferences makes clear that these preferences are stored in "preference or criteria settings." **Once again Appellant finds no teaching or suggestion in Ng for the "inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user" recitation of claim 1.** *(Appeal Brief page 16)*

Examiner's response 1.b:

In response to applicant's argument, Examiner respectfully submits that the word **"infer"** is defined as the **formulation of a conclusion** based on specific information, by applying a set of rules of formal logic, or by generalizing from a set of observations. In addition, the claimed limitation "inferring, by the server, based at least in part on one or more entertainment preferences of a user of the portable media player device" has been interpreted as**: inference based on user's entertainment preferences;** in this case,

Examiner's interpretation is that: the server has made decision based on "specific information" which is user's entertainment preferences. Therefore, NG clearly discloses the above limitation in paragraphs [0093 and 0100] **[inferring the interest or preferences of the users]**

Appellant's argument 1.c:

Moon Does Not Remedy the Deficiencies of Ng For at least the reasons discussed above, Appellant respectfully submits that Ng does not teach or suggest each and every recitation of claim 1. Further, Appellant respectfully submits that Moon does not remedy this deficiency of Ng. The Action cited to Moon as allegedly teaching "service find[ing] a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile," "personal preferences.., and any other preferences or parameters of interest," and "trigger[ing] a search by the CRM engine to return an original recommendation of events for the user, in accordance with a current location." [Action, at page 4; emphasis in original] Appellant respectfully submits that, even if Moon were to teach these features as claimed by the Action, that would still not remedy the above-discussed deficiency of Ng. Further, Appellant finds no additional relevant teaching or suggestion in Moon *(Appeal Brief page 16)*

Examiner's response 1.c:

In response to applicant's argument, that NG does not teach or suggest each and every recitation of claim 1. Examiner respectfully submits that the last Office Action did

not mention that NG discloses every recitation of claim 1; in fact, the combination of NG and Moon was used in the 35 U.S.C. 103(a) rejections of claim 1. See the rejection below: a method comprising: retrieving by a server a plurality of media stored on or accessed using a portable media player device or information about said plurality of media (NG [0006]) [these portable electronic devices store media data for use by their user. In the case of MP3 players or PDAs, media data is typically downloaded from a host computer when the MP3 player or PDA is connected to the host computer]; inferring, by the server, based at least in part on the retrieved plurality of media <u>or</u> the retrieved information about said plurality of media, <u>one or more entertainment preferences of a user of the portable media player device</u> (NG [0100]) [The location of the venue and/or the media devices can infer the interest or preferences of the users. For example, if the venue is an airport, a local media server could provide airport arrival and departure information, weather, etc. that a traveler might desire; a venue, such as a movie theater, can provide a local media server that would facilitate the buying of movie tickets or soundtracks and could also make video trailers available]; accessing by the server, one or more sources of information about venues or events proximal to a current location of the user (Moon [0105]) [service finds a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile] identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user (Moon [0110]) [personal preferences such as music, art and food and any other preferences or parameters of

interest. This information is used by the CRM engine to sort events matching a user's interests]; generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and communicating by the server, the recommendation to the user (Moon [0137]) [Start command preferably triggers a search by the CRM engine to return an original recommendation of events for the user, in accordance with a current location (preferably the user's) and profile data]

Appellant's argument 1.d:

The Rejection of Claims 1-10 over Ng and Moon is Improper. For at least the reasons discussed above, Ng and Moon, taken either separately or in combination, do not teach or suggest each and every recitation of claim 1. Therefore, the Action failed to meet the burden of establishing a primafacie case of unpatentability of claim 1 under 35U.S.C. § 103. The rejection of claim 1 is therefore improper, and claim 1 should be allowable over Ng and Moon *(Appeal Brief page 16)*

Examiner's response 1.d:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, NG's teaching relates to data exchange with portable electronic devices, and Moon's teaching relates to management of mobile device locations information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of NG and Moon before him or her to modify and configure the computing environment of NG to include parameters that would allow to sort events matching a user's interests as taught by Moon**.** Thus, the motivation for doing so would have been to a service to find a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile (Moon pa. [0105]). Therefore, the rejection of claim 1 is proper.

Appellant's argument 1.d:

Claims 2-10 each depend from independent claim 1 and incorporate its recitations. Therefore, for at least similar reasons as those discussed above, the Action failed to meet the burden of establishing a primafacie case of unpatentability of claims 2-10 under 35 U.S.C. § 103 (a) over Ng and Moon. The rejection of claims 2-10 is therefore improper and claims 2-10 should be allowable over Ng and Moon *(Appeal Brief page 17)*

Examiner's response 1.d:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, NG's teaching relates to data exchange with portable electronic devices, and Moon's teaching relates to management of mobile device locations information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of NG and Moon before him or her to modify and configure the computing environment of NG to include parameters that would allow to sort events matching a user's interests as taught by Moon**.** Thus, the motivation for doing so would have been to a service to find a list of events that are of interest to a service subscriber or other user, based on the user's location and preferences stored in a profile (Moon pa. [0105]). Therefore, the rejection of claims 2-10 is proper.

Appellant's argument 2:

Thus, for at least the reasons discussed above, Ng and Moon fail to teach or suggest each and every recitation of claim 11. The Action thus the Action failed to meet the burden of establishing a *primafacie* case of unpatentability of claim 11 under 35 U.S.C. § 103. The rejection of claim 11 is therefore improper, and claim 11 should be allowable over Ng and Moon. Claims 12-15 each depend from independent claim 11 and incorporate its recitations. Therefore, for at least similar reasons as those discussed above, the Action failed to meet the burden of establishing a *primafacie* case of

unpatentability of claims 12-15 under 35 U.S.C. § 103(a) over Ng and Moon. The rejection of claims 12-15 is therefore improper, and claims 12-15 should be allowable over Ng and Moon *(Appeal Brief page 17)*

Examiner's response 2:

In response to applicant's argument, Examiner respectfully submits that, claim 11 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale. As to claims 12-15, they recite the claimed that contain respectively similar limitations as claims 2-5, therefore, they are rejected under the same rationale.

Appellant's argument 3:

Thus, for at least the reasons discussed above, Ng and Moon fail to teach or suggest each and every recitation of claim 16. The Action thus the Action failed to meet the burden of establishing a *primafacie* case of unpatentability of claim 16 under 35 U.S.C. § 103. The rejection of claim 16 is therefore improper, and claim 16 should be allowable over Ng and Moon. Claims 17-20 each depend from independent claim 16 and incorporate its recitations. Therefore, for at least similar reasons as those discussed above, the Action failed to meet the burden of establishing *a primafacie* case of unpatentability of claims 17-20 under 35 U.S.C. § 103 (a) over Ng and Moon *(Appeal Brief page 18)*

Examiner's response 3:

In response to applicant's argument, Examiner respectfully submits that, claim 16 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected

under the same rationale. As to claims 17-20, they recite the claimed that contain respectively similar limitations as claims 2-5, therefore, they are rejected under the same rationale.

Appellant's argument 4:

Thus, for at least the reasons discussed above, Ng and Moon fail to teach or suggest each and every recitation of claim 21. The Action thus the Action failed to meet the burden of establishing a *primafacie* case of unpatentability of claim 21 under 35 U.S.C. § 103. The rejection of claim 21 is therefore improper, and claim 21 should be allowable over Ng and Moon. Claims 22-25 each depend from independent claim 21 and incorporate its recitations. Therefore, for at least similar reasons as those discussed above, the Action failed to meet the burden of establishing *a primafacie* case of unpatentability of claims 22-25 under 35 U.S.C. § 103(a) over Ng and Moon. The rejection of claims 22-25 is therefore improper, and claims 22-25 should be allowable over Ng and Moon *(Appeal Brief pages 18-19)*

Examiner's response 4:

In response to applicant's argument, Examiner respectfully submits that, claim 21 recites the claimed that contain similar limitations as claim 1; therefore, it is rejected under the same rationale. As to claims 22-25, they recite the claimed that contain respectively similar limitations as claims 2-3, 4-5, 7-8, and 10, therefore, they are rejected under the same rationale.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

(**Note:** the Examiner has made an earnest effort to properly address each and every Appellant's arguments of the appeal brief. In any event or reason if more explanation is needed, the Examiner will gladly provide as necessary).

Respectfully submitted,

/EVANS DESROSIERS/
Examiner of Art Unit 2491

Conferees:

/Prieto, Beatriz/

Supervisory Patent Examiner, Art Unit 2400

/HARESH N PATEL/

Primary Examiner, Art Unit 2493

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Feldman, et al.

Application No.: 12/144,532

Filed: June 23, 2008

For: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

Examiner: Desrosiers, Evans

Art Group: 2491

Confirmation No.: 1754

Mail Stop Appeal Brief-Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

REPLY TO EXAMINER ANSWER

This Appellant's Reply Brief is being filed under 37 CFR 41.41 in furtherance of the Notice of Appeal, filed November 28, 2011, and of Appellants' Brief, filed on January 30, 2012 (hereinafter "Appellant's Brief") appealing the rejections in the final Office Action mailed August 31, 2011 (hereinafter "the Action"). The Reply Brief is further being filed in response to the Examiner's Answer mailed May 3, 2012 (hereinafter, "Examiner's Answer").

The Examiner has not raised any new arguments in the Examiner's Answer. Most of the arguments made in the Examiner's Answer are identical, or nearly identical, to those previously raised in the Action. The rejections to the claims are still improper for at least the reasons Appellant previously set forth in the Appeal Brief.

Appellant respectfully asserts that at certain points in the Examiner's Answer, the Examiner has not accurately restated Appellant's arguments. Additionally, the Examiner repeatedly misquoted recitations of the claims at issue in the Appeal. Thus, the Examiner's Answer is not a proper response.

For example, Appellant argued that "Ng's inference of user preferences based on location does not teach or suggest the "inferring" operation of claim 1" (*see*, Appellant's Brief, at § VIII.A.1.a at page 13). This argument was made with particularity to the following claim recitation of claim 1:

> inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device . . . .

However, in the Examiner's Answer, the Examiner responded:

> Examiner respectfully submits that the word "infer" is defined as the formulation of a conclusion based on specific information, by applying a set of rules of formal logic, or by generalizing from a set of observations. *In addition, the claimed limitation "inferring, by the server, based at least in part on one or more entertainment preferences of a user of the portable media player device" has been interpreted as: inference based on user's entertainment preferences . . .*
> .

[Examiner's Answer, at § 10, page 14; emphasis added.] Clearly, this is a misquote of the relevant language of claim 1, going so far as to remove the entire phrase "the retrieved plurality of media or the retrieved information about said plurality of media" from the claim. The Examiner did not provide ellipses or brackets or other such indicia that an edit to the actual language had been made, nor did the Examiner provide any reasoning for performing such an edit.

The Examiner's argument appears to be based on the incorrect assumption that the claim recites "inferring, based at least in part on one or more entertainment preferences." This incorrect assumption then leads the Examiner to interpret the claim as "inference based on user's entertainment preferences." It is, therefore, clear that the Examiner has not addressed actual issues raised on appeal.

Similar misquotes are repeated throughout the Examiner's Answer. These can be found at page 14, as quoted above and, at least, pages 15, 18 and 19. Because the Examiner is relying on an inaccurate interpretation of the claims, the Examiner's Answer, based as it is on several misquotes of claim 1, is not responsive to the arguments raised in Appellant's Brief and, therefore, improper on its face.

In another example, the Appellant previously argued, in Appellant's Brief, that:

> the Examiner emphasized the that "inferring" results in "one or more entertainment preferences of a user of the portable media player device" but still did not demonstrate that the "inferring" was "based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media."

[Appellant's Brief, at § VIII.A.1.a, pages 14 and 15.] In response, the Examiner argued:

> Examiner respectfully submits that to address this limitation several choices can be made, because of the use of "or" between descriptive elements in the limitation. In this case, Examiner has the option to address either "inferring, by the server, based at least in part on "the retrieved plurality of media" or "the retrieved information about said plurality of media", or "one or more entertainment preferences of a user of the portable media player device".

[Examiner's Answer, at § 10, pages 16 and 17.] Again, the relevant claim language is:

> inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device . . . .

Claim 1 does not recite an "or" in between the phrase "based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media," and the phrase "one or more entertainment preferences of a user of the portable media player device." The Examiner's interpretation of the grammar of the claim appears to be either a) a misquoting of the actual recitation to include an "or" that is not there, or b) a strained interpretation to include an implied "or" that does not actually appear in the claim. One of ordinary skill in the art would not so interpret the language of claim 1. In either event, the Examiner's response does not appear to be responsive to the arguments raised in Appellant's Brief.

In a third example, at the beginning of the Response to Arguments section of the Examiner's Answer, the Examiner argued "in response to applicant's argument that there is no suggestion to combine the references…." [Examiner's Answer, at § 10, page 13.] The Examiner again made this statement at § 10, page 23 of the Examiner's Answer. At both portions of the Examiner's Answer, the Examiner then argued that for a motivation for combining the cited Ng and Moon references.

However, at the relevant portions of the Appellant's Brief cited in the Examiner's Answer, Appellant actually argued that "Ng and Moon, taken either separately or in combination, *fail to teach or suggest each and every recitation of the claims*." [*See., e.g.*, Appellant's Brief, at § VIII.A, at page 13.] Regardless of whether the Examiner made a sufficient argument as to

whether Ng and Moon should be combined, this response is not responsive to Appellant's actual argument, which is that the combined references did not teach or suggest the recitations of the claims.

For the above reasons and for reasoning set forth in more detail Appellants' Brief, Appellants respectfully maintains that the Examiner's rejections are in error, and respectfully request the rejections be reversed, and the pending claims be allowed.

It is believed that no further fees are required for this submission. However, should that be necessary, please charge Deposit Account No. 500393. In addition, please credit any overages to the same account.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

Date: July 3, 2012

By: /Ryan C. Fox/
Ryan C. Fox
Reg. No.: 65,369

Pacwest Center, Suite 1900
1211 SW Fifth Avenue
Portland, Oregon 97204
Telephone: 503-222-9981

Electronic Acknowledgement Receipt

EFS ID:	13167923
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Ryan Christopher Fox/Allyson Dahmen
Filer Authorized By:	Ryan Christopher Fox
Attorney Docket Number:	120083-157809
Receipt Date:	03-JUL-2012
Filing Date:	23-JUN-2008
Time Stamp:	12:06:27
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Reply Brief Filed	Varia_070035_Reply_Brief.pdf	178738 cea7351b97a9a855eb18f2a5460c01ab8750f5de	no	4

Warnings:

Information:

Total Files Size (in bytes):	178738

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

60172 7590 07/27/2012
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2491	

MAIL DATE	DELIVERY MODE
07/27/2012	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

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

Appeal No: 2012-010686
Application: 12/144,532
Appellant: Evan Feldman et al.

Board of Patent Appeals and Interferences
Docketing Notice

Application 12/144,532 was received from the Technology Center at the Board on July 17, 2012 and has been assigned Appeal No: 2012-010686.

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

The mailing address for the Board is:

BOARD OF PATENT APPEALS AND INTERFERENCES
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

The facsimile number of the Board is 571-273-0052. Because of the heightened security in the Washington D.C. area, facsimile communications are recommended. Telephone inquiries can be made by calling 571-272-9797 and referencing the appeal number listed above.

By order of the Board of Patent Appeals and Interferences.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

60172 7590 03/18/2015
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2491	

NOTIFICATION DATE	DELIVERY MODE
03/18/2015	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@schwabe.com
IPDocketing@SCHWABE.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte EVAN FELDMAN and JONATHAN NELSON

Appeal 2012-010686
Application 12/144,532
Technology Center 2400

Before MAHSHID D. SAADAT, ROBERT E. NAPPI, and JESSICA C. KAISER, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants[1] appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 1–25. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Independent claim 1 is illustrative of the invention and reads as follows with the disputed limitation in italics:

1. A method comprising:

---

[1] According to Appellants, the real party in interest is Varia Holdings LLC. (App. Br. 3).

> retrieving, by a server, a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media;
>
> *inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device*;
>
> accessing, by the server, one or more sources of information about venues or events proximal to a current location of the user;
>
> identifying, by the server, at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user;
>
> generating, by the server, a recommendation indicating the identified venue or event as a venue or event of interest to the user; and
>
> communicating, by the server, the recommendation to the user.

Claims 1–25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ng (US 2007/0155307 A1; July 5, 2007) and Moon (US 2004/0023666 A1; Feb. 5, 2004). (Ans. 4–13).[2]

ANALYSIS

In rejecting claim 1, the Examiner finds Ng teaches the claimed steps of "retrieving" and "inferring" and further relies on Moon for teaching the remaining recited steps (Ans. 5–6). The Examiner specifically finds paragraph 100 of Ng discloses the recited step of "inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved

[2] We refer to the second Examiner's Answer mailed June 6, 2012.

information about said plurality of media, one or more entertainment preferences of a user of the portable media player device" (Ans. 5).

Appellants argue paragraph 100 of Ng describes inferring a user preference based on a "location of [a] venue and/or [a] media device," which is different from the claimed inferring user preferences based on "media" or "information about . . . media" (App. Br. 14). Appellants also contend other parts of Ng related to user preferences in paragraphs 95 and 99 do not disclose the disputed limitation of claim 1 (App. Br. 15–16).

The Examiner explains:

> In addition, the claimed limitation "inferring, by the server, based at least in part on one or more entertainment preferences of a user of the portable media player device" has been interpreted as: **inference based on user's entertainment preferences;** in this case, Examiner's interpretation is that: the server has made decision based on "specific information" which is user's entertainment preferences. Therefore, NG clearly discloses the above limitation in paragraphs [0093 and 0100] **[inferring the interest or preferences of the users]**.

(Ans. 15). The Examiner further explains this interpretation on page 17 of the Answer by stating:

> Examiner respectfully submits that to address this limitation several choices can be made, because of use of **"or"** between descriptive elements in the limitation. In this case, Examiner has the option to address either: "inferring, by the server, based at least in part on "**the retrieved plurality of media" or "the retrieved information about said plurality of media"**, **or "one or more entertainment preferences of a user of the portable media player device".** Therefore, the rejection of "inferring, by the server, based at least in part on" one or more entertainment preferences of a user of the portable media player device is proper. (*see NG pa. [0093 and 0100][Inferring the interest or preferences of the users]*).

Appellants contend the Examiner's position is based on improper interpretation of the disputed claim limitation as "inferring, based at least in part on one or more entertainment preferences" (Reply Br. 2). Appellants further challenge the Examiner's claim interpretation and assert one of ordinary skill in the art would not interpret the language of claim 1 as the Examiner did (Reply Br. 3).

We agree with Appellants. The recited step of "inferring, by the server, based at least in part on the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device" infers the user preferences based on the retrieved media or the retrieved information about the retrieved media. In other words, "entertainment preferences of a user" are not the recited basis for the "inferring"; instead, those preferences are themselves inferred. Considering the proper interpretation of the disputed claim limitation, the Examiner has not identified any teachings in Ng that would meet the claimed step of inferring. As argued by Appellants (App. Br. 14), inferring the interest or preferences of the users based on the location of the venue or the device, as disclosed in paragraph 100 of Ng, does not teach or suggest the disputed limitation of claim 1.

Therefore, we do not sustain the rejection of claim 1, independent claims 11, 16, and 21, which recite similar features, or the remaining claims dependent therefrom.

DECISION

The decision of the Examiner to reject claims 1–25 is reversed.

REVERSED

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

60172 7590 06/01/2015
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2491	

DATE MAILED: 06/01/2015

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

TITLE OF INVENTION: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	$480	$0	$0	$480	09/01/2015

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

60172 7590 06/01/2015
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

TITLE OF INVENTION: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	$480	$0	$0	$480	09/01/2015

EXAMINER	ART UNIT	CLASS-SUBCLASS
DESROSIERS, EVANS	2491	709-206000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
❑ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
❑ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) The names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1_____
2_____
3_____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ❑ Individual ❑ Corporation or other private group entity ❑ Government

4a. The following fee(s) are submitted:
❑ Issue Fee
❑ Publication Fee (No small entity discount permitted)
❑ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
❑ A check is enclosed.
❑ Payment by credit card. Form PTO-2038 is attached.
❑ The director is hereby authorized to charge the required fee(s), any deficiency, or credits any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
❑ Applicant certifying micro entity status. See 37 CFR 1.29 — NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.
❑ Applicant asserting small entity status. See 37 CFR 1.27 — NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.
❑ Applicant changing to regular undiscounted fee status. — NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

60172 7590 06/01/2015
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

EXAMINER
DESROSIERS, EVANS

ART UNIT	PAPER NUMBER
2491	

DATE MAILED: 06/01/2015

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(Applications filed on or after May 29, 2000)

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

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 Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Notice of Allowability	Application No. 12/144,532	Applicant(s) FELDMAN ET AL.	
	Examiner EVANS DESROSIERS	Art Unit 2491	AIA (First Inventor to File) Status No

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *3/18/2015*.
   ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on_____.
2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.
3. ☒ The allowed claim(s) is/are *1-25*. As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov .
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   Certified copies:

   a) ☐ All b) ☐ Some *c) ☐ None of the:
   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)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
5. ☐ Examiner's Amendment/Comment
6. ☒ Examiner's Statement of Reasons for Allowance
7. ☐ Other _____.

/EVANS DESROSIERS/
Primary Examiner, Art Unit 2491

DETAILED ACTION

1. The present application is being examined under the pre-AIA first to invent provisions. This Examiner's Amendment and Reasons for Allowance is in response to the Patent Trial and Appeal Board's decision on 3/18/2015.

The text of those sections of Title 35 U.S. Code not included in this section can be found in the prior office action.

The prior office actions are incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.

Allowable Subject Matter

2. Claims 1-25 are allowed based on the BPAI decision of 3/18/2015.

EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

3. Claims 1, 11, 16 and 21 are allowed **in view of the reasons argued by patent board decision, filed 3/18/2015**, and dependent claims 2-10, 12-15, 17-20 and 22-25 depend upon one of the above-mentioned allowed claims and are therefore allowed by virtue of their dependencies.

Reasons for Allowance is not required in this office communication as applicant's reply make evident the reasons for allowance, satisfying the "record as a whole" proviso of the rule 37 CFR 1.104(e).

Examiner performed updated search and additional search does not yield other specific references that reasonably, either singularly or in combination with cited

references, would result a proper rejection that would have anticipated or made obvious all the steps disclosed in the independent claims 1, 11, 16 and 21 with proper motivation at or before the time it was effectively filed.

Therefore, claims 1-25 are hereby allowed **in view of patent board decision, filed 3/18/2015 persuasive arguments**.

Any comments considered necessary by applicant must be submitted no later than payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVANS DESROSIERS whose telephone number is (571)270-5438. The examiner can normally be reached on Monday-Friday 9:00 am to 5:30 pm, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ashokkumar Patel can be reached on (571) 272-3972. 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.

/EVANS DESROSIERS/
Primary Examiner, Art Unit 2491

Notice of References Cited	Application/Control No. 12/144,532	Applicant(s)/Patent Under Reexamination FELDMAN ET AL.	
	Examiner EVANS DESROSIERS	Art Unit 2491	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2007/0155307	07-2007	Ng et al.	455/3.01
*	B	US-2004/0023666	02-2004	Moon et al.	455/456.1
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	0	varia$1holdings.as.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L2	47	nelson-jonathan feldman-evan.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L3	19	L2 and (portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L4	16845	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L5	79	L4 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L6	0	L5 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L7	1	(portable near5 media near5 player near5 device) with (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L8	2	(portable near5 media near5 player near5 device) same (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L9	46	(portable near5 media near5 player near5 device) near5 (venue or event)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L10	3	L4 and (infer$5ed near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L11	14	L4 and (infer$5 near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L12	886	L4 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45

L13	119	L12 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L14	9	L13 and @ay<"2007"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L15	16845	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L16	16845	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L17	886	L16 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L18	886	L15 and L17	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L19	119	L17 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L20	119	L18 and L19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L21	0	L20 and 709/205-209.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L22	0	("ep1530115").PN.	US-PGPUB; USPAT; EPO; IBM_TDB	OR	OFF	2015/05/22 08:45
L23	1	("20060025068").PN.	US-PGPUB; USPAT; EPO; IBM_TDB	OR	OFF	2015/05/22 08:45
L24	16845	(portable$ near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L25	79	L24 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L26	6	L25 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L27	2	(media near5 player near5 device) with (recommend$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45

L28	32	(venue$ or event) near5 proxim$5 near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L29	875	(venue$ or event) near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L30	73	L29 and (media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L31	0	L30 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L32	216	L29 and ((venue or event) near5 ((interest$5 or preference) near6 user))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L33	27	L32 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L34	1	("20040023666").PN.	US-PGPUB; USPAT; IBM_TDB	OR	OFF	2015/05/22 08:45
L35	875	(venue$ or event) near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L36	216	L35 and ((venue or event) near5 ((interest$5 or preference) near6 user))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L37	27	L36 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L38	2	L37 and 709/205-209.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L39	15401	(portable near4 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L40	71	L39 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L41	2	L40 and (portable near5 media near5 player near5 device) near5 (venue or event)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
L42	0	L40 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45

L43	133	L39 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2015/05/22 08:45
S1	0	varia$1holdings.as.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38
S2	12	nelson-jonathan feldman-evan.in.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:38
S3	7	S2 and (portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:40
S4	3982	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:44
S5	14	S4 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:45
S6	0	S5 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:48
S7	1	(portable near5 media near5 player near5 device) with (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52
S8	1	(portable near5 media near5 player near5 device) same (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:52
S9	13	(portable near5 media near5 player near5 device) near5 (venue or event)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 09:53
S10	1	S4 and (infer$5ed near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25
S11	4	S4 and (infer$5 near5 media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:25
S12	306	S4 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:58
S13	32	S12 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/06/09 10:59
S14	6	S13 and @ay<"2007"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO;	OR	ON	2010/06/09 11:00

			IBM_TDB			
S15	4566	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S16	4566	(portable near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S17	335	S16 and (media near5 preference)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S18	335	S15 and S17	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:48
S19	35	S17 and (current near5 location)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
S20	35	S18 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
S21	0	S20 and 709/205-209.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2010/11/06 10:49
S22	0	("ep1530115").PN.	US-PGPUB; USPAT; EPO; IBM_TDB	OR	OFF	2011/02/24 09:32
S23	1	("20060025068").PN.	US-PGPUB; USPAT; EPO; IBM_TDB	OR	OFF	2011/02/24 09:33
S24	5008	(portable$ near5 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:40
S25	18	S24 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:40
S26	6	S25 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:41
S27	2	(media near5 player near5 device) with (recommend$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 09:47
S28	9	(venue$ or event) near5 proxim$5 near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:12
S29	269	(venue$ or event) near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO;	OR	ON	2011/02/24 11:18

			IBM_TDB			
S30	22	S29 and (media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:18
S31	0	S30 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:19
S32	54	S29 and ((venue or event) near5 ((interest$5 or preference) near6 user))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:27
S33	26	S32 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 11:27
S34	1	("20040023666").PN.	US-PGPUB; USPAT; IBM_TDB	OR	OFF	2011/02/24 11:57
S35	269	(venue$ or event) near5 current near5 locat$5 near5 user	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
S36	54	S35 and ((venue or event) near5 ((interest$5 or preference) near6 user))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
S37	26	S36 and @ad<"20070622"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
S38	2	S37 and 709/205-209.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/02/24 15:38
S39	5248	(portable near4 media near5 player near5 device)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:53
S40	20	S39 and (recommenda$5 near5(venue or event))	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:53
S41	1	S40 and (portable near5 media near5 player near5 device) near5 (venue or event)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:53
S42	0	S40 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:54
S43	56	S39 and 709/231.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; IBM_TDB	OR	ON	2011/08/04 10:54

5/22/2015 8:56:47 AM
C:\Users\edesrosiers\Documents\EAST\Workspaces\12144532.wsp

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2491

CPC- SEARCHED

Symbol	Date	Examiner

CPC COMBINATION SETS - SEARCHED

Symbol	Date	Examiner

US CLASSIFICATION SEARCHED

Class	Subclass	Date	Examiner
709	231	6/10/2010	ED
709	205-209	11/6/2010	ED
709	205-209	2/24/2011	ED
709	231	8/4/2011	ED
709	205-209	5/22/2015	ED

SEARCH NOTES

Search Notes	Date	Examiner
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	6/10/2010	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	11/6/2010	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	2/24/2011	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	8/4/2011	ED
EAST:US-PGPUB;USPAT;USOCR;FPRS;EPO; JPO;IBM_TDB	5/22/2015	ED

INTERFERENCE SEARCH

US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner
709	206, 231	5/28/2015	ED

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	EVANS DESROSIERS	2491

CPC						
Symbol					**Type**	**Version**
G06Q		30	/	02	F	2013-01-01
G06F		17	/	30867	I	2013-01-01
			/			
			/			
			/			
			/			
			/			
			/			
			/			
			/			
			/			
			/			
			/			
			/			
			/			

CPC Combination Sets								
Symbol					**Type**	**Set**	**Ranking**	**Version**
			/					
			/					

NONE (Assistant Examiner) (Date)		**Total Claims Allowed:** 25	
/EVANS DESROSIERS/ Primary Examiner.Art Unit 2491 (Primary Examiner)	05/22/2015 (Date)	O.G. Print Claim(s) 1	O.G. Print Figure 1

U.S. Patent and Trademark Office

Part of Paper No. 20150522

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	EVANS DESROSIERS	2491

US ORIGINAL CLASSIFICATION		INTERNATIONAL CLASSIFICATION									
CLASS	SUBCLASS	CLAIMED					NON-CLAIMED				
709	206	G	0	6	F	15 / 16 (2006.01.01)	G	0	6	F	15 / 16 (2006.01.01)

CROSS REFERENCE(S)					
CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)				
709	206	231			

NONE		Total Claims Allowed:	
(Assistant Examiner)	(Date)	25	
/EVANS DESROSIERS/ Primary Examiner.Art Unit 2491	05/22/2015	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	EVANS DESROSIERS	2491

☒ **Claims renumbered in the same order as presented by applicant** ☐ **CPA** ☐ **T.D.** ☐ **R.1.47**

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		17												
	2		18												
	3		19												
	4		20												
	5		21												
	6		22												
	7		23												
	8		24												
	9		25												
	10														
	11														
	12														
	13														
	14														
	15														
	16														

NONE (Assistant Examiner)	(Date)	**Total Claims Allowed:** 25	
/EVANS DESROSIERS/ Primary Examiner.Art Unit 2491 (Primary Examiner)	05/22/2015 (Date)	O.G. Print Claim(s) 1	O.G. Print Figure 1

U.S. Patent and Trademark Office

Part of Paper No. 20150522

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12144532	FELDMAN ET AL.
	Examiner	**Art Unit**
	Evans Desrosiers	2491

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

☒ **Claims renumbered in the same order as presented by applicant** ☐ **CPA** ☐ **T.D.** ☐ **R.1.47**

CLAIM		DATE								
Final	Original	06/11/2010	11/06/2010	02/24/2011	08/04/2011	05/22/2015				
	1	✓	✓	✓	✓	=				
	2	✓	✓	✓	✓	=				
	3	✓	✓	✓	✓	=				
	4	✓	✓	✓	✓	=				
	5	✓	✓	✓	✓	=				
	6	✓	✓	✓	✓	=				
	7	✓	✓	✓	✓	=				
	8	✓	✓	✓	✓	=				
	9	✓	✓	✓	✓	=				
	10	✓	✓	✓	✓	=				
	11	✓	✓	✓	✓	=				
	12	✓	✓	✓	✓	=				
	13	✓	✓	✓	✓	=				
	14	✓	✓	✓	✓	=				
	15	✓	✓	✓	✓	=				
	16	✓	✓	✓	✓	=				
	17	✓	✓	✓	✓	=				
	18	✓	✓	✓	✓	=				
	19	✓	✓	✓	✓	=				
	20	✓	✓	✓	✓	=				
	21	✓	✓	✓	✓	=				
	22	✓	✓	✓	✓	=				
	23	✓	✓	✓	✓	=				
	24	✓	✓	✓	✓	=				
	25	✓	✓	✓	✓	=				

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

60172 7590 06/01/2015
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

VIA EFS WEB	(Depositor's name)
	(Signature)
	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	06/23/2008	Evan Feldman	120083-157809	1754

TITLE OF INVENTION: VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	~~SMALL~~ LARGE	~~$480~~ $960	$0	$0	$960 ~~$480~~	09/01/2015

EXAMINER	ART UNIT	CLASS-SUBCLASS
DESROSIERS, EVANS	2491	709-206000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) The names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Schwabe, Williamson & Wyatt, P.C.
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: Varia Holdings LLC

(B) RESIDENCE: (CITY and STATE OR COUNTRY): Brooklyn, NY

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
- ☒ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The director is hereby authorized to charge the required fee(s), any deficiency, or credits any overpayment, to Deposit Account Number 500393 ~~(enclose an extra copy of this form).~~

5. **Change in Entity Status** (from status indicated above)
- ☐ Applicant certifying micro entity status. See 37 CFR 1.29 — NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.
- ☐ Applicant asserting small entity status. See 37 CFR 1.27 — NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.
- ☒ Applicant changing to regular undiscounted fee status. — NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature /Ryan C. Fox-Lee/ Date 08/17/2015

Typed or printed name Ryan C. Fox-Lee Registration No. 65369

Electronic Patent Application Fee Transmittal

Application Number:	12144532
Filing Date:	23-Jun-2008
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Filer:	Ryan C. Fox-Lee/Enoy Lawless
Attorney Docket Number:	120083-157809

Filed as Large Entity

Filing Fees for Utility under 35 USC 111(a)

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Utility Appl Issue Fee	1501	1	960	960

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension-of-Time:				
Miscellaneous:				
			Total in USD ($)	**960**

Electronic Acknowledgement Receipt

EFS ID:	23224012
Application Number:	12144532
International Application Number:	
Confirmation Number:	1754
Title of Invention:	VENUE AND EVENT RECOMMENDATIONS FOR A USER OF A PORTABLE MEDIA PLAYER DEVICE
First Named Inventor/Applicant Name:	Evan Feldman
Customer Number:	60172
Filer:	Ryan C. Fox-Lee/Enoy Lawless
Filer Authorized By:	Ryan C. Fox-Lee
Attorney Docket Number:	120083-157809
Receipt Date:	17-AUG-2015
Filing Date:	23-JUN-2008
Time Stamp:	18:21:39
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$960
RAM confirmation Number	5304
Deposit Account	500393
Authorized User	LAWLESS, ENOY

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document supply fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Issue Fee Payment (PTO-85B)	Varia-07-0035_Issue-Fee-Trans.pdf	1000133 b99301d2a9cbf70860c821082f2e4b8e155417e2	no	1
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30837 2eb7e91f185872151583620 3eba5f37f60f2330a	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	1030970		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

<u>New Applications Under 35 U.S.C. 111</u>
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

<u>National Stage of an International Application under 35 U.S.C. 371</u>
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

<u>New International Application Filed with the USPTO as a Receiving Office</u>
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/144,532	09/22/2015	9141960	120083-157809	1754

60172 7590 09/02/2015
SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

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 1281 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.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

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):

Evan Feldman, Woodinville, WA;
Jonathan Nelson, Seattle, WA;

The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation, and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage and facilitate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

EPAS ID: PAT6872889

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT

CONVEYING PARTY DATA

Name	Execution Date
VARIA HOLDINGS LLC	08/19/2021

RECEIVING PARTY DATA

Name:	WILDSEED MOBILE LLC
Street Address:	1356 BROADWAY
Internal Address:	C/O MICHAEL JEMAL
City:	NEW YORK
State/Country:	NEW YORK
Postal Code:	10018

PROPERTY NUMBERS Total: 6

Property Type	Number
Patent Number:	6952597
Patent Number:	7376414
Patent Number:	8166139
Patent Number:	8635311
Patent Number:	9141960
Patent Number:	10251021

CORRESPONDENCE DATA

Fax Number:

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Phone:	9736219020
Email:	rbrosen@hlgslaw.com
Correspondent Name:	ROBERT B. ROSEN
Address Line 1:	ONE GATEWAY CENTER
Address Line 2:	HELLRING LINDEMAN GOLDSTEIN & SIEGAL LLP
Address Line 4:	NEWARK, NEW JERSEY 07102

ATTORNEY DOCKET NUMBER:	13713-1
NAME OF SUBMITTER:	ROBERT B. ROSEN
SIGNATURE:	/Robert B. Rosen/
DATE SIGNED:	08/19/2021

	This document serves as an Oath/Declaration (37 CFR 1.63).

Total Attachments: 3
source=00306662#page1.tif
source=00306662#page2.tif
source=00306662#page3.tif

ASSIGNMENT OF PATENT MATTERS

VARIA HOLDINGS LLC, a limited liability company organized under and pursuant to the laws of the State of Delaware (hereinafter referred to as "**Assignor**"), is the sole and exclusive owner of the patents listed in Exhibit A (hereinafter referred to as "**Patent Matters**"); and

WILDSEED MOBILE LLC, a limited liability company organized under and pursuant to the laws of the State of Texas (hereinafter referred to as "**Assignee**"), desires to acquire the right, title and interest in, to and under said Patent Matters and the inventions covered thereby.

For good and valuable consideration, the receipt and sufficiency of which Assignor acknowledges, Assignor hereby sells, assigns, transfers, and sets over to Assignee, its successors, legal representatives and assigns, the entire right, title and interest in and to said Patent Matters and all improvements thereon, and all provisional, original, divisional, continuation, continuation-in-part, substitute or reissue applications and patents applied for or granted therefor (including related rights such as utility-model registrations, inventor's certificates and the like), in the United States of America and all other countries, which claim priority to the Patent Matters including, without limitation, all United States Letters Patents and all reissues, reexaminations and extensions thereof and all priority rights under all available international agreements, treaties and conventions for the protection of intellectual property in its various forms in every participating country, and the Commissioner of Patents and Trademarks is hereby authorized and requested to issue all patents resulting from the Patent Matters to said Assignee herein, as assignee of the entire interest therein; and the Assignor for itself and its legal representatives, heirs and assigns does hereby agree and covenant without further remuneration, to execute and deliver all original, divisional, continuation, continuation-in-part, reissue and other applications for Letters Patent and all assignments thereof to said Assignee or its successors, legal representatives and assigns, to communicate to said Assignee or its successors, legal representatives and assigns all facts known to the Assignor respecting said Patent Matters whenever requested, to testify in any interferences or other legal proceedings in which said applications or patents may become involved, to sign all lawful papers, make all rightful oaths, and do generally everything necessary to aid Assignee, its successors, legal representatives and assigns to obtain patent protection for said Patent Matters in the United States of America and all other countries, the reasonable expenses incident to said Patent Matters to be borne and paid by said Assignee.

Assignor further assigns, transfers and conveys to Assignee all causes of action (whether known or unknown or whether currently pending, filed, or otherwise) and other enforcement rights under, or on account of, any of the Patent Matters including, without limitation, all causes of action and other enforcement rights for (1) damages, (2) injunctive relief, and (3) any other remedies of any kind for past, current, and future infringement.

The right, title, and interest conveyed in this Assignment is to be held and enjoyed by Assignee and Assignee's successors as fully and exclusively as it would have been held and enjoyed by Assignor had this assignment not been made.

For and on behalf of

ASSIGNOR:

VARIA HOLDINGS LLC

By: _____

Full Name: MICHAEL JEMAL

Capacity: MANAGER

On the 19th day of AUGUST 2021, before me personally appeared MICHAEL JEMAL who stated that he/she was the MANAGER of Varia Holdings LLC and that he/she executed the foregoing document on its behalf.

_____

NOTARY PUBLIC

Clifton Brown
Notary Public - State of New York
No. 01BR6314657
Qualified in Kings County
My Commission Expires November 17, 2022

My Commission expires: 11/17/2022

[SEAL]

EXHIBIT A

U.S. Patent No. 6,952,597

U.S. Patent No. 7,376,414

U.S. Patent No. 8,166,139

U.S. Patent No. 8,635,311

U.S. Patent No. 9,141,960

U.S. Patent No. 10,251,021

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	**REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK**

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Western District of Texas on the following

☐ Trademarks or ☑ Patents. (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
6:21-cv-1245	12/1/2021	Western District of Texas

PLAINTIFF	DEFENDANT
WILDSEED MOBILE LLC	GOOGLE LLC and YOUTUBE, LLC

PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,376,414	5/20/2008	Wildseed Mobile LLC
2 9,141,960	9/22/2015	Wildseed Mobile LLC
3 10,251,021	4/2/2019	Wildseed Mobile LLC
4 10,959,040	3/23/2021	Wildseed Mobile LLC
5 10,869,169	12/15/2020	Wildseed Mobile LLC

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE

Copy 1—Upon initiation of action, mail this copy to Director **Copy 3—Upon termination of action, mail this copy to Director**
Copy 2—Upon filing document adding patent(s), mail this copy to Director **Copy 4—Case file copy**

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	**REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK**

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Western District of Texas on the following

☐ Trademarks or ☑ Patents. (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
6:21-cv-1245	12/1/2021	Western District of Texas

PLAINTIFF	DEFENDANT
WILDSEED MOBILE LLC	GOOGLE LLC and YOUTUBE, LLC

PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,376,414	5/20/2008	Wildseed Mobile LLC
2 9,141,960	9/22/2015	Wildseed Mobile LLC
3 10,251,021	4/2/2019	Wildseed Mobile LLC
4 10,959,040	3/23/2021	Wildseed Mobile LLC
5 10,869,169	12/15/2020	Wildseed Mobile LLC

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE

Copy 1—Upon initiation of action, mail this copy to Director **Copy 3—Upon termination of action, mail this copy to Director**
Copy 2—Upon filing document adding patent(s), mail this copy to Director **Copy 4—Case file copy**

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	**REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK**

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Western District of Texas on the following

☐ Trademarks or ☑ Patents. (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
6:22-cv-00357	4/4/2022	Western District of Texas

PLAINTIFF	DEFENDANT
WILDSEED MOBILE LLC	GOOGLE LLC and YOUTUBE, LLC

	PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1	7,376,414	5/20/2008	Wildseed Mobile LLC
2	9,141,960	9/22/2015	Wildseed Mobile LLC
3	10,251,021	4/2/2019	Wildseed Mobile LLC
4	10,959,040	3/23/2021	Wildseed Mobile LLC
5	10,869,169	12/15/2020	Wildseed Mobile LLC

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE

Copy 1—Upon initiation of action, mail this copy to Director **Copy 3—Upon termination of action, mail this copy to Director**
Copy 2—Upon filing document adding patent(s), mail this copy to Director **Copy 4—Case file copy**

AO 120 (Rev. 08/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Western District of Texas on the following

☐ Trademarks or ☑ Patents. (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
6:22-cv-00357	4/4/2022	Western District of Texas

PLAINTIFF	DEFENDANT
WILDSEED MOBILE LLC	GOOGLE LLC and YOUTUBE, LLC

PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,376,414	5/20/2008	Wildseed Mobile LLC
2 9,141,960	9/22/2015	Wildseed Mobile LLC
3 10,251,021	4/2/2019	Wildseed Mobile LLC
4 10,959,040	3/23/2021	Wildseed Mobile LLC
5 10,869,169	12/15/2020	Wildseed Mobile LLC

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
8/29/2022 - Order Granting Motion to Transfer Case to the Northern District of California - #66

CLERK	(BY) DEPUTY CLERK	DATE
Philip J. Devlin	Suzanne Miles	8/29/2022

Copy 1—Upon initiation of action, mail this copy to Director **Copy 3—Upon termination of action, mail this copy to Director**
Copy 2—Upon filing document adding patent(s), mail this copy to Director **Copy 4—Case file copy**