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NOTICE OF ALLOWANCE AND FEE(S) DUE

131926 7590 01/15/2019
May Patents Ltd. c/o Dorit Shem-Tov
P.O.B 7230
Ramat-Gan, 5217102
ISRAEL

EXAMINER

NGUYEN, MINH CHAU

ART UNIT

PAPER NUMBER

2459

DATE MAILED: 01/15/2019

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/957,950	04/20/2018	Derry Shribman	HOLA-005-US5	4259

TITLE OF INVENTION: SYSTEM PROVIDING FASTER AND MORE EFFICIENT DATA COMMUNICATION

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$500	\$0.00	\$0.00	\$500	04/15/2019

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: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via EFS-Web.

By mail, send to: Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By fax, send to: (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)

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.

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May Patents Ltd. c/o Dorit Shem-Tov
P.O.B 7230
Ramat-Gan, 5217102
ISRAEL

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 transmitted to the USPTO via EFS-Web or by facsimile to (571) 273-2885, on the date below.

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/957,950	04/20/2018	Derry Shribman	HOLA-005-US5	4259

TITLE OF INVENTION: SYSTEM PROVIDING FASTER AND MORE EFFICIENT DATA COMMUNICATION

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nonprovisional	SMALL	\$500	\$0.00	\$0.00	\$500	04/15/2019

EXAMINER	ART UNIT	CLASS-SUBCLASS
NGUYEN, MINH CHAU	2459	709-202000

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 03-09 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,

1 _____

(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.

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 must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). 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. Fees submitted: ☐ Issue Fee ☐ Publication Fee (if required) ☐ Advance Order - # of Copies _____

4b. Method of Payment: (Please first reapply any previously paid fee shown above)

☐ Electronic Payment via EFS-Web ☐ Enclosed check ☐ Non-electronic payment by credit card (Attach form PTO-2038)

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

5. Change in Entity Status (from status indicated above)

☐ Applicant certifying micro entity status. See 37 CFR 1.29

☐ Applicant asserting small entity status. See 37 CFR 1.27

☐ Applicant changing to regular undiscounted fee status.

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.

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.

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. _____



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Ramat-Gan, 5217102			PAPER NUMBER	
ISRAEL			2459	

DATE MAILED: 01/15/2019

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 30 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 law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Notice of Allowability	Application No. 15/957,950	Applicant(s) Shribman et al.	
	Examiner MINH CHAU N NGUYEN	Art Unit 2459	AIA 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 Amendment, filed 08/23/2018.
☐ 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 1-28. 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)	5. ☐ Examiner's Amendment/Comment
2. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date <u>10/18/2018</u> .	6. ☒ Examiner's Statement of Reasons for Allowance
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material _____.	7. ☐ Other _____.
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date. _____.	

/MINH CHAU NGUYEN/
Primary Examiner, Art Unit 2459

Notice of Pre-AIA or AIA Status

The present application is being examined under the pre-AIA first to invent provisions.

Remarks

Applicant's amendment dated August 23, 2018 responding to August 8, 2018 Office Action provided in the rejection of claims 1-28. **Claims 1-28** remain pending in the application and which have been fully considered by the Examiner.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Claims 1-28 are considered allowable since when reading the claims in light of the specification, as per MPEP §2111.01 or *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999), none of the references of record alone or in combination disclose or suggest the combination of limitations specified in **independent claim 1**.

For example, the independent claims contain limitations, *receiving, from the first client device, a first message that comprises the web server IP or the first content identifier; sending, in response to the receiving of the first message, the first content identifier to the second client; receiving, in response to the sending of the first content identifier, the first content, or a part thereof, from the second client device; and sending, the received first content, or the part thereof, to the first client device*. Therefore, the Examiner agrees that the limitations of the independent claims, within its environment, is allowable subject matter over the prior art, in light of the specification and in view of the Applicant's arguments.

Because **claims 2-28** depend directly or indirectly on claim 1, these claims are considered allowable for at least the same reasons noted above with respect to **claim 1**.

To the extent that these features are not found in the prior art cited by Examiner, the present case is held allowable over the art of record.

Any comments considered necessary by applicant must be submitted no later than the 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".

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH CHAU N NGUYEN whose telephone number is (571)272-4242. The examiner can normally be reached on M-F 8am-4pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JEFFREY NICKERSON can be reached on (571)270-3631. 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.

/MINH CHAU NGUYEN/

Primary Examiner, Art Unit 2459

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: HOLA-005-US5

In re Application of:	)	Confirmation No. 4259
	)	
Derry Shribman <i>et al.</i>	)	Art Unit: 2459
	)	
Appln. No.: 15/957,950	)	Examiner: Nguyen Minh Chau
	)	
Filed: April 20, 2018	)	Washington, D.C.
	)	
For: SYSTEM PROVIDING FASTER AND MORE EFFICIENT DATA COMMUNICATION	)	August 23, 2018
	)	

RESPONSE / AMENDMENT:

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

Sir:

In response to the Non-Final Office Action of August
8, 2016 ("Action"):

Remarks/Arguments begin on page 2 of this paper.

REMARKS / ARGUMENTS

The examiner's action dated August 8, 2018 ("Action") has been received and its contents carefully noted.

Office Action, pages 2-4

Claims 1-28 are rejected under 35 U.S.C. 101 as not directed to statutory subject matter.

a. Over generalization of the abstract idea

The Action is based on over generalization of the abstract idea and oversimplification of the recited claim functions and is untethered from the actual language of the claims. Alice framework, cautions that *"describing the claims at such a high level of abstraction and untethered from the language of the claims all but ensures that the exceptions to §101 swallow the rule."* Enfish, LLC v. Microsoft Corp., 822 F.3d 1327, 1337 (Fed. Cir. 2016).

It is noted that in the cited case of Int. Vent. V. Erie Indemnity the court determined that *"the claimed invention does not recite any particular unique delivery of information through this mobile interface."* (Slip op. at 24). In contrast, the claimed invention clearly defines a unique information delivery structure that involves not only content delivery, but also exchange of various identifiers of networked devices.

b. Generic elements.

The rejection is based on *'generic computer'* and *'generic computer components'*. First, even if the claimed invention uses *"generic computer, network, and Internet components, none of which is inventive by itself,"* the *"inventive concept can be found in the non-conventional and non-generic arrangement of*

known, conventional pieces." Bascom, 827 F.3d 1350, thus even if claim 1 may be implemented in software and potentially generic computer components (e.g., processor) does not doom the invention to abstraction. So characterized, claim 1 is sufficiently concrete and non-abstract.

It is noted that in the cited case of *Int. Vent. V. Erie Indemnity* the court determined that *"the claimed invention does not recite any particular unique delivery of information through this mobile interface."* Slip op. at 24. In contrast, the claimed invention clearly defines a unique information delivery structure that involves not only content delivery, but also exchange of various identifiers of networked devices.

c. The claims improve another technology or technical field.

In the rejection of claim 1 under §103, the Action admits that the claimed invention provides *"... an improvement for an information/communication exchange via a network"*. **Hence, the Action itself admits to various improvements in various technologies and fields.**

Here, independent claim 1 addresses a problem rooted in the technology itself, i.e., the need to improve content fetching by mapping content locations. (see also *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014) (patentable subject matter where claim addresses problem rooted in computer technology).

Further, in a similar technology, it is respectfully submitted that in a decision of Appeal 2017-010768 dated May 4, 2018 (from application 14/288,506), claims were similarly found to be patent eligible being *"directed to a technical improvement in the communication between computers"*. Similarly, in a decision of Appeal 2017-007566 dated May 17, 2018 (from application 14/268,145), claims were similarly found to be

patent eligible since they *'facilitates the cooperation of "multiple different kind of computers."' , and using intermediate computers.*

In another similar case, claims as a whole are directed to a computer solution of accelerating transaction execution using one data structure (i.e., a multidimensional data cube) to perform certain functions/results and another, different data structure (i.e., a relational database) to achieve other functions/results. Considering the claims in light the Specification, the disclosure bolsters that claims as a whole are directed to improving an existing, technological process of enterprise software implemented on a computer system (Appeal 2017-002623).

d. No support for "well understood, routine, conventional and known ...".

The Federal Circuit drew a distinction between what is well-understood, routine, conventional, and what is simply known in the prior art, cautioning that the mere fact that something is disclosed in a piece of prior art does not mean it was a well-understood, routine, conventional activity or element. See *Berkheimer v. HP Inc.*, 881 F.3d 1369 (Fed. Cir. 2018). Further, as set forth in MPEP § 2106.05(d)(I), an examiner should conclude that an element (or combination of elements) represents well-understood, routine, conventional activity **only when the examiner can readily conclude that the element(s) is widely prevalent or in common use in the relevant industry.** See MPEP § 2106.05. As the Federal Circuit explained: *"[w]hether a particular technology is well-understood, routine, and conventional goes beyond what was simply known in the prior art. The mere fact that something is disclosed in a piece of*

prior art, for example, does not mean it was well-understood, routine, and conventional." Berkheimer, 881 F.3d at 1369.

Office Action, pages 4-15

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu *et al.* (US 2006/0212584 - "Yu") and in view of Kageyama *et al.* (US 2003/0097408 - "Kageyama").

Regarding Claim 1

a. The last limitation step of "*sending the received first content ... to the first client device*" is equated in the Action to the Yu reference described receiving the requested content by the peer node 403 from the web server. However, the claimed steps are performed by the first server that is distinct from the web server that is the second server.

b. The last limitation step recites "*sending the received first content ... to the first client device*" - Hence referring to the former step of receiving the content by the first server. Yu is silent regarding the equated web server receiving any content in general, and sending any received content in particular.

c. The Action does not explain WHY the Yu and Kageyama references are analogous and can be combined. If the Examiner contends that they are analogous art being in the same field, **a clear definition stating that field is requested, as required in the rules.** In one example, while the Yu invention is directed to using peer-to-peer direct communication, the Kageyama invention is focused on terminals communicating ONLY via server.

d. The rationale for combining with the Yu and Kageyama references is stated as "... *in order to provide an improvement for an information/communication exchange via a network*". It is respectfully submitted that this rationale amounts to nothing more than a conclusory statement. It is not clear what improvement is provided and WHY. It is settled that the Office should provide a "satisfactory explanation" for the motivation for a finding that includes an express and **"rational" connection with the evidence presented**. Further, the rationale provides no link to the present application, as required in MPEP 2143 that clearly states that "*Any rationale employed must provide a link between the factual findings and the legal conclusion of obviousness.*" (Emphasis added), and "... *there must be "some articulated reasoning with some rational underpinning" to support the Examiner's findings and conclusion of obviousness*". See KSR Int'l Co. v. Teleflex Inc., 550 U.S. 401, 418 (2007).

e. The rationale is improper since the Yu reference already teaches an improvement of reducing server load and servicing of multiple clients (for example, see paragraphs 0004, 0016, 0025), hence additional improvement is not required, and the Action provides no explanation of why one of ordinary skill in the art would have modified accordingly the Yu reference. It is noted that In Square, Inc. v. Cooper, IPR2014-00158, Paper No. 8, at 30 (15 May 2014), an obviousness challenge was dismissed where the primary reference already had the capabilities that the secondary reference provided with its added disclosures. Moreover, it would not be appropriate to base this rejection on a combination of these references because the devices in Yu and Kageyama are each self-contained and independently operate effectively to improve "*an information/communication exchange*".

via a network", and it is settled in *Kinetic Concepts v. Smith and Nephew*, 688 F.3d 1342, at 1369 (CAFC, 2012) that:

Because each device independently operates effectively, a person having ordinary skill in the art, who was merely seeking to create a better device to drain fluids from a wound, would have no reason to combine the features of both devices into a single device.

f. The Yu reference in general, and the cited passages in particular, is focused on reducing a load of a server by accessing client peer devices **rather than the server storing the required content**, where the system is managed by an additional server (indexing server 404). Modifying the Yu reference so that the content is provided via the indexing server 404 resumes the basic problem of server loading, and thus the Yu reference effectively teaches away from the suggested modification.

g. The Action relies upon the Kageyama reference for the steps of sending of the first content identifier and receiving in response the first content. However, the Kageyama in general, and the cited paragraphs in particular, does NOT disclose any content delivery of the content itself but only metadata relating to the content.

Regarding Claims 6 and 13

Claim 6 (and 13) recites selection of client devices by the first server. In contrast, the indexing server 404, as described in the cited paragraphs, sends the WHOLE list of peers to the requesting client, and **the selecting is made in the requesting client device** (see step 514 in Figure 5). The Yu reference is silent regarding any selecting by any server in general, and sending only the selected peers in particular.

Regarding Claims 9-12

While the Yu reference may teach in the cited paragraphs 0023 and 0038 that the peer device notify the server upon going online and upon exiting the network, the Yu reference is general, and the cited paragraphs in particular, are silent regarding any messaging in-between the entering and exiting events, silent about list maintenance messages initiated by the server, and further silent regarding any status messages, such as 'keep alive' between the server and the peers.

Regarding Claims 16-19

The rejection of the added limitations of claims 16-19 is based on newly introduced passages in the Kageyama reference, however no rationale is provided for modifying the Yu reference with these limitations. Further, it is noted that these claims depend from claim 13 and further defines the 'selecting', where the rejection is based on the Yu reference for this feature. Furthermore, it is noted that the rejection is based on the Kageyama reference with regard to different limitations discussed in claims 1, and the rationale provided for combination in claim 1 is not relevant to the applied limitations of these claims.

Regarding Claim 19

While the Yu reference may mention by passing using TCP, it is silent regarding any TCP connection as recited in the claim.

Regarding Claims 22-23

While the cited paragraphs 0066-0067 disclose various metadata information relating to the content itself, these paragraphs are silent regarding any server information in general, and application version in particular, as recited in the claims.

Further, the rejection of the added limitations of claims 22-23 is based on newly introduced passages in the Kageyama reference, however no rationale is provided for modifying the Yu reference with these limitations. Furthermore, it is noted that the rejection is based on the Kageyama reference with regard to different limitations discussed in claims 1, and the rationale provided for combination in claim 1 is not relevant to the applied limitations of these claims.

The absence of a reply to a specific rejection, issue, or comment, does not signify agreement with that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims that have not been expressed.

Nothing in this reply should be understood as conceding any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claims does not necessarily signify concession of unpatentability to the claim before its amendment.

In view of the foregoing, it is requested that all of the rejections be reconsidered and withdrawn and that the claims be considered allowable.

If the above arguments should not now place the application in the condition for allowance, the examiner is invited to call undersigned counsel to resolve any remaining issues.

Respectfully submitted,

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