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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	09685.0044-00000
First Inventor	Joshua HARTWELL
Title	Systems and Methods for...
Express Mail Label No.	Filed by EFS-Web

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☑ **Fee Transmittal Form** (e.g., PTO/SB/17)
   (Submit an original and a duplicate for fee processing)
2. ☐ **Applicant claims small entity status.**
   See 37 CFR 1.27.
3. ☑ **Specification** [*Total Pages* 37]
   Both the claims and abstract must start on a new page
   (For information on the preferred arrangement, see MPEP 608.01(a))
4. ☑ **Drawing(s)** (*35 U.S.C. 113*) [*Total Sheets* 7]
5. **Oath or Declaration** [*Total Sheets* 1]
   a. ☑ Newly executed (original or copy)
   b. ☐ A copy from a prior application (37 CFR 1.63(d))
   (for continuation/divisional with Box 18 completed)
   i. ☐ DELETION OF INVENTOR(S)
   Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☑ **Application Data Sheet.** See 37 CFR 1.76
7. ☐ **CD-ROM or CD-R** in duplicate, large table or Computer Program *(Appendix)*
   ☐ Landscape Table on CD
8. **Nucleotide and/or Amino Acid Sequence Submission**
   (if applicable, items a. – c. are required)
   a. ☐ Computer Readable Form (CRF)
   b. Specification Sequence Listing on:
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ACCOMPANYING APPLICATION PARTS

9. ☐ **Assignment Papers** (cover sheet & document(s))
   Name of Assignee_____
10. ☐ **37 CFR 3.73(b) Statement** *(when there is an assignee)* ☐ **Power of Attorney**
11. ☐ **English Translation Document** *(if applicable)*
12. ☐ **Information Disclosure Statement** (PTO/SB/08 or PTO-1449)
    ☐ Copies of citations attached
13. ☐ **Preliminary Amendment**
14. ☐ **Return Receipt Postcard** (MPEP 503)
    (*Should be specifically itemized)*
15. ☐ **Certified Copy of Priority Document(s)**
    (if foreign priority is claimed)
16. ☐ **Nonpublication Request** under 35 U.S.C. 122(b)(2)(B)(i).
    Applicant must attach form PTO/SB/35 or equivalent.
17. ☐ Other:_____

18. If a CONTINUING APPLICATION, *check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:*

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: .....

Prior application information: *Examiner* _____ *Art Unit:* _____

19. CORRESPONDENCE ADDRESS

☑ The address associated with Customer Number: 22,852 ***OR*** ☐ Correspondence address below

Name					
Address					
City		State		Zip Code	
Country		Telephone		Email	

Signature	/Robert C. Stanley/	Date	2007 June 26
Name (Print/Type)	Robert C. Stanley	Registration No. (Attorney/Agent)	55,830

This collection of information is required by 37 CFR 1.53(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.**

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APPLICATION DATA SHEET

Application Information

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Applicant Information

Applicant Authority Type::	Inventor
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Correspondence Information

Correspondence Customer Number:: 22852

Representative Information

Representative Customer Number:: 22852

Domestic Priority Information

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<<NONE>>

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Attorney Docket No.: 09685.0044-00000

UNITED STATES PATENT APPLICATION

FOR

SYSTEMS AND METHODS FOR PROVIDING IN-GAME HOT SPOTS

BY

JOSHUA HARTWELL

DESCRIPTION OF THE INVENTION

Field of the Invention

[001] The invention relates generally to systems and methods for providing in-game hot spots to a mobile communication device.

Background of the Invention

[002] Many mobile communication devices (including cellular phones, PDAs, and other handheld devices capable of communicating with a server) are capable of operating video games. Most current mobile communication devices come equipped with one or more games at the time of purchase, and most modern mobile communication devices also allow users to download and/or purchase new games. As mobile communication device technology has advanced, the games available for these devices have become more robust. For example, most current mobile communication devices include color screens that can support games with detailed color graphics, and more content may generally fit onto these screens than on screens of older mobile devices. As a result, gaming on mobile communication devices has become a popular mode of entertainment in a mobile environment.

[003] However, all video games tend to have a popularity life span. As game elements become increasingly familiar to players, the game may hold less surprises and/or no longer present a challenge to the user, at which point the user may stop playing that particular game in favor of others. Because mobile communication devices are generally less powerful than personal computers and stand-alone video game consoles, some games for mobile communication devices may be relatively simple or repetitive by comparison. Typically, games that hold user interest for longer periods of

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time are more valuable than games that users leave behind quickly. As a result, game creators are always looking for ways to make games that hold the user's interest for a longer period of time.

[004] The recent surge in technical capabilities of mobile communication devices has also spawned attractive new promotional possibilities. Because an extremely large number of people worldwide own mobile communication devices, many third parties may wish to advertise within the screen of a mobile communication device. In particular, when a user plays a game on the mobile communication device, the user's full attention may be directed to the screen of the mobile communication device. Therefore, providing in-game advertising space in the palm of the user's hand is an attractive proposition for both buyers and sellers of the space.

[005] Permanent advertisements within a video game that is played on a mobile communication device may be presented in various ways. For example, the background of the video game might contain a permanent advertisement for a third party. In most cases, this advertisement would generate revenue for the maker of the game, while also serving as a valuable promotional opportunity for the third party.

[006] It is accordingly an object of the invention to provide systems and methods for providing hot spots of triggered content within the gaming environment of a mobile video game on a mobile communication device. A hot spot can be thought of as a location or item, sometimes hidden within the game, that triggers additional specialized content when activated by a user or some other in-game element. Some embodiments may prolong user interest in a game for a mobile communication device, and make promotional opportunities more predictable and/or desirable, as follows.

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SUMMARY OF THE INVENTION

[007] In accordance with embodiments of the invention, systems and methods for providing in-game hot spots on a mobile communication device are provided.

[008] In an embodiment, a mobile communication device may comprise a screen for viewing by the user, a processor, and a memory. The memory may contain instructions that, when executed by the processor, cause the communications device to operate a video game, contact a remote system to check for hot spot information to use in the video game, download the hot spot information to the communications device from a server, designate a location in-game for activating the hot spot, detect manipulation of the designated location as activating the hot spot; and display content when the user activates the hot spot. The video game itself may be presented on the screen.

[009] A hot spot is an in-game feature that includes an activation element and a content element that is triggered by the activation element. The downloaded hot spot information may include one or both of the elements. The mobile communication device may update the hot spot information periodically by contacting the remote system.

[010] The activation element may comprise an area location or an item, sometimes hidden in the game, that can be triggered by a user or some other in-game element. For example, the hot spot information may include coordinate information, and the coordinate information may be used to designate the location for activating the hot spot. In some embodiments, the designated location is an item that is displayed in-game.

[011] In some embodiments, the hot spot information identifies the content (i.e., "content element") to be displayed when the hot spot is activated. The content

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may include, for example, a message, and the message may be promotional. In some embodiments, the message includes a hint related to the game. Other content that can be triggered by a hot spot includes a new game level or an item useful in playing the game. The content triggered by a first hot spot can also include another hot spot that is then placed within the game. The content may be promotional in nature, but can also be non-promotional.

[012] Another embodiment disclosed herein includes a computer-readable medium containing instructions for execution by a mobile communication device. The instructions may cause the mobile communication device to operate a video game, contact a server to check for hot spot information for use in the video game, download the hot spot information to the communications device, designate a location in-game for activating the hot spot, detect manipulation of the designated location as activating the hot spot, and display content when the user activates the hot spot.

[013] A method for distributing hot spot information to a communications device for use in a video game that runs on the communications device is disclosed herein. In an embodiment, the method may comprise the steps of storing hot spot information on a computer-readable medium, receiving a request for hot spot information from a mobile communication device, the hot spot information being usable in a video-game that already exists on the communications device, and uploading hot spot information to the communications device, the hot spot information identifying content for presenting to the user when the hot spot is activated.

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[014] The hot spot information may designate a location in-game for activating the hot spot. In one case, the location may be fixed to a particular item, and therefore may be subject to the movement and/or boundaries of the item.

[015] In addition, the method may include tracking what hot spot information has been downloaded.

[016] Further, some embodiments may include a system for distributing updated video game content to a communications device. The system may comprise a storage medium for storing hot spot information for use in a video game, a server in communication with the storage medium, and an interface coupled to the server and a network, wherein the interface receives a request for hot spot information from the communications device over the network. In some systems, the server may be operative to receive a request through the interface and utilize the request to send the hot spot information from the storage medium to the communications device, the hot spot information designating an location in-game as associated with activating the hot spot.

[017] The hot spot information may identify content for presenting to the user when the hot spot is activated, and the content may be promotional in nature. In some embodiments, the content is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device.

[018] The server may track what hot spot information has been downloaded.

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[019] It is to be understood that both the foregoing general description and the following detailed description are exemplary and explanatory only and are not restrictive of the invention, as claimed.

[020] The accompanying drawings, which are incorporated in and constitute a part of this specification, illustrate several embodiments of the invention and together with the description, serve to explain the principles of the invention.

BRIEF DESCRIPTION OF THE DRAWINGS

[021] Figure 1 is an overview diagram of exemplary components used to provide in-game hot spots on a mobile communication device in accordance with some embodiments of the present invention.

[022] Figures 2A-B are diagrams of an exemplary scene in a video game played on a mobile communication device in accordance with some embodiments of the present invention.

[023] Figures 3A-B are exemplary flow charts that include steps taken by a mobile communication device to update in-game hot spot information in accordance with an embodiment of the present invention.

[024] Figures 4A-B are exemplary flow charts that include steps taken by a server to update in-game hot spot information on a mobile communication device in accordance with an embodiment of the present invention.

DESCRIPTION OF THE EMBODIMENTS

[025] Reference will now be made in detail to the present exemplary embodiments of the invention, examples of which are illustrated in the accompanying

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drawings. Wherever possible, the same reference numbers will be used throughout the drawings to refer to the same or like parts.

[026] It is to be understood that both the foregoing background description and the following detailed description are exemplary and explanatory only and are not restrictive of the invention as claimed.

[027] As used herein, a server includes any remote system capable of receiving communication from a handheld device over a network, such as the Internet, intranet, local area network, telecommunications network, and/or Ethernet.

[028] This application incorporates by reference herein in its entirety the U.S. Patent Application entitled "Systems and Methods for Updating In-Game Content," filed concurrently with this application.

[029] Generally, a hot spot is an in-game feature that includes an activation element and a content element that is triggered by the activation element.. Hot spot information may include information that allows a mobile communication device to designate a location in-game (such as an item or hidden area) for activating the hot spot. When the location is electronically manipulated in some way during game play, such as by touching it, running over it, hitting it with an item, etc., the content associated with the hot spot may be displayed. For example, the content may be a promotional message.

[030] An embodiment of the invention described below allows a game company and/or provider to provide hot spots via hot spot information to a mobile communication device for use in a mobile video game that operates on the mobile communication device. The ability to provide hot spots and update in-game hot spot

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information may allow game companies to keep game elements fresh and prolong user enjoyment of the game. For example, new interactive items and/or hidden features may be placed within a particular scene in the game so that the user has something new to look at or trigger (sometimes unexpectedly). In addition, the game company may charge third-party advertisers a fee per downloaded and/or activated hot spot in one aspect. Consequently, the game may sustain its popularity and be more profitable for the game creator than existing mobile communication device games.

[031] The game may also attract more third-party advertisers by providing an avenue for purchasing and selling time blocks of in-game advertising. Third parties may now have the option to advertise for a period of time, rather than permanently, within a video game for a mobile communication device. This flexibility may allow the negotiation of promotional contracts that involve less guess-work with respect to placing advertisements or virtual products within a video game on a mobile communication device. Further, an embodiment herein also provides promotional opportunities for third parties that could not previously afford to place advertisements within a game for a mobile communication device. For example, while purchasing a promotional spot that lasts the lifetime of the game may not be feasible, it may be much cheaper to purchase a smaller block of time for content used in a hot spot over that smaller block of time.

[032] In some embodiments, advertisements may be tracked on a per-view or per-download basis. In these embodiments, it may be possible for the game company and/or distributor to profit each time a promotional hot spot is downloaded. Some embodiments may track each time a hot spot is activated and/or viewed. In one aspect, a mobile communications device may maintain a continuous link with a remote system

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while the game is operating, allowing the system to track the number of times a hot spot is activated. In another embodiment, no continuous link exists, but the mobile communication device may periodically report hot spot activation statistics to the remote system.

[033] In addition, local third party advertisers may be able to place promotional content on mobile communication devices located within a proximity to the locality.

[034] The ability to place or update a hot spot within the game may also provide an avenue for signing additional promotional contracts after the game has already been publicly released. For example, in a previously-released game, a new hot spot location may be placed in-game (i.e., as part of the gaming environment of the mobile video game) that was not present at the time of the game's launch. Alternatively, an item and/or message associated with an existing hot spot may be changed. Similarly, the location of a hot spot may vary, maintaining an element of surprise or newness within the game. The ongoing promotional aspects of such a system could be very attractive to both buyers and sellers of promotional space.

[035] Figure 1 is an overview diagram of exemplary components used to place or update hot spot information on a mobile communication device in accordance with several embodiments of the present invention. Turning to Figure 1, both a distribution block 125 and a creation block 140 are shown. In the distribution block 125, the user 105 plays a mobile video game on mobile communication device 110. In some embodiments, the game includes instructions to check 115 for hot spot information at server 120. The mobile communication device may perform this check 115 by connecting to server 120 through network 122.

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[036] In some embodiments, the mobile communication device 110 may contain a processor and a memory. The program instructions for the video game may be located in the memory and executed by the processor, causing the game to operate on the mobile communication device. The mobile communication device may also contain a screen for displaying the mobile video game to the user 105.

[037] The network 122 may include, for example, the global Internet. Alternatively or in addition, the network 122 may include a phone or data network. In an embodiment, the mobile communication device 110 may connect to an interface (not shown) that may, in turn, pass a request for hot spot information to server 120. The interface may be part of server 120 or a separate device, depending on the embodiment. The interface may also include its own server and/or specialized firewall hardware. In addition, server 120 may actually be one or more servers.

[038] In the example of Figure 1, hot spot information is stored on a data storage medium 130. In this example, the data storage medium 130 is computer-readable. Potential data storage mediums include a hard drive, memory (such as RAM), and other storage devices (e.g., flash memory, a USB drive, compact disk, DVD, tape, or other media). The data storage medium may be implemented by one or more distinct storage mediums. In some embodiments, the hot spot information may be organized or indexed by a database. The storage medium 130 may be a part of server 120 in some embodiments.

[039] After server 120 receives a communication request from mobile communication device 110, server 120 may check whether hot spot information (or updated hot spot information) is available for one or more mobile video games. If any

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hot spot information is available, server 120 may send or provide (e.g., upload) the information to mobile communication device 110. Other steps, such as performing a check of whether the user wishes to receive hot spot information, are possible in some embodiments. For example, the server 120 may store an indicator of whether hot spot information should be sent to the particular mobile communication device 110. Additionally, before or after the hot spot information is downloaded, the user 105 may be prompted by mobile communication device 110 to make sure the user 105 wishes to add the hot spot information to the video game.

[040] Other user information may also be utilized, such as the sex, age, or interests of the user. This may help in selecting more appropriate hot spot content for the user. Other checks are also possible, such as the geographic location of the user. In one embodiment, the user may be queried for this information. In another embodiment, the mobile communications device automatically transmits the information to the remote system and/or the remote system stores the information for later use.

[041] Once the hot spot information has been downloaded by mobile communication device 110, the hot spot may be placed in-game (e.g., within the gaming environment). Some hot spots may be initially part of the mobile video games, and hot spot information may replace or supplement previously existing hot spots within the game. For example, the updated hot spot information may change the location of the hot spot, associate the hot spot with a new item, change the content that is displayed when the hot spot is activated, and/or change the method of activating the hot spot.

[042] The hot spot information may be loaded into the server 120 and/or storage medium 130 from any number of external sources (although typical server

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access restrictions may apply). In Figure 1, computer 140 may upload the hot spot information to the server 120. In other embodiments, the hot spot information may be created on server 120. In still other embodiments, a user 105 may create a component of the hot spot information. For example, some embodiments may allow the user 110 to upload a recorded message to server 120, either via the mobile communication device 110 or some other device, such as a personal computer. The message may play, for example, when a hot spot is activated. In another embodiment, the user 110 may be able to upload content (such as a picture, movie, text, etc.) to server 120 for sharing with others. Server 120 may distribute user-generated content as part of hot spot information, for example, if the user wins a contest.

[043] The server may be in communication with the storage medium that contains the hot spot information so that the information may be retrieved and sent to the mobile communication device.

[044] Figures 2A and B are diagrams of an exemplary scene in a mobile video game played on a mobile communication device in accordance with several embodiments. The exemplary screen is from a darts game, which includes dart board 210. However, embodiments disclosed herein may benefit all types of mobile communication device games, and are not limited to darts games or any other particular type of game that is available for mobile communication devices.

[045] Turning now to Fig. 2A, several items 210, 220, 225, 230, and 235 are shown within scene 200. In this example, virtually any of these items may be defined as hot spots on the mobile communication device. For instance, if the user throws a dart that hits shirt 230, a promotional message associated with third party X may pop up on

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screen. A message may include a picture, text, video, audio, or combination thereof. Promotional messages might also be displayed if the user activates hot spots on poster 225 or chalk board 220. Additionally, if the user activates a hot spot defining a piece of chalk 232, a new message might be drawn on chalk board 220.

[046] Thus, hot spots may be provided by designating a location in-game for activating the hot spot, detecting activation of the hot spot during operation of the mobile video game, and displaying content when the hot spot is activated. The designated in-game location for the hot spot may be based on hot spot information. The activation may occur, for example, when the user manipulates the designated location.

[047] New hot spot information availability may be driven by promotional contract terms, such as with third parties exemplified by X, Y, and Z. In this example, when the promotional contract with third party X ends, the logo on shirt 230 and/or associated hot spot message may be removed. In addition, the mobile communication device may update hot spot information by downloading a new message to associate with the shirt 230. The updated message may not be promotional, or it may advertise the in-game availability for promotional content. As an example, the new message displayed when the hot spot on shirt 220 is activated might state that “ad space is available.” Localized promotional content used on the hot spot may removed and/or replaced in a shorter time frame if the mobile communication device enters a new local area with different localized promotional content in some embodiments. The content may also include content provided by a friend of the user, or may be geographically selected.

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[048] Turning to Fig. 2B, a hot spot may be assigned to window 222. When the user hits the window with a dart, the hot spot may be activated. Activation may cause the mobile communication device to display content, such as an animation of window 222 shattering. Additionally, a promotional message, such as for a window repair company, may be displayed to the user. In this example, the hot spot information may include coordinates for defining the placement and/or boundaries of the window, the window graphic, the shatter animation content, coordinates for displaying the animation, and the promotional message. In some embodiments, some of those components may already exist on the mobile communication device.

[049] Figures 3A-B are exemplary flow charts that include steps taken by a mobile communication device to update hot spot information in accordance with an embodiment of the present invention. Turning to Figure 3A, the mobile communication device operates a video game at step 305. The video game may be any type of game operable on a mobile communication device.

[050] At step 310, the mobile communication device may contact a server to check for hot spot information to download in one embodiment. As will be explained in more detail with reference to Figure 3B, contacting the server may be triggered by many different events and occur and occur at many different times, depending on the embodiment. The mobile video game may be concurrently operating in some embodiments, or not operating in other embodiments.

[051] After the server has been contacted, the mobile communication device may begin downloading the hot spot information at step 320. The length of time that passes between contacting the server at 310 and downloading the updated hot spot

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information varies between embodiments and depends on many factors, some of which are discussed in more detail with reference to Figure 3B. For example, other communications, such as an authorization to download files or data initiation, may occur before downloading begins in some embodiments. Alternatively or in addition, downloading may be delayed in an embodiment until a time when more bandwidth is available or when downloading will not disrupt game play.

[052] At step 330, the mobile communication device may designate a location in-game as associated with activating the hot spot. The location may be an item or may be unassociated with an item, depending on the embodiment. The exact timing of when the location is designated varies depending on the embodiment. In addition, some embodiments may query whether the user wishes to implement the hot spot before the hot spot location is designated. An embodiment might also include presenting the user with a message explaining the updated hot spot information. For example, before the updated hot spot location is designated, the user might be presented with a message that states "x would like to hide a game tip in this room". In some of those embodiments, the user may have the option of accepting or declining the hot spot implementation.

[053] At step 340, the mobile communication device may display the content associated with the hot spot within the video game (i.e., in-game). For example, a promotional jingle may play when the user touches the bottle 232 from Fig. 2B. The content may include a message, such as "Drink X - it is good for you!" The associated content may also be displayed in a pop-up window. Pop-up windows that are spawned

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from the operation of the game are considered to be in-game for the purpose of this disclosure, even if a separate website is spawned.

[054] Turning now to Figure 3B, a more elaborate set of steps followed by a mobile communication device in some embodiments is presented. At step 305, the mobile communication device may operate a video game.

[055] Unlike in Figure 3A, Figure 3B includes intervening steps 306, 307, and 309 for triggering checks for hot spot information. Requests (i.e., checks) for updated hot spot information may or may not specify particular hot spot information to check for, depending on the embodiment. For example, the mobile communication device may not know what hot spot information, if any, is available when the mobile communication device contacts the server at step 310. In some embodiments, the mobile communication device may identify a particular game, scene, and/or element for which hot spot information is desired when the mobile communication device contacts the server. In other embodiments, the mobile communication device may request updated hot spot information for several games during contact with the server at step 310.

[056] Some of the methods for triggering a hot spot information update will now be discussed. In some embodiments, the user may manually request updated hot spot information at step 306. For example, the video game operating on the mobile communication device may include a selectable option to retrieve updated hot spot information. Selecting this option may cause the mobile communication device to immediately contact the server to check for content to download at step 310 in some embodiments. Alternatively, there may be further options, including retrieving updated hot spot information when the game ends or at some other time.

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[057] At step 307, an embodiment may request updated hot spot information upon initialization of the video game. For example, when the game is selected or otherwise initialized by the user, the mobile communication device may automatically contact the server to check for hot spot information to download at step 310. In some of embodiments with the automatic request feature, the check may not be performed automatically on every startup. For example, upon initializing the game, the mobile communication device may check how much time has passed (or how many games have been played) since the previous download before automatically contacting to the server at 310. In those embodiments, the mobile communication device may track the dates of one or more previous updates.

[058] In some embodiments, at step 309, the mobile communication device may connect to the server to check for updated hot spot information when the time period since the last check and/or download exceeds a threshold. As previously stated, in some embodiments step 309 is combined with step 307. In other embodiments, the time period since the last update is checked at times other than upon initializing the game. For example, upon reaching a certain level or scene in the game, the mobile communication device may examine the last time the game, level, and/or scene was updated. If the time period exceeds a threshold, then the mobile device may contact the server at 310. The threshold time period between updates may vary depending upon the game and the embodiment. In some embodiments, the user may be able to increase or reduce the frequency of hot spot information updates by lowering or raising the threshold period. A user with lower bandwidth limits may not want to check for

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updates as often as a user who has higher bandwidth limits included in their service plan.

[059] In other embodiments, the mobile communication device may utilize a separate scheduler program to schedule a request for updated hot spot information. When the scheduled time for checking arrives, the mobile communication device may contact the server. The video game may not be operating while the request is sent in some of those embodiments. Alternatively, at the scheduled time, the mobile communication device may launch a component of the game to request updated hot spot information from the server.

[060] At step 310, the mobile communication device may contact the server to check for hot spot information to download. Contacting the server may be accomplished by using the network accessible by the mobile communication device in an embodiment. Some embodiments may contact the server over the Internet. In some embodiments, the server is contacted by first connecting to an interface. The interface may validate the mobile communication device as belonging to a particular service and/or confirm that the mobile communication device is configured and/or allowed to receive hot spot information, such as at step 315.

[061] Other embodiments may not contact the server unless the user has selected a game option that allows hot spot information updates. In some of those embodiments, if the user requests a content update at step 306, the request may override current settings concerning whether hot spot information updates are allowed.

[062] In some embodiments, when the mobile communication device contacts the server, the mobile communication device may send the server one or more version

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identification numbers for hot spot information currently on the mobile communication device. The server may use these version identification numbers to determine if the mobile communication device already has downloaded some or all of the hot spot information available for download. In those embodiments, sending the version identification number may help eliminate downloads of duplicative information.

[063] In one embodiment, the server may use a checksum algorithm to determine whether the mobile communication device has already received the hot spot information. Any known algorithm for checking whether content has previously been downloaded, thus reducing download redundancy, may be used in an embodiment.

[064] At step 315, the server in some embodiments may verify whether the mobile communication device should receive hot spot information updates before sending the updated hot spot information. This preference may be stored on the server in some embodiments.

[065] At step 312, the mobile communication device may receive an initial message from the server. In some embodiments, this message may alert the user of available hot spot information and/or ask the user whether they wish to receive the information. For example, an embodiment may require the user to allow the updated hot spot information at step 315 in order for the updating process to continue. The initial message, presented at step 312, may be influenced by whether the server data suggests that the mobile communication device should receive updates. For example, the initial message received at step 312 could be a message specifying that the mobile communication device is not configured to receive updated hot spot information. The initial message may also describe the features of the hot spot information to aid the user

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in deciding whether to download the content. In addition, the initial message may specify details about the available hot spot information, such as file size, number of files, and/or estimated download time. In some embodiments, the user may setup game parameters so that this presentation and/or authorization is bypassed.

[066] The initial message may also include information that helps the mobile communication device to internally check what available updated hot spot information is already present on the mobile communication device. In some embodiments, this may allow the mobile device to present the user with only those new features that the mobile communication device has not already implemented.

[067] In addition, the initial message at step 312 may be promotional in nature. For example, the message may state "X would like to hide a secret within this scene. Do you accept?" Therefore, even if the user declines the update, an embodiment may still promote the third party (e.g., X) in some embodiments. Sending a promotional initial message at step 312 may also provide the game company with a means of tracking the number of times users view promotional content. This embodiment also may allow a game company to charge the advertising third party on a per-view basis. In other words, the game company may profit for each time the promotional initial message is presented to a user at step 312.

[068] Continuing at step 317, the mobile communication device may send a follow-up request to the server. The request may include whether or not the mobile communication device should receive the updated hot spot information. For example, if the mobile device determines, at step 315, that it should not receive hot spot information, the follow-up request may alert the server to take no further action. In

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some embodiments, the mobile communication device may not send a follow-up request if receiving updates is disallowed. Conversely, if receiving updates is allowed, the follow-up request sent to the server at step 317 may include an indication that the updates should be sent to mobile device from the server.

[069] In some embodiments, the follow-up request may specify which hot spot information the user wishes to download. For example, the initial message at step 312 may allow the user to select less than all of the available hot spot information for download. Additionally, the mobile communication device may already have some of the hot spot information that is available on the server, in which case the mobile communication device may not need to download that content again.

[070] In yet another embodiment, the user may specify when to download the hot spot information. For example, the user may wish to delay the download of the hot spot information until some later time when the user is not placing calls, playing a game, or otherwise using the mobile communication device. The follow-up request may alert the server that the download may occur at some other time.

[071] The follow-up request (or some other communication) may also allow the server to track the success of promotional messages. For instance, if a high percentage of users reject downloading of hot spot information after being presented with a particular message, the message may be ineffective.

[072] At step 320, the mobile communication device may download hot spot information from the server. In some embodiments, this may occur while the game is operating on the mobile communication device. In other embodiments, the mobile

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communication device may receive the updated at some other time. As stated previously, the user may specify when the download will occur in some embodiments.

[073] In some embodiments, the mobile communication device may recognize certain files (of hot spot information) as already downloaded to the mobile communication device. In these embodiments, the mobile communication device may automatically bypass the repeated download of this updated information.

[074] The server may track the number of mobile communication devices that have downloaded promotional hot spots. For example, the game company may use this information to profit from each download of a third-party advertisement. The server may also track user-identification information in conjunction, which may aid in determining whether the third-party advertiser reaches a particular demographic. Appropriate security safeguards may be implemented to make sure the information is not disclosed to unauthorized individuals.

[075] At step 325, a version identifier for the downloaded hot spot information may be saved. This identifier may be saved on the mobile communication device, the server, both, or neither, depending on the embodiment. Saving the identifier may help prevent against duplicative downloads. In embodiments where the server stores the version identifier, the version identifier may be stored in a database table in relation to a mobile communication device identification value. The identifier data may be stored on a storage medium such as described with reference to Figure 1 (e.g., storage medium 130). In one embodiment, the mobile communication device may execute a checksum algorithm on the version identifier (and/or compare the identifier to locally-stored data) to determine whether the updated hot spot associated with the version identifier has

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already been downloaded.Any known algorithm for checking whether content has previously been downloaded, thus reducing download redundancy, may be used in an embodiment.

[076] Alternatively, the mobile communication device may compare available information identifiers received from the server with version identifiers on the mobile communication device, when analyzing which files to receive.

[077] At step 328, the mobile communication device may display the features of the downloaded hot spot information to the user. This step may be similar to the initial message step 312, in some embodiments.

[078] At step 330, the mobile communication device may use coordinate information from existing or updated hot spot information to designate a location in-game for activating the particular hot spot. For example, the coordinates may specify a location along the horizontal axis of the screen and the vertical axis to monitor for user interaction. The location may define the boundaries of an object. In some embodiments, such as games with three-dimensional views, the coordinates may additionally specify a location along a depth axis. In other embodiments, the coordinates may specify a fixed location on the screen of the mobile communication device.

[079] In some embodiments, the coordinates may also include scene, level, or time information for placing the hot spot in-game. For example, in the darts game illustrated in Figures 2A-B, different hot spots may be placed on dart board 210 when the user has been playing the game for a certain amount of time or has achieved a certain score.

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[080] In still more embodiments, the coordinates comprise a selection of one or more predefined in-game locations. For example, turning back to Figure 2A, a first location may be the shirt 230, a second location may be poster 225, a third location may be dart board 210, and so on. In that embodiment, the coordinates need only identify the pre-defined location (rather than positions along the axes) and the mobile communication device may designate that location as activating the hot spot.

[081] In other embodiments, the hot spot information may not include coordinates. For example, the mobile communication device may have a predefined location associated with activating the hot spot.

[082] In some embodiments, the placement location of the hot spot is determined based on user interaction. For example, the activated content of a first hot spot may include placing a second hot spot in-game.

[083] If the hot spot information includes and/or defines an item, the item may be displayed in-game at the designated location at step 335.

[084] At step 337, the mobile communication device may detect activation of a hot spot via user manipulation of the hot spot location. As previously stated, the location may be an item in some embodiments. The hot spot information may specify what type of manipulation is required to activate the hot spot. For example, the user may need to cause a particular object, such as a cursor or game element, to enter into the hot spot location. In another embodiment, if the user causes a particular in-game character to touch or otherwise manipulate the hot spot location, the hot spot may be activated.

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[085] When the hot spot is activated, content may be presented to the user at step 340. The content may include a message (e.g., step 342), graphics, animation, and/or sound, depending on the embodiment. The content may be displayed at a location specified in the hot spot information.

[086] Some embodiments include an option for the user to remove in-game hot spots. Similarly, the user may be able to restore original hot spots by selecting an option within the game, or by default in some situations. In some embodiments, this is achieved by archiving previous hot spot information on the mobile communication device. In other embodiments, hot spot information may be archived on the server for download by the mobile communication device.

[087] Figures 4A-B are exemplary flow charts that include steps taken by a server to update hot spot information on a mobile communication device in accordance with an embodiment of the present invention. Turning now to Figure 4A, the server may store hot spot information on a computer-readable medium in some embodiments. The computer-readable medium may be the storage medium discussed with respect to Figure 1 (e.g., storage medium 130) in some embodiments.

[088] At step 430, the server may receive a request for hot spot information from the mobile communication device. This request may be an inquiry regarding a particular game, scene, and/or element within the game. In some embodiments, the request is an inquiry for hot spot information for multiple games. The request may also contain a version identifier that may help the server determine what hot spot information the mobile communication device has already downloaded.

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[089] At step 450, the server may upload the content to the mobile communication device. The uploaded content may include coordinates, an item, and/or other content for display after the hot spot is activated.

[090] Turning now to Figure 4B, a more elaborate set of steps followed by a server in some embodiments is presented. At step 410, the server may store updated hot spot information in a storage medium. In some embodiments, the updated hot spot information is indexed in a database, such as a relational database. The storage medium may be any number of types of memory or devices, such as described above with reference to Fig. 3B.

[091] At step 420, an interface may receive a request for hot spot information from a communications device. The interface may be configured differently depending on the embodiment, and as previously discussed with respect to Figure 1.

[092] In some embodiments, the request may include one or more version identification numbers, as previously mentioned.

[093] At step 425, the interface in some embodiments may verify whether the mobile communication device should receive hot spot information before sending the hot spot information. In an embodiment, the interface verifies that the mobile communication device belongs to a particular service subscription. In another embodiment, the interface may query stored data to determine whether the mobile device is configured to receive hot spot information. If the mobile communication device is configured to receive hot spot information, the interface may pass the request to the server. In some embodiments, the server will receive the request without (or regardless

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of) any querying by the interface. In other embodiments, the verification is handled after the server receives the request.

[094] The server may receive the request at step 430. In some embodiments step 420 and 430 are combined.

[095] At step 440, the server may attempt to determine what hot spot information should be sent to the mobile communication device. For example, the determination may be based on the model type of the mobile communication device, the service plan to which the mobile device belongs, the service provider that provides the plan to the mobile device, the base location of the mobile device, the current location of the mobile device, which updates the mobile device has already received, user information, preset location, and/or other criteria.

[096] In an embodiment, the server uses the base location of the mobile communication device to provide localized promotional hot spots. For example, the server may query a database of hot spot information using the area code of the mobile communication device to promote businesses that are in or near the area code. Similarly, the mobile communication device may report its current location to the server. In some of those embodiments, the hot spot information to send to the mobile communication device may include promotional content for businesses near the mobile communication device's current location.

[097] The server may also add an element of randomness to the selection of hot spot information in some embodiments. In these embodiments, more than one promotional hot spot may be eligible for placement in a particular in-game scene or location, and the server may choose what hot spot information to send based at least

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partially on chance. In another similar embodiment, the server may send content to one or more mobile communication devices on a rotational basis. For example, if hot spot information A was previously sent to a mobile communication device, hot spot information B may be sent to the next mobile communication device to contact the server. In this way, the server may take turns selecting which content to send to a mobile communication device that requests hot spot information. Alternatively, the mobile communication device may randomly select the hot spot. Additional methods of selection include the time of day, the date, and/or the level of play.

[098] At step 450, the hot spot information may be sent to the mobile communication device. The hot spot information may be sent immediately in some embodiments, or it may be sent at some other time. In addition, some hot spot information may be sent in different download blocks. In this way, the mobile communication device may be able to incorporate some hot spot information before receiving all of the information.

[099] The server may also track the number of times promotional hot spots are sent, as previously mentioned.

[0100] In some embodiments, at step 460, the mobile communication device may send a confirmation to the server indicating a successful transaction. In embodiments comprising a server that tracks what hot spot information the mobile communication device has already received, the server may not count the hot spot information as received until the confirmation is returned. In some embodiments, the server receives confirmation when the last of the date is transferred to the mobile communication device.

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[0101] Other embodiments of the invention will be apparent to those skilled in the art from consideration of the specification and practice of the invention disclosed herein. It is intended that the specification and examples be considered as exemplary only, with a true scope and spirit of the invention being indicated by the following claims.

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WHAT IS CLAIMED IS:

1. A mobile communication device that provides a hot spot associated with a mobile video game, comprising:

a screen for viewing by a user;

a processor in communication with the screen;

an input device in communication with the processor; and

a memory containing instructions that, when executed by the processor, cause the mobile communication device to:

designate a location in-game for activating the hot spot;

detect activation of the hot spot during operation of the mobile video game; and

display content on the screen when the user activates the hot spot, the content being promotional or game-enhancing in nature.

2. The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

3. The mobile communication device of claim 1, wherein the hot spot information includes coordinate information used to designate the location for activating the hot spot.

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4. The mobile communication device of claim 1, wherein the designated location is an item that is displayed on the screen as part of a gaming environment of the mobile video game.

5. The mobile communication device of claim 1, wherein the content is a message, the message being delivered through video, audio, text, a picture, or a combination thereof.

6. The mobile communication device of claim 5, wherein the message includes a hint related to the mobile video game.

7. The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

8. The mobile communication device of claim 1, wherein activation occurs when the user manipulates the hot spot location.

9. A computer-readable medium containing instructions for execution by a mobile communication device, the instructions causing the mobile communication device to perform a method for providing a hot spot associated with a mobile video game comprising the steps of:

designating a location in-game for activating the hot spot;

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detecting activation of the hot spot during operation of the mobile video game; and

displaying content on the screen when a user activates the hot spot, the content being promotional in nature.

10. The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

11. The computer-readable medium of claim 9, wherein the designated location for activating the hot spot is an item that is displayed in-game on a screen of the mobile communication device.

12. The computer-readable medium of claim 9, wherein the content includes a hint related to the mobile video game.

13. The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

14. The computer-readable medium of claim 9, wherein activation occurs when the user manipulates the hot spot location.

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15. A method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device, the method comprising the steps of:

storing hot spot information on a computer-readable medium;

receiving a communication from a mobile communication device;

determining the hot spot information to provide to the mobile device based upon the request, the hot spot information including hidden content for presenting to the user when the hot spot is activated; and

uploading the hot spot information to the mobile communication device.

16. The method of claim 15, wherein the hot spot information designates a location for activating the hot spot within a gaming environment of the mobile video game.

17. The method of claim 16, wherein the designated location is an item that is displayed within a gaming environment of the mobile video game.

18. The method of claim 15, wherein the content is promotional in nature.

19. The method of claim 18, wherein the content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content.

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20. The method of claim 15, further comprising the step of tracking what hot spot information has been downloaded to the mobile communication device.

21. The method of claim 20, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

22. A system for providing a hot spot associated with a mobile video game, the system comprising:

a storage medium for storing hot spot information for use in the mobile video game;

a server in communication with the storage medium;

an interface coupled to the server and a network, wherein the interface receives a request for hot spot information from the mobile communication device over the network;

wherein the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game, and send the hot spot information to the mobile communication device, the hot spot information designating a location in-game as associated with activating the hot spot, within a gaming environment of the mobile video game.

23. The system of claim 22, wherein the hot spot includes hidden content that is promotional in nature.

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24. The method of claim 22, wherein the content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content.

25. The system of claim 22, wherein the hot spot information is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device.

26. The system of claim 22, wherein the server tracks what hot spot information has been downloaded.

27. The method of claim 26, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

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ABSTRACT OF THE DISCLOSURE

Systems and methods for providing hot spots for mobile video games on mobile communication devices that receive hot spot information for mobile video games that operate on the devices. The hot spots may be hidden aspects of the game and promotional in nature, allowing game companies to generate extra revenue through selling non-permanent advertisement space to third parties. The game may contain instructions that cause the mobile communication device to contact an interface and/or server to receive hot spot information. After the hot spot information is received by the mobile communication device, the content may be displayed in-game. In addition, the server may track what hot spot information has already been received by the mobile communication device.

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DECLARATION AND POWER OF ATTORNEY

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 of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SYSTEMS AND METHODS FOR PROVIDING IN-GAME HOT SPOTS

the specification of which is submitted herewith.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims. I acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. § 1.56.

I hereby appoint the patent practitioners associated with:

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.
CUSTOMER NUMBER 22,852

to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

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 issuing thereon.

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Post Office Address --Same As Residence--		

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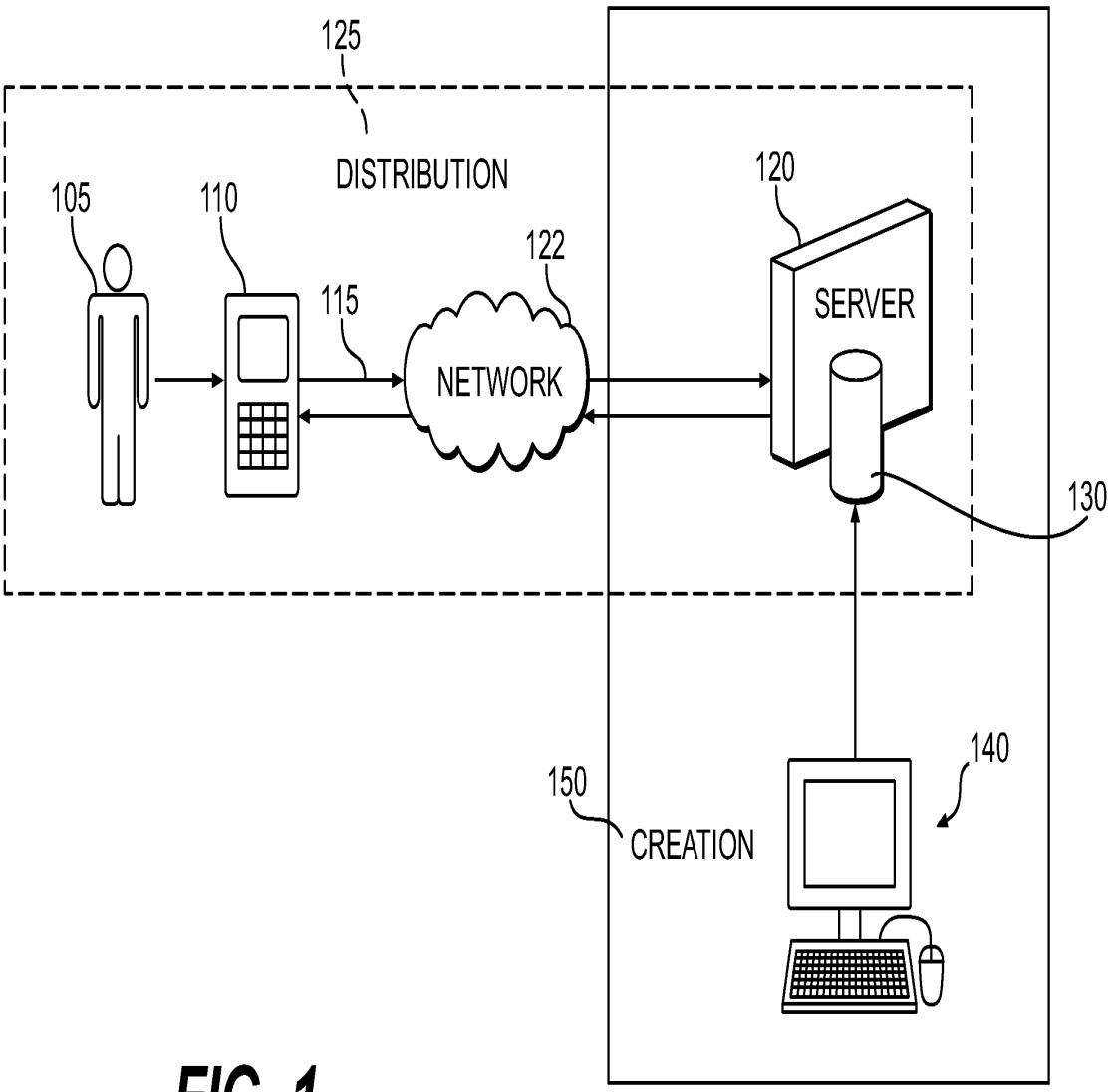

125
DISTRIBUTION
105
110
115
122
120
SERVER
NETWORK
130
140
150
CREATION

FIG. 1

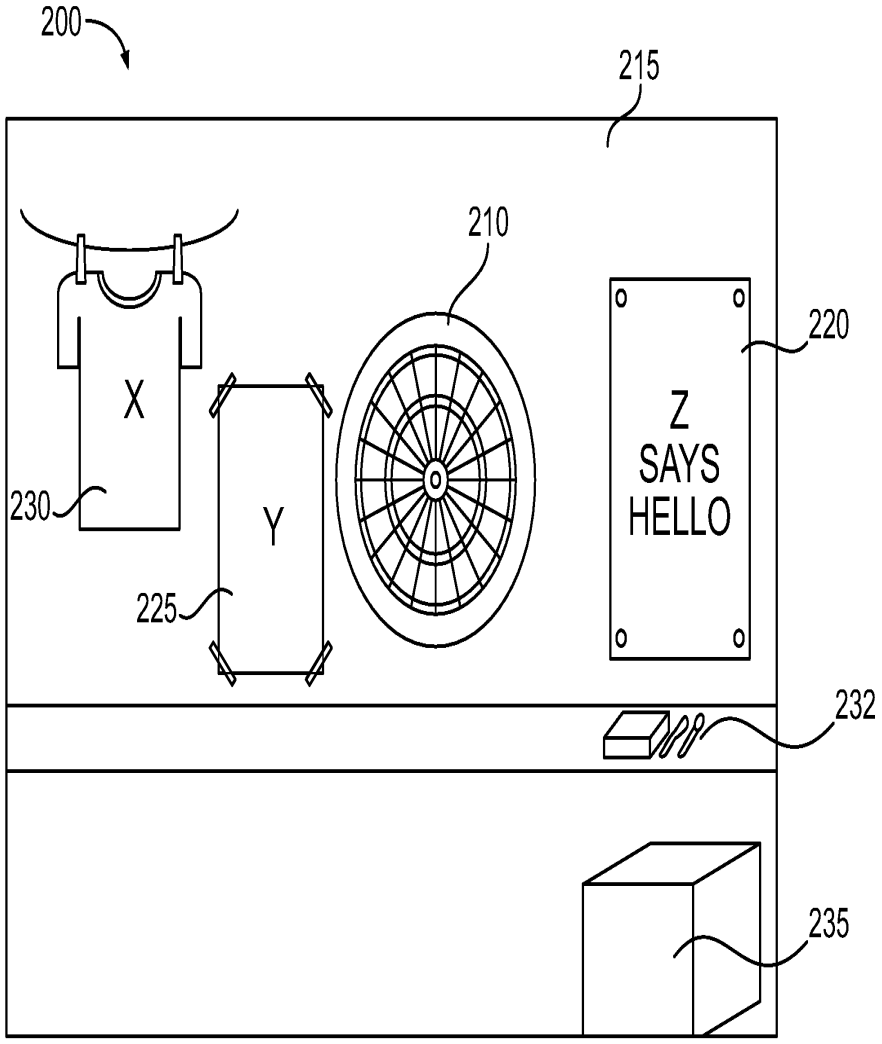


FIG. 2A

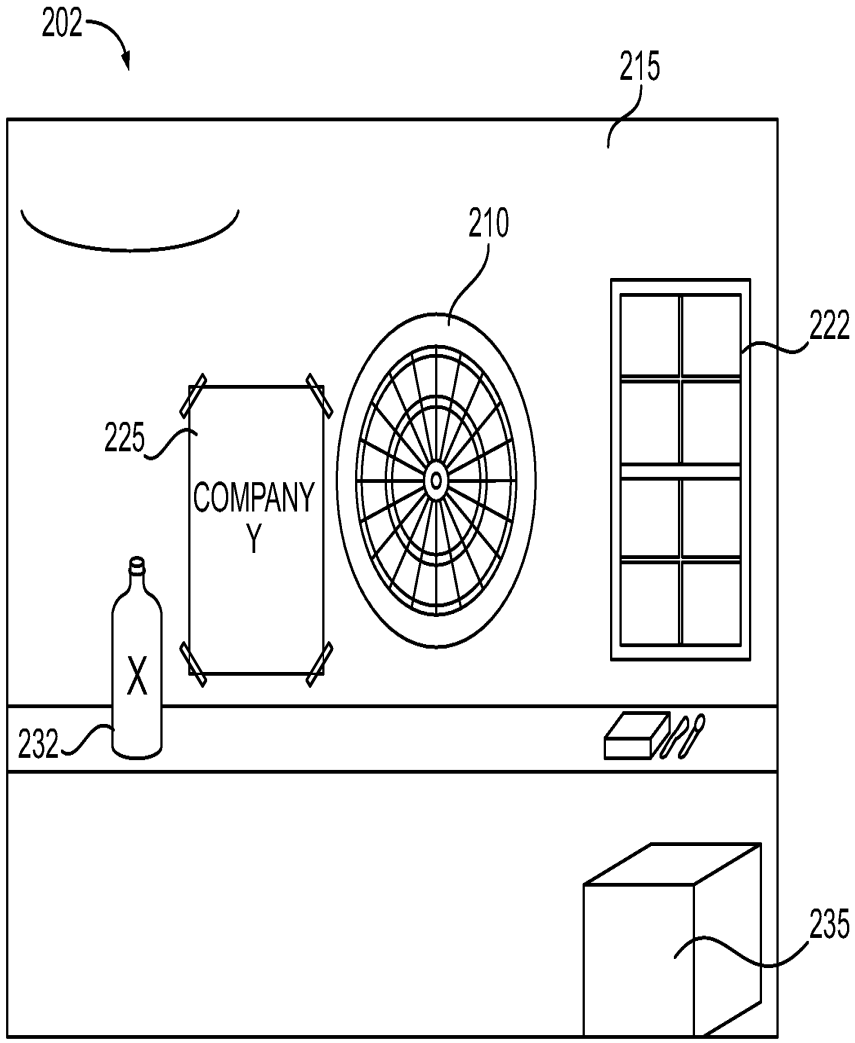


FIG. 2B

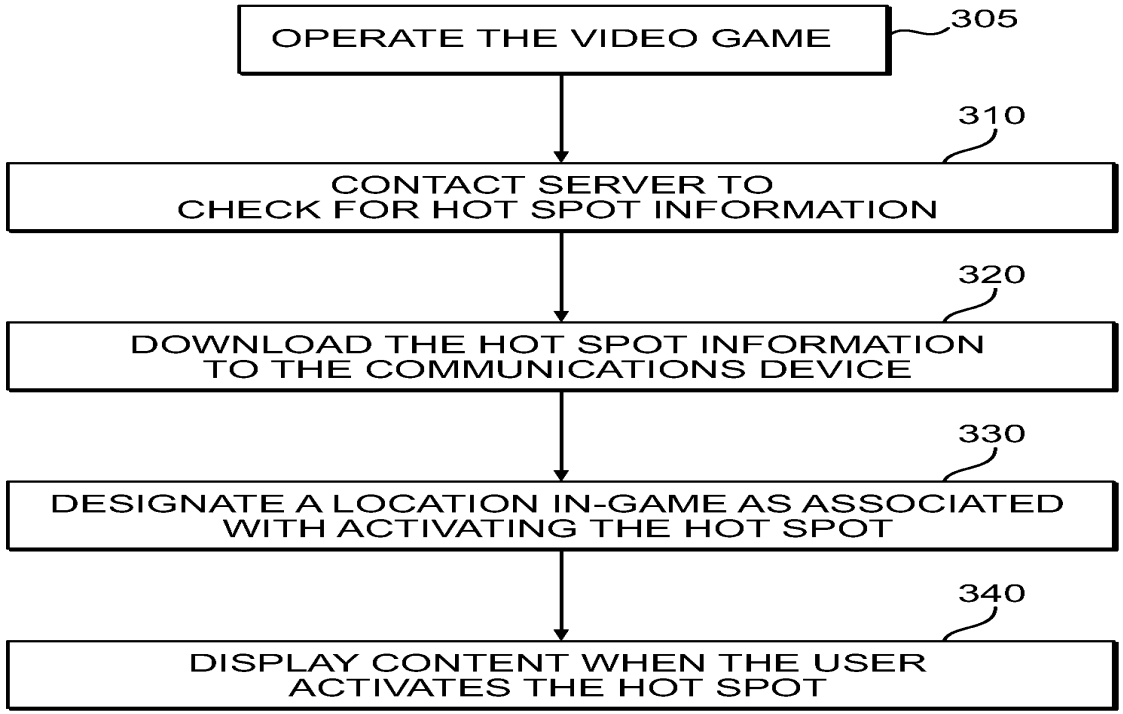


FIG. 3A

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OPERATE VIDEO GAME
305
306
USER REQUESTS HOT SPOT UPDATE
307
INITIAL STARTUP
309
PERIODIC UPDATE OF HOT SPOT INFORMATION
310
CONTACT SERVER TO CHECK FOR HOT SPOT INFORMATION
312
RECEIVE INITIAL MESSAGE FROM SERVER
315
HOT SPOT INFORMATION ALLOWED?
YES
317
FOLLOW-UP REQUEST SENT TO SERVER
320
DOWNLOAD HOT SPOT INFORMATION TO THE MOBILE COMMUNICATION DEVICE
325
SAVE VERSION IDENTIFIER
328
DISPLAY FEATURES OF THE DOWNLOADED HOT SPOT INFORMATION TO THE USER
330
USE COORDINATE INFORMATION TO DESIGNATE A LOCATION IN-GAME FOR ACTIVATING THE HOT SPOT
335
DISPLAY DESIGNATED ITEM
337
DETECT USER MANIPULATION OF DESIGNATED LOCATION
339
USER ACTIVATES HOT SPOT
340
CONTENT PRESENTED TO USER
342
MESSAGE PRESENTED TO USER

FIG. 3B

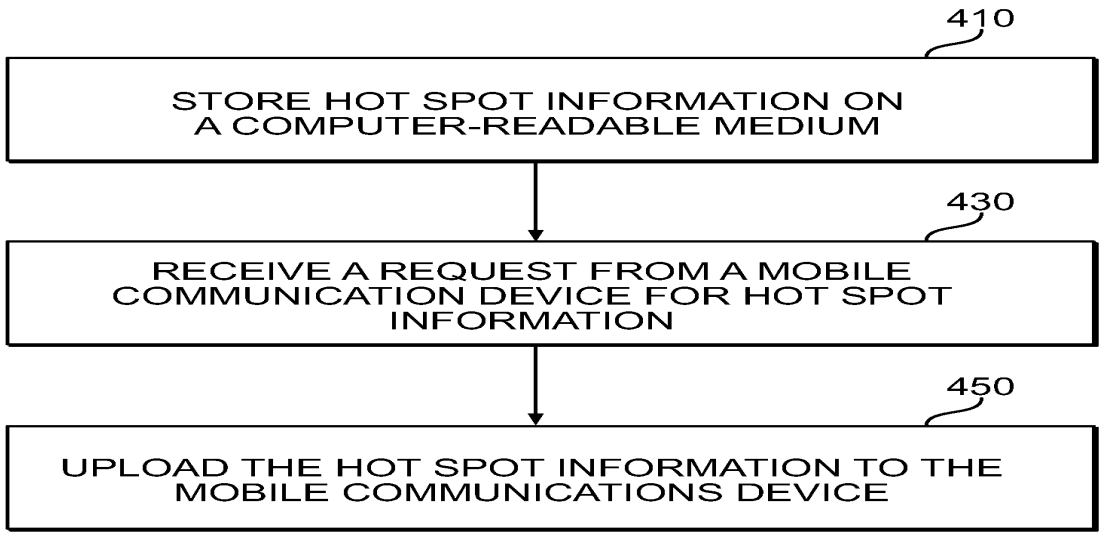


FIG. 4A

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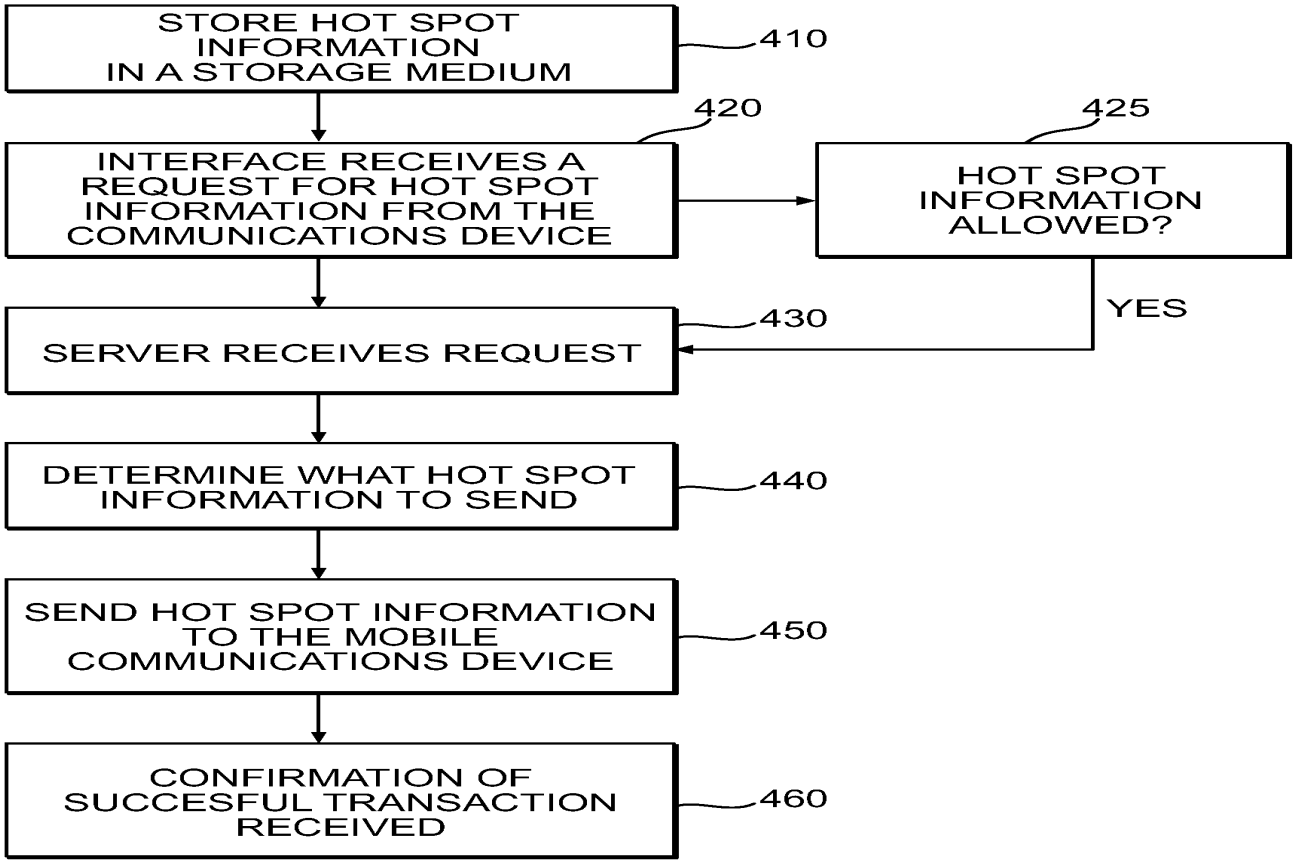


FIG. 4B

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PTO/SB/17 (06-07)
Approved for use through 06/30/2007. 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

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2007

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 1550.00

Complete if Known	
Application Number	Not Yet Assigned
Filing Date	2007 June 26
First Named Inventor	Joshua HARTWELL
Examiner Name	Not Yet Assigned
Art Unit	Not Yet Assigned
Attorney Docket No.	09685.0044-00000

METHOD OF PAYMENT (check all that apply)

☐ Check ☑ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 06-0916 Deposit Account Name: Finnegan Henderson LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☑ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☑ Credit any overpayments

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.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	1000.00
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
27 - 20 or HP =	7	x $50	= $350

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
4 - 3 or HP =	1	x $200	= $200

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($)	Multiple Dependent Claims Fee Paid ($)
$360	$0.00

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), 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).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
44 - 100 =	0	/ 50 = 0 (round **up** to a whole number) x	250.00 =	0.00

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	0.00
Other (e.g., late filing surcharge): _____	0.00

SUBMITTED BY

Signature	/Robert C. Stanley/	Registration No. (Attorney/Agent) 55,830	Telephone 404-653-6400
Name (Print/Type)	Robert C. Stanley		Date 2007 June 26

This collection of information is required by 37 CFR 1.136. 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, 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 Patent Application Fee Transmittal

Application Number:	
Filing Date:	
Title of Invention:	Systems and Methods for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Filer:	Robert Carroll Stanley
Attorney Docket Number:	09685.0044-00000

Filed as Large Entity

Utility Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Utility application filing	1011	1	300	300
Utility Search Fee	1111	1	500	500
Utility Examination Fee	1311	1	200	200
Pages:				
Claims:				
Claims in excess of 20	1202	7	50	350
Independent claims in excess of 3	1201	1	200	200
Miscellaneous-Filing:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Miscellaneous:				
		Total in USD ($)		**1550**

Electronic Acknowledgement Receipt	
EFS ID:	1913730
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Systems and Methods for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Robert Carroll Stanley
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	26-JUN-2007
Filing Date:	
Time Stamp:	21:32:33
Application Type:	Utility

Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	$1550
RAM confirmation Number	3709
Deposit Account	

File Listing:

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

1	Transmittal of New Application	Transmittal.pdf	55003	no	1
Warnings:					
Information:					
2	Application Data Sheet	ADS.pdf	207092	no	2
Warnings:					
Information:					
This is not an USPTO supplied ADS fillable form					
3		0044FinalApp.pdf	167179	yes	37
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Specification		1	30	
	Claims		31	36	
	Abstract		37	37	
Warnings:					
Information:					
4	Oath or Declaration filed	Declaration.pdf	24164	no	1
Warnings:					
Information:					
5	Drawings	0044FinalDrawings.pdf	29988	no	7
Warnings:					
Information:					
6	Transmittal of New Application	FeeTransmittal.pdf	58181	no	1
Warnings:					
Information:					
7	Fee Worksheet (PTO-06)	fee-info.pdf	8541	no	2
Warnings:					
Information:					

Total Files Size (in bytes):	550148

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.

6/26/07

PTO/SB/06 (12-04)
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

11/768,890

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))							300
SEARCH FEE (37 CFR 1.16(k), (l), or (m))							500
EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))							200
TOTAL CLAIMS (37 CFR 1.16(i))	27 minus 20 =	7	X 25=			X 50=	350
INDEPENDENT CLAIMS (37 CFR 1.16(h))	4 minus 3 =	1	X 100=			X 200=	200
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))			N/A			N/A	
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL	1550

APPLICATION AS AMENDED – PART II

		(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 ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
AMENDMENT A	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	

		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)	OR	RATE ($)	ADDITIONAL FEE ($)
AMENDMENT B	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. 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 NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO
11/768,890	06/26/2007	2617	1550	09685.0044-00000

CONFIRMATION NO. 3812

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC20001-4413

FILING RECEIPT

Date Mailed: 07/17/2007

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections. 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)

Joshua Hartwell, Santa Monica, CA;

Assignment For Published Patent Application

GOSUB 60, Inc., Santa Monica, CA

Power of Attorney: The patent practitioners associated with Customer Number 22852

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US11/768,890**

Projected Publication Date: 01/01/2009

Non-Publication Request: No

Early Publication Request: No

Title

Methods and Systems for Providing In-Game Hot Spots

Preliminary Class

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

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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.

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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).

IDS Form PTO/SB/08: Substitute for form 1449A/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				*Application Number*	11/768,890
				Filing Date	June 26, 2007
				First Named Inventor	Joshua Hartwell
				Art Unit	2617
(Use as many sheets as necessary)				*Examiner Name*	N/A
Sheet	1	of	1	*Attorney Docket Number*	09685.0044-00000

U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] *(if known)*	Issue or Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-2007/0022442 A1	01-25-2007	Gil et al.	p. 1, para. [0009]; p. 9, para. [0078].
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			

Note: Submission of copies of U.S. Patents and published U.S. Patent Applications is not required.

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3] Number[4] Kind Code[5] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	Translation[6]

NONPATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation[6]

Examiner Signature		Date Considered	

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

PTO Notes regarding this form:

[1] Applicant's unique citation designation number (optional).
[2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04.
[3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3).
[4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document.
[5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible.
[6] Applicant is to place a check mark here if English language Translation is attached.
This collection of information is required by 37 CFR 1.97 and 1.98. 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 CFR 1.14. This collection is estimated to take 2 hours 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**.

Electronic Acknowledgement Receipt

EFS ID:	2239621
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Brannon Charles McKay
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	25-SEP-2007
Filing Date:	26-JUN-2007
Time Stamp:	16:53:57
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		IDS.PDF	124748 15baf60f69d5a06917e8337eee1abb20528c2e78	yes	4

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Information Disclosure Statement Letter	1	2
	Information Disclosure Statement (IDS) Filed	3	4
Warnings:			
Information:			
	Total Files Size (in bytes):	124748	

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.

PATENT
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua Hartwell	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: N/A
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

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

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the listed document on the attached PTO SB/08 Form. This Information Disclosure Statement is being filed within three months of the filing date of the above-referenced application.

Applicant respectfully requests that the Examiner consider the listed document and indicate that it was considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the listed document is material or constitutes "prior art." If the Examiner applies the document as prior art against any claim in the application and Applicant determines that the document does

not constitute "prior art" under United States law, Applicant reserves the right to present to the U.S. Patent and Trademark Office the relevant facts and law regarding the appropriate status of the document.

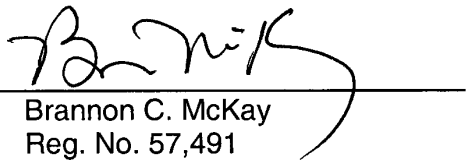
Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed document, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 25, 2007

By: 

Brannon C. McKay
Reg. No. 57,491
(404) 653-6410

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 64 of 407

RECEIVED IAP97 DEC 05 2008 PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Joshua Hartwell	Group Art Unit: 2617
Application No.: 11/768,890	Examiner: N/A
Filed: June 26, 2007	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	Confirmation No.: 3812

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

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the listed document on the attached PTO SB/08 Form. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application.

Copies of the listed foreign and non-patent literature documents are attached. Copies of the U.S. patent publications are not enclosed.

Applicant respectfully requests that the Examiner consider the listed document and indicate that it was considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the listed document is

material or constitutes "prior art." If the Examiner applies the document as prior art against any claim in the application and Applicant determines that the document does not constitute "prior art" under United States law, Applicant reserves the right to present to the U.S. Patent and Trademark Office the relevant facts and law regarding the appropriate status of the document.

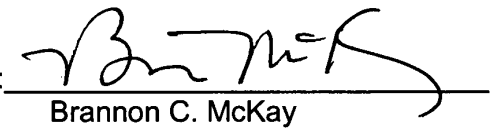
Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed document, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 5, 2008

By: 

Brannon C. McKay
Reg. No. 57,491
(404) 653-6410

PTO/SB/08a (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
DEC 05 2008
PATENT & TRADEMARK OFFICE

IDS Form PTO/SB/08: Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1 of 2

Complete if Known	
Application Number	11/768,890
Filing Date	June 26, 2007
First Named Inventor	Joshua Hartwell
Art Unit	2617
Examiner Name	N/A
Attorney Docket Number	09685.0044-00000

U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] *(if known)*	Issue or Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-2002/0166119 A1	11-07-2002	Cristofalo	
		US-2003/0224855 A1	12-04-2003	Cunningham	
		US-2006/0136297 A1	06-22-2006	Willis et al.	
		US-2006/0128469 A1	06-15-2006	Willis et al.	
		US-2004/0049419 A1	03-11-2004	Knight	
		US-2003/0105669 A1	06-05-2003	Tsuchiya	
		US-6,219,696 B1	04/17/2001	Wynblatt et al.	
		US-2006/0130046 A1	06/15/2006	O'Neill	
		US-2005/0240476 A1	10-27-2005	Bigott	
		US-			
		US-			
		US-			

Note: Submission of copies of U.S. Patents and published U.S. Patent Applications is not required.

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3] Number[4] Kind Code[5] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	Translation[6]

NONPATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation[6]
		International Search Report and The Written Opinion of the International Searching Authority, or the Declaration; International Application No. PCT/US 08/68249; International Filing Date June 25, 2008; 8 pgs.	
		International Search Report and The Written Opinion of the International Searching Authority, or the Declaration; International Application No. PCT/US 08/68250; International Filing Date June 25, 2008; 8 pgs.	

Examiner Signature		Date Considered	

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000

CONFIRMATION NO. 3812

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

PUBLICATION NOTICE

OC000000033878050

Title: Methods and Systems for Providing In-Game Hot Spots

Publication No.US-2009-0005003-A1
Publication Date:01/01/2009

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

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 68 of 407

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.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 02/12/2010

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
NGUYEN, MICHAEL	
ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
02/12/2010	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)	
	11/768,890	HARTWELL, JOSHUA	
	Examiner	Art Unit	
	MICHAEL NGUYEN	2617	

-- 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 1 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 *26 June 2007*.

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) *1-27* 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) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-27* 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 _____ 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

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claim 1-14, drawn to a method and apparatus detail of a **mobile device** include a screen, a processor, an input device and a memory where the device **provide location information to the network** and **receive** gaming and/or promotional contents where the **content display** at the mobile device. , classified in class 455 subclass 414.2.

II. Claim 15-27, drawn to a method and system detail of a **network and server** to **track information download** and provide **billing information** which include storage of hot spot specific information, an interface to receive request, and provide content base on location information, **device hardware specific**, classified in class 455, subclass 406.

2. Inventions I - II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as service provider tracking and provide billing for download content base on location and model specific. The record does not show inventions I and II are obvious variant, or overlap in scope. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any

claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention**.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nguyen whose telephone number is (571) 270-7799. The examiner can normally be reached on Mon-Thurs from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, LunYi Lao can be reached on (571) 272-7671. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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).

/MICHAEL NGUYEN/
Examiner, Art Unit 2617

/LUN-YI LAO/
Supervisory Patent Examiner, Art Unit 2617

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

✓	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	02/01/2010								
	1	÷								
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Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 75 of 407

PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: Nguyen, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

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

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In a restriction requirement dated February 12, 2010, the Examiner required restriction under 35 U.S.C. § 121 between the following groups of claims:

I. Claims 1-14, "drawn to a method and apparatus detail of a mobile device"; and

II. Claims 15-27, "drawn to a method and system detail of a network and server."

Office Action at 2.

Applicant provisionally elects to prosecute Group II, claims 15-27, "drawn to a method and system detail of a network and server," without traverse.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

/Brannon C. McKay/

Dated: March 10, 2010

By:_____
Brannon C. McKay
Reg. No. 57,491
(404) 653-6410

PATENT
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: Nguyen, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

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

Sir:

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the listed documents on the attached PTO SB/08 Form. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application.

Copies of the listed foreign and non-patent literature documents are attached.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed

documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and Applicant determines that the cited document does not constitute "prior art" under United States law, Applicant reserves the right to present to the U.S. Patent and Trademark Office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

/Brannon C. McKay/

Dated: March 10, 2010 By:_____

Brannon C. McKay
Reg. No. 57,491
(404) 653-6410

IDS Form PTO/SB/08: Substitute for form 1449A/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				*Application Number*	11/768,890
				Filing Date	June 26, 2007
				First Named Inventor	Joshua HARTWELL
				Art Unit	2617
(Use as many sheets as necessary)				*Examiner Name*	Nguyen, Michael
Sheet	1	of	1	*Attorney Docket Number*	09685.0044-00000

U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] *(if known)*	Issue or Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
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		US-			

Note: Submission of copies of U.S. Patents and published U.S. Patent Applications is not required.

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3] Number[4] Kind Code[5] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	Translation[6]

NONPATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation[6]
		PCT Notification Concerning Transmittal of Copy of International Preliminary Report on Patentability; International Application No. PCT/US/2008/068250; dated January 14, 2010; 7pgs.	
		PCT Notification Concerning Transmittal of Copy of International Preliminary Report on Patentability; International Application No. PCT/US/2008/068249; dated January 14, 2010; 6 pgs.	

Examiner Signature		Date Considered	

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION CONCERNING TRANSMITTAL OF COPY OF INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (CHAPTER I OF THE PATENT COOPERATION TREATY)
(PCT Rule 44bis.1(c))

To: CBH|FLB|RCS|BZM

STANLEY, Robert, C.
Finnegan, Henderson, Farabow
Garrett & Dunner L.l.p.
901 New York Avenue, N.w.
Washington, DC 20001
ETATS-UNIS D'AMERIQUE

Date of mailing *(day/month/year)* 14 January 2010 (14.01.2010)	
Applicant's or agent's file reference 9685.45-304	**IMPORTANT NOTICE**

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US2008/068250	25 June 2008 (25.06.2008)	26 June 2007 (26.06.2007)

Applicant
GOSUB 60, INC. et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

ABANDON PER CLT.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Yoshiko Kuwahara
Facsimile No. +41 22 338 82 70	e-mail: pt07.pct@wipo.int

2/2/10
A. Thompson

Form PCT/IB/326 (January 2004)

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44*bis*)

Applicant's or agent's file reference 9685.45-304	**FOR FURTHER ACTION**	See item 4 below
International application No. PCT/US2008/068250	International filing date *(day/month/year)* 25 June 2008 (25.06.2008)	Priority date *(day/month/year)* 26 June 2007 (26.06.2007)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant GOSUB 60, INC.		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

   In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

☒	Box No. I	Basis of the report
☐	Box No. II	Priority
☐	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
☐	Box No. IV	Lack of unity of invention
☒	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
☐	Box No. VI	Certain documents cited
☐	Box No. VII	Certain defects in the international application
☐	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44*bis*.3(c) and 93*bis*.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44*bis* .2).

	Date of issuance of this report 05 January 2010 (05.01.2010)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Authorized officer Yoshiko Kuwahara e-mail: pt07.pct@wipo.int

Form PCT/IB/373 (January 2004)

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
ROBERT C. STANLEY
FINNEGAN, HENDERSON, FARABOW,
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Date of mailing *(day/month/year)*	09 OCT 2008
Applicant's or agent's file reference: 9685.45-304	FOR FURTHER ACTION: See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US 08/68250	25 June 2008 (25.06.2008)	26 June 2007 (26.06.2007)

International Patent Classification (IPC) or both national classification and IPC
IPC(8) - G06Q 30/00 (2008.04)
USPC - 705/14

Applicant GOSUB 60, INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US	Date of completion of this opinion	Authorized officer:
Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	30 September 2008 (30.09.2008)	Lee W. Young PCT Helpdesk: 571-272-4300 PCT OSP: 571-272-7774

Form PCT/ISA/237 (cover sheet) (April 2007)

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 08/68250

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

   ☒ the international application in the language in which it was filed.

   ☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43*bis*.1(a))

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of:

   a. type of material

      ☐ a sequence listing

      ☐ table(s) related to the sequence listing

   b. format of material

      ☐ on paper

      ☐ in electronic form

   c. time of filing/furnishing

      ☐ contained in the international application as filed

      ☐ filed together with the international application in electronic form

      ☐ furnished subsequently to this Authority for the purposes of search

4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 84 of 407

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 08/68250

Box No. V **Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	27-31	YES
	Claims	1-26	NO
Inventive step (IS)	Claims	None.	YES
	Claims	1-31	NO
Industrial applicability (IA)	Claims	1-31	YES
	Claims	None.	NO

2. Citations and explanations:

Claims 1-26 lack novelty under PCT Article 33(2) as being anticipated by US 2004/0049419 A1 (Knight).

As per claim 1, Knight discloses mobile communication device that provides updated content associated with a mobile video game (abstract, fig 1), comprising: a screen for viewing by the user (fig 1, para [0026]); a processor (fig 1, para [0026]); and a memory containing instructions that, when executed by the processor (fig 1, para [0026]), cause the communications device to: contact a server (para [0026]); check for updated content for use in the mobile video game (fig 4, para [0029]); download the updated content to the mobile communication device from the server (fig 1, para [0022], [0023]); and display the updated content within the video game, the video game being presented on the screen (fig 1, para [0017], [0045]).

As per claim 2, Knight discloses the updated content is promotional content (abstract).

As per claim 3, Knight discloses the promotional content is pre-selected for the mobile communication device based upon a telecom service associated with the mobile communication device (para [0018]).

As per claim 4, Knight discloses the content is displayed within the mobile video game at a location on the screen based on user interaction with the mobile communication device (para [0019], [0022]).

As per claim 5, Knight discloses checking for updated content is performed upon a request by a user of the mobile communication device (para [0027]).

As per claim 6, Knight discloses checking for updated content is performed periodically (fig 4, para [0029], [0043]).

As per claim 7, Knight discloses the instructions further allow the mobile communication device to receive an initial message from the server prior to downloading the updated content (fig 4, para [0029]).

As per claim 8, Knight discloses the initial message contains information that is displayed to the user on the screen (fig 4, para [0029], [0043]).

As per claim 9, Knight discloses the promotional content is pre-selected for the mobile communication device based upon a telecom service associated with the mobile communication device (para [0018]).

As per claim 10, Knight discloses the communications device sends a follow-up request to the server indicating that the user wishes to download the updated content from the server (fig 4, para [0029], [0043]); and the communications device downloads the updated content after sending the follow-up request (fig 4, para [0029], [0043]).

As per claim 11, Knight discloses the instructions further cause the mobile communication device to check whether the updated content should be downloaded before downloading the updated content from the server (para [0031]).

As per claim 12, Knight discloses a computer-readable medium containing instructions for execution by a mobile communication device, the instructions causing the mobile communication device to perform a method that provides updated content associated with a mobile video game (abstract), the method comprising the steps of: contacting a server (para [0007]); checking for updated content for use in the video game (fig 4, para [0029]); downloading the updated content to the communications device (fig 1, para [0022], [0023]); and displaying the updated content within the video game, the video game being presented within a screen controlled by the mobile communication device (fig 1, para [0017]).

As per claim 13, Knight discloses the updated content is promotional content (abstract).

As per claim 14, Knight discloses the promotional content is pre-selected for the mobile communication device based upon a telecom service associated with the mobile communication device (para [0018]).

----Please See Continuation Sheet----

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 08/68250

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of:
Box V. 2. Citations and explanations

As per claim 15, Knight discloses a method for providing updated content to a mobile communication device for use in a mobile video game (abstract), the method comprising the steps of: receiving a request for the updated content from the mobile communication device (fig 1 para [0017], [0045]), the updated content being usable in the video-game that already exists on the mobile communication device (fig 1, para [0017], [0045]); checking what updated content to send based on one of the factors including a type of the mobile communication device (fig 4, para [0029]), a telecom service associated with the mobile communication device, and a service provider of the telecom service (para [0002], [0003]); and uploading updated content to the communications device, the content being usable when the video game operates on the communications device (fig 1, para [0022], [0023]).

As per claim 16, Knight discloses the updated content is promotional content (abstract).

As per claim 17, Knight discloses the step of checking whether the communications device should receive the updated content before uploading the updated content to the communications device (para [0031]).

As per claim 18, Knight discloses the step of sending information to the mobile communication device as part of the updated content, the information providing an in-game placement location associated with the updated content (para [0029], [0045]).

As per claim 19, Knight discloses the step of tracking what has been uploaded to the mobile communication device (para [0029], [0031]).

As per claim 20, Knight discloses a system for providing updated content associated with of a mobile video game to a mobile communication device (abstract, fig 1), the system comprising: a storage medium for storing pre-selected content for use in a video game (fig 1); a server in communication with the storage medium (fig 1); and an interface coupled to the server and a network, wherein the interface receives a request for updated content from the mobile communication device over the network (para [0004], [0027], [0029]); wherein the server is operative to receive the request through the interface and utilize the request to (para [0027], [0029]): check what pre-selected content to send (para [0031]); and send the pre-selected content stored on the storage medium to the mobile communication device as the updated content for the mobile video game (para [0018]).

As per claim 21, Knight discloses the updated content is promotional content (abstract).

As per claim 22, Knight discloses the server sends information to the mobile communication device regarding the in-game placement location of the content, the information being part of the updated content (para [0029], [0045]).

As per claim 23, Knight discloses the server sends a message to the mobile communication device in response to receiving the request, the message relating to the content (para [0027], [0031]).

As per claim 24, Knight discloses the message is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device (para [0018]).

As per claim 25, Knight discloses the server checks whether the mobile communication device should receive the updated content before sending the updated content to the communications device (para [0031]).

As per claim 26, Knight discloses the server tracks the distribution of updated content (para [0036]).

Claims 27-29, and 31 lack an inventive step under PCT Article 33(3) as being obvious over Knight in view of US 2003/0105669 A1 Tsuchiya.

As per claim 27, Knight teaches receiving a request for updated content from the mobile communication device (para [0031], [0027]); and uploading the updated content to the mobile communication device, the updated content being displayable within the mobile video game (para [0029], [0031]).
Knight fails to teach a method for selling promotional content in a mobile video game for use on a mobile communications device, comprising the steps of: associating updated content with a third party in exchange for payment from the third party.
Tsuchiya teaches a method for selling promotional content in a mobile video game for use on a mobile communications device (abstract, para [0248]), comprising the steps of: associating updated content with a third party in exchange for payment from the third party (para [0019]-[0022]).
It would have been obvious to one of ordinary skill in the art to have combined Knight advertising on an interact screensaver with Tsuchiya contents distributing system, device for processing charge with the motivation that this would provide a method for increasing revenue by targeting advertisement to targeted customers, and by allowing customers to write rating reviews.

As per claim 28, Tsuchiya teaches the payment is based on the number of times that the updated content is uploaded (para [0019]-[0022]).

As per claim 31, Tsuchiya teaches payment is based on the length of time the updated content is available for download (para [0156]).

----Please See Continuation Sheet----

Patent Owner Flip Phone Games, Inc.
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WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 08/68250

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of:
Box V. 2. Citations and explanations

Claims 29, and 30 lack an inventive step under PCT Article 33(3) as being obvious over Knight as modified by Tsuchiya in view of US 6,219,696 B1 Wynblatt et al. (hereafter Wynblatt).

As per claim 29, Knight as modified by Tsuchiya fail to teach the updated content is pre-selected based on the proximity of the mobile communications device to a physical location associated with the third party.
Wynblatt teaches the updated content is pre-selected based on the proximity of the mobile communications device to a physical location associated with the third party (col 5 ln 60-67, col 6 ln 1-10).
It would have been obvious to one of ordinary skill in the art to have combined Knight advertising on an interact screensaver as modified by Tsuchiya contents distributing system, device for processing charge with Slaughter system for providing targeted Internet information to mobile agents the motivation that this system will generate greater revenue since customers can learn of promotions at a store they may pass by or enter and be motivated to purchase a promoted item.

As per claim 30, Wynblatt teaches the request is received in response to a change in the proximity of the mobile communications device to the location associated with the third party (col 5 ln 60-67, col 6 ln 1-10).

Claim 1-31 have industrial applicability as defined by PCT Article 33(4), because the subject matter can be made or used in industry.

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 87 of 407

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION CONCERNING TRANSMITTAL OF COPY OF INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (CHAPTER I OF THE PATENT COOPERATION TREATY)
(PCT Rule 44bis.1(c))

To: CBH|FLB|RCS|BZM

STANLEY, Robert, C.
Finnegan, Henderson, Farabow
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, DC 20001
ETATS-UNIS D'AMERIQUE

Date of mailing *(day/month/year)*	
14 January 2010 (14.01.2010)	
Applicant's or agent's file reference	**IMPORTANT NOTICE**
9685.44-304	

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US2008/068249	25 June 2008 (25.06.2008)	26 June 2007 (26.06.2007)

Applicant: GOSUB 60, INC et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

ABANDON PER CL.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Athina Nickitas-Etienne
Facsimile No. +41 22 338 82 70	e-mail: pt04.pct@wipo.int

2/2/10

Form PCT/IB/326 (January 2004)

A. Thompson

PATENT COOPERATION TREA'.

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44*bis*)

Applicant's or agent's file reference 9685.44-304	**FOR FURTHER ACTION**	See item 4 below
International application No. PCT/US2008/068249	International filing date *(day/month/year)* 25 June 2008 (25.06.2008)	Priority date *(day/month/year)* 26 June 2007 (26.06.2007)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant GOSUB 60, INC		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

   In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

☒	Box No. I	Basis of the report
☐	Box No. II	Priority
☐	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
☐	Box No. IV	Lack of unity of invention
☒	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
☐	Box No. VI	Certain documents cited
☐	Box No. VII	Certain defects in the international application
☐	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44*bis*.3(c) and 93*bis*.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44*bis* .2).

	Date of issuance of this report 05 January 2010 (05.01.2010)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Authorized officer Athina Nickitas-Etienne e-mail: pt04.pct@wipo.int

Form PCT/IB/373 (January 2004)

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
ROBERT C. STANLEY
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Date of mailing *(day/month/year)*	29 AUG 2008

Applicant's or agent's file reference	FOR FURTHER ACTION
9685.44-304	See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US 08/68249	25 June 2008 (25.06.2008)	26 June 2007 (26.06.2007)

International Patent Classification (IPC) or both national classification and IPC
IPC(8) - A63F 9/24 (2008.04)
USPC - 463/42

Applicant GOSUB 60, INC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US	Date of completion of this opinion	Authorized officer:
Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450, Alexandria, Virginia 22313-1450 Facsimile No. 571-273-3201	25 August 2008 (25.08.2008)	Lee W. Young PCT Helpdesk: 571-272-4300 PCT OSP: 571-272-7774

Form PCT/ISA/237 (cover sheet) (April 2007)

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 08/68249

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

   ☒ the international application in the language in which it was filed.

   ☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43*bis*.1(a))

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of:

   a. type of material

      ☐ a sequence listing

      ☐ table(s) related to the sequence listing

   b. format of material

      ☐ on paper

      ☐ in electronic form

   c. time of filing/furnishing

      ☐ contained in the international application as filed

      ☐ filed together with the international application in electronic form

      ☐ furnished subsequently to this Authority for the purposes of search

4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

Patent Owner Flip Phone Games, Inc.
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WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 08/68249

Box No. V **Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	None.	YES
	Claims	1 - 27	NO
Inventive step (IS)	Claims	None.	YES
	Claims	1 - 27	NO
Industrial applicability (IA)	Claims	1 - 27	YES
	Claims	None.	NO

2. Citations and explanations:

Claims 1 - 27 lack novelty under PCT Article 33(2) as being anticipated by US 2003/0224855 A1 (Cunningham).

Regarding claim 1, Cunningham discloses a mobile communication device that provides a hot spot associated with a mobile video game, comprising: a screen (liquid-crystal display (LCD) 405, para [0050], Fig. 4) for viewing by a user; a processor (microprocessor 525, para [0055], Fig. 5) in communication with the screen; an input device (user input interface 520, para [0055], Fig. 5) in communication with the processor; and a memory (storage, para [0034]) containing instructions that, when executed by the processor, cause the mobile communication device to: designate a location (point in virtual space, para [0060]) in-game for activating the hot spot; detect activation (interactive virtual space, para [0007]) of the hot spot during operation of the mobile video game; and display content on the screen (liquid-crystal display (LCD) 405, para [0050], Fig. 4) when the user activates the hot spot, the content being promotional or game-enhancing in nature (advertising and promotion, para [0041]).

Regarding claim 2, Cunningham discloses the mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to: contact a server (game server 70, para [0039], Fig. 1) to check for hot spot information; and download the hot spot information to the communications device from the server (database 75, para [0039], Fig. 1).

Regarding claim 3, Cunningham discloses the mobile communication device of claim 1, wherein the hot spot information includes coordinate information used to designate the location for activating the hot spot (GPS (Global Positioning System), para [0044]) .

Regarding claim 4, Cunningham discloses the mobile communication device of claim 1, wherein the designated location is an item that is displayed on the screen as part of a gaming environment of the mobile video game (Game-board portion 412, para [0054], Fig. 4) .

Regarding claim 5, Cunningham discloses the mobile communication device of claim 1, wherein the content is a message (the message being delivered through video, audio, text, a picture, or a combination thereof graphic images and pictures, para [0050]).

Regarding claim 6, Cunningham discloses the mobile communication device of claim 5, wherein the message includes a hint related to the mobile video game (hidden object, para [0008]) .

Regarding claim 7, Cunningham discloses the mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again (periodic updates, para [0060]).

Regarding claim 8, Cunningham discloses the mobile communication device of claim 1, wherein activation occurs when the user manipulates the hot spot location (interactive virtual space, para [0007]).

Regarding claim 9, Cunningham discloses a computer-readable medium (memory, Fig. 5) containing instructions for execution by a mobile communication device, the instructions causing the mobile communication device to perform a method for providing a hot spot associated with a mobile video game comprising the steps of: designating a location in-game for activating the hot spot (point in virtual space, para [0060]); detecting activation of the hot spot during operation of the mobile video game; and displaying content on the screen (liquid-crystal display (LCD) 405, para [0050], Fig. 4) when a user activates the hot spot, the content being promotional in nature (advertising and promotion, para [0041]).

Regarding claim 10, Cunningham discloses the computer-readable medium (memory, Fig. 5) of claim 9, wherein the instructions further cause the mobile communication device to: contact a server to check for hot spot information; and download the hot spot information to the communications device from the server (game server 70, para [0039], Fig. 1).

Regarding claim 11, Cunningham discloses the computer-readable medium (memory, Fig. 5) of claim 9, wherein the designated location for activating the hot spot is an item that is displayed in-game on a screen of the mobile communication device (liquid-crystal display (LCD) 405, para [0050], Fig. 4).

Regarding claim 12, Cunningham discloses the computer-readable medium (memory, Fig. 5) of claim 9, wherein the content includes a hint related to the mobile video game (hidden object, para [0008]) .

See continuation sheet.

Patent Owner Flip Phone Games, Inc.
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WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US 08/68249

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of:

Box V.2. Citations and explanations:

Regarding claim 13, Cunningham discloses the computer-readable medium (memory, Fig. 5) of claim 9, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again (periodic updates, para [0060]).

Regarding claim 14, Cunningham discloses the computer-readable medium (memory, Fig. 5) of claim 9, wherein activation occurs when the user manipulates the hot spot location (interactive virtual space, para [0007]).

Regarding claim 15, Cunningham discloses a method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device, the method comprising the steps of: storing hot spot information (Game server 70 uses game database, para [0039], Fig. 1) on a computer-readable medium (memory, Fig. 5); receiving a communication (communicate with an MGS and with a game server, para [0056], Fig. 6) from a mobile communication device; determining the hot spot information to provide to the mobile device based upon the request, the hot spot information including hidden content for presenting to the user when the hot spot is activated; and uploading the hot spot information to the mobile communication device (hidden object, para [0008]).

Regarding claim 16, Cunningham discloses the method of claim 15, wherein the hot spot information designates a location for activating the hot spot within a gaming environment of the mobile video game (location-based positioning services, para [0053]).

Regarding claim 17, Cunningham discloses the method of claim 16, wherein the designated location is an item that is displayed within a gaming environment of the mobile video game (artificially-created set of elements, para [0003]).

Regarding claim 18, Cunningham discloses the method of claim 15, wherein the content is promotional in nature (advertising and promotion, para [0041]).

Regarding claim 19, Cunningham discloses the method of claim 18, wherein the content that is promotional in nature (advertising and promotion, para [0041]) is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content (shopping mall 60 or similar environments, para [0041], Fig. 1).

Regarding claim 20, Cunningham discloses the method of claim 15, further comprising the step of tracking what hot spot information has been downloaded to the mobile communication device (track consumer traffic, para [0041]).

Regarding claim 21, Cunningham discloses the method of claim 20, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information (additional revenue, para [0026]) .

Regarding claim 22, Cunningham discloses a system for providing a hot spot associated with a mobile video game, the system comprising: a storage medium for storing hot spot information (Game server 70 uses game database, para [0039], Fig. 1) for use in the mobile video game; a server in communication with the storage medium; an interface coupled to the server and a network, wherein the interface receives a request for hot spot information from the mobile communication device over the network; wherein the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game, and send the hot spot information to the mobile communication device (game server 70, para [0039], Fig. 1), the hot spot information designating a location in-game as associated with activating the hot spot within a gaming environment of the mobile video game (point in virtual space, para [0060]).

Regarding claim 23, Cunningham discloses the system of claim 22, wherein the hot spot includes hidden content that is promotional in nature (hidden object, para [0008]).

Regarding claim 24, Cunningham discloses the method of claim 22, wherein the content that is promotional in nature (advertising and promotion, para [0041]) is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content (shopping mall 60 or similar environments, para [0041], Fig. 1).

Regarding claim 25, Cunningham discloses the system of claim 22, wherein the hot spot information is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device (various communicating electronic devices, para [0005]).

Regarding claim 26, Cunningham discloses the system of claim 22, wherein the server tracks what hot spot information has been downloaded (track consumer traffic, para [0041]).

Regarding claim 27, Cunningham discloses the method of claim 26, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information (additional revenue, para [0026]) .

Claims 1 - 27 have industrial applicability as defined by PCT Article 33(4) because the subject matter can be made or used in industry.

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 93 of 407

Electronic Acknowledgement Receipt

EFS ID:	7182946
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Brannon Charles McKay/Cecelia Dickerson
Filer Authorized By:	Brannon Charles McKay
Attorney Docket Number:	09685.0044-00000
Receipt Date:	10-MAR-2010
Filing Date:	26-JUN-2007
Time Stamp:	17:14:56
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	Response to Election / Restriction Filed	Restriction.PDF	33014 fe2f7ef5f4ef1e5c526b95f7174827a2fa41a791	no	2

Warnings:

Information:

2	Transmittal Letter	SuppIDS44.PDF	52655 96620747d9abeafd461672caaaaf0f4aedd4fc67	no	2
Warnings:					
Information:					
3	Information Disclosure Statement (IDS) Filed (SB/08)	IDSFORM44.PDF	41529 6a7d827e5b81527a2345a5c90b01669add60e8cd	no	1
Warnings:					
Information:					
This is not an USPTO supplied IDS fillable form					
4	NPL Documents	PCT45304.PDF	279194 650399d4fe43d66a5e23c4a3a1884408d81250c3	no	7
Warnings:					
Information:					
5	NPL Documents	PCT44304.PDF	264677 0d89dbc2ad700df2981ccfabb0b7203567ef6fb8	no	6
Warnings:					
Information:					
		Total Files Size (in bytes):	671069		

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
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 05/06/2010

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EXAMINER	
NGUYEN, MICHAEL	
ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
05/06/2010	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)	
	11/768,890	HARTWELL, JOSHUA	
	Examiner	Art Unit	
	MICHAEL NGUYEN	2617	

-- 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 *10 March 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) *1-27* is/are pending in the application.

4a) Of the above claim(s) *1-14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-27* 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 *26 June 2007* 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 *9/25/2007, 3/10/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II, claims 15-27, in the reply filed on 3/101/2010 is acknowledged.

Claim Rejections - 35 USC § 102

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 15-19, 22-24 are rejected under 35 U.S.C. 102 (b) as being anticipated by Cunningham (US. Pub. No. 20030224855)

Regarding claim 15, Cunningham teaches a method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device (Abstract), the method comprising the steps of:

storing hot spot information on a computer-readable medium (par. 0039-0040; Fig. 1 label 70 is game server and 75 is database as computer-readable medium);

receiving a communication from a mobile communication device (par. 0056-0058; Fig. 6);

determining the hot spot information to provide to the mobile device based upon the request (par. 0057-0060), the hot spot information including hidden content for presenting to the user when the hot spot is activated (par. 0008, 0041 where the advertising and promotion information can be sent to the device. For example, the user of the device currently playing game and the device located in a spot close to Starbuck. Starbuck can send a coupon to the user of the device base on the location of the

device. The user of the device may not see the information during gaming, but may see it during a pause or a break. Also, hidden object is also teach, par. 0008); and

uploading the hot spot information to the mobile communication device (par. 0008-0011, 0041 where the device get advertising and promotion information base on location).

Regarding claim 16, Cunningham teaches designates a location for activating the hot spot within a gaming environment of the mobile video game (i.e. location-base positioning service, par. 0053, i.e. virtual space, 0060).

Regarding claim 17, Cunningham teaches an item that is displayed within a gaming environment of the mobile video game (i.e. artificially-created set of elements, par. 0003-0009).

Regarding claim 18, Cunningham teaches content is promotional in nature (par. 41).

Regarding claim 19, Cunningham teaches pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content (par. 0041; Fig. 1 where device 31, 32 and 33 are in physical location of access point 20).

Regarding claim 22, the claimed limitations have been analyzed and rejected with respect to claim 15 and 16 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 23, the claimed limitations have been analyzed and rejected with respect to claim 15 and 18 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 24, the claimed limitations have been analyzed and rejected with respect to claim 19 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Claim Rejections - 35 USC § 103

3. 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) 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.

4. Claims 20, 21, 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham in view of Knight (US Pub. No. 20080109528)

Regarding claim 20, Cunningham teaches tracking customer traffic (par. 0041).

However, Cunningham does not expressly teach tracking downloaded information.

In an analogous art, Knight teaches a method of providing content to wireless computing device (Title and Abstract) where the server tracking user downloadable application (par. 0100, 0128, 0204)

Therefore, it would have been obvious to one skill in the art at the time of the invention was made to modify Cunningham to include tracking of download information as taught by Knight in order to enables more complex interactions relating to mobile content.

Regarding claim 21, Cunningham and Knight teach tracked hot spot information is used for billing a third party associated with the hot spot information (Cummingham- par. 0026; Knight- par 0100, 0105, 0172-0179).

Regarding claim 25, Cunningham and Knight teach pre-selected by the server based on a model type associated with the communications device (Cummingham- par. 0005; Knight- par. 0099, 0105-0109).

Regarding claim 26, the claimed limitations have been analyzed and rejected with respect to claim 20 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 27, the claimed limitations have been analyzed and rejected with respect to claim 21 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 20070242645: In one embodiment, a method for acquiring service provider information includes querying a wireless network for service provider information, receiving an advertisement response containing advertising service scheduling information, and configuring a power conservation mode responsive to the advertising service scheduling information.

- US 20080102956: In accordance with the teachings of the present embodiment, a system and method for wireless gaming with location-dependent gaming functions are provided. In a particular embodiment, the apparatus includes a gaming server; a wireless network at least partially covering a property, the wireless network comprising a plurality of signal detection devices; and a gaming communication device operable to transmit and receive gaming information to and from the gaming server via the wireless network. A location of the gaming communication device on the property is used to alter a game play function, such as a bet option, wager, graphic overlay, permission, or to provide location-dependent advertising or embedded advertising.

Based upon the location of the gaming communication device on the property, a predetermined functionality of the gaming communication device may be enabled and/or controlled.

Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nguyen whose telephone number is (571) 270-7799. The examiner can normally be reached on Mon-Thurs from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Lewis West can be reached on (571) 272-7859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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).

/MICHAEL NGUYEN/
Examiner, Art Unit 2617

/Lewis G. West/

Supervisory Patent Examiner, Art Unit 2617

Notice of References Cited	Application/Control No. 11/768,890	Applicant(s)/Patent Under Reexamination HARTWELL, JOSHUA	
	Examiner MICHAEL NGUYEN	Art Unit 2617	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2003/0224855 A1	12-2003	Cunningham, Robert	463/41
*	B	US-2007/0242645 A1	10-2007	Stephenson et al.	370/338
*	C	US-2008/0102956 A1	05-2008	BURMAN et al.	463/42
*	D	US-2008/0109528 A1	05-2008	Knight et al.	709/217
	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
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

✓	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	02/01/2010	04/19/2010							
	1	÷	N							
	2	÷	N							
	3	÷	N							
	4	÷	N							
	5	÷	N							
	6	÷	N							
	7	÷	N							
	8	÷	N							
	9	÷	N							
	10	÷	N							
	11	÷	N							
	12	÷	N							
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	14	÷	N							
	15	÷	✓							
	16	÷	✓							
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	24	÷	✓							
	25	÷	✓							
	26	÷	✓							
	27	÷	✓							

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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

SEARCHED			
Class	Subclass	Date	Examiner
455	422.1,404.2,414.1-414.4,41.1,41.2	4/19/2010	MN
370	338	4/19/2010	MN

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor search eDAN	4/19/2010	MN
Global EAST text search	4/19/2010	MN

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

IDS Form PTO/SB/08: Substitute for form 1449A/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				Application Number	11/768,890
				Filing Date	June 26, 2007
				First Named Inventor	Joshua Hartwell
				Art Unit	2617
(Use as many sheets as necessary)				Examiner Name	N/A
Sheet	1	of	1	Attorney Docket Number	09685.0044-00000

U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] *(if known)*	Issue or Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
/M.N./		US-2007/0022442 A1	01-25-2007	Gil et al.	p. 1, para. [0009]; p. 9, para. [0078].
		US-			
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Note: Submission of copies of U.S. Patents and published U.S. Patent Applications is not required.

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3] Number[4] Kind Code[5] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	Translation[6]

NONPATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation[6]

Examiner Signature	/Michael Nguyen/	Date Considered	04/19/2010

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

PTO Notes regarding this form:

[1] Applicant's unique citation designation number (optional).
[2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04.
[3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3).
[4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document.
[5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible.
[6] Applicant is to place a check mark here if English language Translation is attached.
This collection of information is required by 37 CFR 1.97 and 1.98. 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 CFR 1.14. This collection is estimated to take 2 hours 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**.

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	1	((hot$1spot) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:00
L2	6	((hot spot) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:01
L3	620	((mobile or wireless) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:07
L4	122	3 and (promotion$3 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:07
L5	34	3 and ((promotion$3 or advertis$3) with content)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:08
L6	17	5 and ((hot spot) or (access point) or ap)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:15
L7	18589	455/422.1,404.2,414.1-414.4,41.1,41.2.ccls. or 370/338.ccls.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:34
L8	1140	((mobile or wireless) with (advertis$3 or game)).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:34
L9	130	7 and 8	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:35
L10	6	9 and (((hot spot) or (access point) or ap) near4 (location or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:36
L11	4	(20030224855|20020166119|20060136297|20060128469).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:51
L12	4122	((location or position) with gam$3).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:56
L13	514	12 and (promotion$3 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:57
L14	9	13 and (((hot spot) or (access point) or ap) near4 (location or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:57

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L15	2	(20080102956|20030224855).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:29
L16	2	15 and (mobile with gam$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:29
L17	2	16 and (location or information or content or memory or stor$4)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:30
L18	1	17 and hidden	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:30
L19	2	17 and (promot$4 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:41
L20	0	17 and ((promot$4 or advertis$3) near4 (content or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:41
L21	12	8 and (hidden near4 (content or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:44
L22	1	"20090005003".pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 13:38
L23	13	(20080268931|20080109528|20080026844|20070021198|20060189382|20060068861|20050148322|20070242645|20070178889|7343317|20060136297|20060128469|20020166119).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:17
L24	1	23 and (advertis$3 frame)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:17
L25	10	23 and track$3	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:53
L26	0	23 and (track$3 content)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:53

4/ 19/ 2010 3:54:32 PM
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Exhibit 2005 - Page 110 of 407

IDS Form PTO/SB/08: Substitute for form 1449A/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				*Application Number*	11/768,890
				Filing Date	June 26, 2007
				First Named Inventor	Joshua HARTWELL
				Art Unit	2617
(Use as many sheets as necessary)				*Examiner Name*	Nguyen, Michael
Sheet	1	of	1	*Attorney Docket Number*	09685.0044-00000

U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] *(if known)*	Issue or Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-			
		US-			
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FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3] Number[4] Kind Code[5] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	Translation[6]

NONPATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation[6]
/M.N./		PCT Notification Concerning Transmittal of Copy of International Preliminary Report on Patentability; International Application No. PCT/US/2008/068250; dated January 14, 2010; 7pgs.	
/M.N./		PCT Notification Concerning Transmittal of Copy of International Preliminary Report on Patentability; International Application No. PCT/US/2008/068249; dated January 14, 2010; 6 pgs.	

Examiner Signature	/Michael Nguyen/	Date Considered	04/19/2010

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIB DATA SHEET

CONFIRMATION NO. 3812

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/768,890	06/26/2007	455	2617	09685.0044-00000

APPLICANTS
Joshua Hartwell, Santa Monica, CA;

**** CONTINUING DATA **************************

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

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****
07/16/2007

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /MICHAEL NGUYEN/ Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
		CA	7	27	4

ADDRESS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413
UNITED STATES

TITLE

Methods and Systems for Providing In-Game Hot Spots

FILING FEE RECEIVED		
1550	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

PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: NGUYEN, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

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

VIA EFS-Web

Sir:

REPLY TO OFFICE ACTION

In reply to the Office Action mailed May 6, 2010, the period for response to which extends to August 6, 2010, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims in this paper.

Remarks follow the amendment section of this paper.

AMENDMENTS TO THE CLAIMS:

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

1. (Withdrawn) A mobile communication device that provides a hot spot associated with a mobile video game, comprising:

a screen for viewing by a user;

a processor in communication with the screen;

an input device in communication with the processor; and

a memory containing instructions that, when executed by the processor, cause the mobile communication device to:

designate a location in-game for activating the hot spot;

detect activation of the hot spot during operation of the mobile video game; and

display content on the screen when the user activates the hot spot, the content being promotional or game-enhancing in nature.

2. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

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3. (Withdrawn) The mobile communication device of claim 1, wherein the hot spot information includes coordinate information used to designate the location for activating the hot spot.

4. (Withdrawn) The mobile communication device of claim 1, wherein the designated location is an item that is displayed on the screen as part of a gaming environment of the mobile video game.

5. (Withdrawn) The mobile communication device of claim 1, wherein the content is a message, the message being delivered through video, audio, text, a picture, or a combination thereof.

6. (Withdrawn) The mobile communication device of claim 5, wherein the message includes a hint related to the mobile video game.

7. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

8. (Withdrawn) The mobile communication device of claim 1, wherein activation occurs when the user manipulates the hot spot location.

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9. (Withdrawn) A computer-readable medium containing instructions for execution by a mobile communication device, the instructions causing the mobile communication device to perform a method for providing a hot spot associated with a mobile video game comprising the steps of:

designating a location in-game for activating the hot spot;

detecting activation of the hot spot during operation of the mobile video game; and

displaying content on the screen when a user activates the hot spot, the content being promotional in nature.

10. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

11. (Withdrawn) The computer-readable medium of claim 9, wherein the designated location for activating the hot spot is an item that is displayed in-game on a screen of the mobile communication device.

12. (Withdrawn) The computer-readable medium of claim 9, wherein the content includes a hint related to the mobile video game.

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13. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

14. (Withdrawn) The computer-readable medium of claim 9, wherein activation occurs when the user manipulates the hot spot location.

15. (Currently Amended) A method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device, the method comprising the steps of:

storing hot spot information on a computer-readable medium;

receiving a communication from a mobile communication device;

determining the hot spot information to provide to the mobile device based upon the request, the hot spot information including hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated; and

uploading the hot spot information to the mobile communication device.

16. (Currently Amended) The method of claim 15, wherein the hot spot information designates a location for activating the hot spot within [[a]] the gaming environment of the mobile video game.

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17. (Currently Amended) The method of claim 16, wherein the designated location is an item that is displayed within [[a]] the gaming environment of the mobile video game.

18. (Currently Amended) The method of claim 15, wherein the hidden content is promotional in nature.

19. (Currently Amended) The method of claim 18, wherein the hidden content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content.

20. (Currently Amended) The method of claim 15, further comprising the step of tracking ~~what~~ the hot spot information that has been downloaded to the mobile communication device.

21. (Original) The method of claim 20, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

22. (Original) A system for providing a hot spot associated with a mobile video game, the system comprising:

a storage medium for storing hot spot information for use in the mobile video game;

a server in communication with the storage medium;

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an interface coupled to the server and a network, wherein the interface receives a request for hot spot information from the mobile communication device over the network;

wherein the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game, and send the hot spot information to the mobile communication device, the hot spot information designating a location in-game as associated with activating the hot spot, within a gaming environment of the mobile video game.

23. (Original) The system of claim 22, wherein the hot spot includes hidden content that is promotional in nature.

24. (Original) The method of claim 22, wherein the content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content.

25. (Original) The system of claim 22, wherein the hot spot information is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device.

26. (Original) The system of claim 22, wherein the server tracks what hot spot information has been downloaded.

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27. (Original) The method of claim 26, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

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REMARKS

Applicant submits these Remarks in reply to the non-final Office Action mailed May 6, 2010. Claims 1-27 are present in the application. Of those claims, claims 1-14 have been presently withdrawn from consideration as being directed to non-elected subject matter. Thus, claims 15-27 remain present and pending on the merits in the present application.

In the Office Action, Applicant understands that the Examiner took the following actions:

i. rejected claims 15-19 and 22-24 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0224855 ("*Cunningham*");

ii. rejected claims 20, 21, and 25-27 under 35 U.S.C. § 103(a) as being unpatentable over *Cunningham* in view of U.S. Patent Application Publication No. 2008/0109528 ("*Knight*").

By this Reply, Applicant has amended independent claim 15 and dependent claims 16-20. Applicant respectfully traverses all pending rejections for at least the reasons discussed below.

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I. Claim Rejections Under 35 U.S.C. § 102(b) Based on *Cunningham*

Applicant respectfully traverses the Examiner's rejection of claims 15-19 and 22-24 under 35 U.S.C. § 102(b) because the cited reference, *Cunningham*, does not anticipate those claims, as amended.

To establish that a single reference anticipates Applicant's claims under 35 U.S.C. § 102, the Examiner must show that it discloses the "identical invention . . . in as complete detail as is contained in the . . . claim." *See* MPEP § 2131 (quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989)). Additionally, the "elements must be arranged as required by the claim." *See* MPEP § 2131 (citing *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990)). As shown below, *Cunningham* does not independently disclose the identical invention as recited in claims 15-19 and 22-24.

A. *Cunningham* fails to disclose "the hot spot information including hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated"

Amended independent claim 15 recites, among other things, "the hot spot information including hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated." *Cunningham* does not disclose at least this subject matter.

Cunningham appears to be directed to "[a] system and method for optimizing the process of position-determining to enhance performance of location-based mobile gaming applications." *Cunningham* at Abstract. When a player enters a game, "the game server determines whether a position fix (location determination) is required," and, if a position fix is required, the player's position is determined by one of "the available

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position-determining methodologies." *Id.* at ¶¶ [0058] and [0059]. This position fix may be used to enhance the player's gaming experience, as this experience may be "tailored to in some way bear a closer resemblance to the player's reality." *Id.* at ¶ [0008].

Unlike the position information disclosed in *Cunningham*, the "hot spots" recited in amended independent claim 15 are "activated within a gaming environment of the mobile video game." A hot spot is not a "real world" position fix or reflective of a physical geographic location, but rather is an in-game feature. *See* Specification at ¶ [0009]. *Cunningham*'s disclosure of incorporating a player's "real world" physical location and position information into that player's game experience is clearly distinct from Applicant's claimed use of hot spots within a gaming environment.

In the Office Action, the Examiner asserts that independent claim 15 is anticipated by *Cunningham* at paragraphs [0008] and [0041]. *See* Office Action at 2. Applicant respectfully disagrees. In the passages cited by the Examiner, *Cunningham* discloses, among other things, "tailoring a virtual space . . . based on the player's proximity to a goal located in the real world, perhaps a natural landmark, a hidden object, or a large monument." *Cunningham* at ¶ [0008] (emphasis added). Unlike the hidden object disclosed in *Cunningham*, the "hidden content" recited in Applicant's amended independent claim 15 is "present[ed] to the user, within a gaming environment of the mobile video game, when the hot spot is activated." In this case, the "hidden content" merely reflects information to be displayed on the screen of the mobile communication device; the "hidden content" is not a physical object, landmark, or monument near to which a player may be "located in the real world." For example, the "hidden content" recited in claim 15 may include, but is not limited to, a promotional

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message, "a hint related to the game," "a new game level," or "an item useful in playing the game." *See* Specification at ¶ [0011]. In those instances, the "hot spot" is a location within the playing field or space of the mobile video game, and the information provided to the user is associated with that virtual location, which is unlike *Cunningham*'s incorporation of hidden objects from the "real world" into the mobile video game.

Cunningham's disclosure of a position-determination system installed within a shopping mall "to facilitate advertising and promotion" (*see id.* at ¶ [0041]) also fails to disclose the subject matter of amended independent claim 15, for the same reasons noted above. In such a situation, *Cunningham* would appear to use a "position fix" to present information to the user based upon the user's physical location in a shopping mall, which again is different from Applicant's claimed method of presenting information to the user upon activation of a "hot spot" within the mobile gaming environment itself. Therefore, *Cunningham* fails to teach, suggest, or disclose "the hot spot information including hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated," as recited in amended independent claim 15.

B. *Cunningham* fails to disclose "the hot spot information designating a location in-game as associated with activating the hot spot, within a gaming environment of the mobile video game"

Independent claim 22 recites, among other things, "the hot spot information designating a location in-game as associated with activating the hot spot, within a gaming environment of the mobile video game." *Cunningham* does not disclose at least this subject matter.

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As discussed above, *Cunningham* appears to disclose a method and system for using a player's "real world" location to enhance the player's game experience. *See Cunningham* at ¶ [0008]. In order to determine the player's "real world" position, the *Cunningham* system engages "location-based positioning services." *Id.* at ¶ [0053]. Those services may be engaged at various points in the game, such as "when the player has reached a point in virtual space where a position determination is required." *Id.* at ¶ [0060].

In the Office Action, the Examiner appears to assert that *Cunningham*'s use of "location-base[d] positioning service[s]," to determine a player's "real world" position when the player has reached a point in the "virtual space" of the game, discloses the above-mentioned subject matter of independent claim 22. *See* Office Action at 3 and 4. As discussed above in connection with the Examiner's rejection of independent claim 15, a hot spot is not a "real world" position, but rather is an in-game feature from the mobile, virtual environment. *See* Specification at ¶ [0009]. When a hot spot in the gaming environment is activated, such as by a user electronically "touching it, running over it, [or] hitting it with an item," content associated with the hot spot, such as a promotional message or hint, is displayed to the user. *See id.* at ¶ [0029]. The "virtual space" disclosed in *Cunningham* does not "activat[e] the hot spot, within a gaming environment of the mobile video game." Instead, the "virtual space" merely represents a point in the game at which the system will engage its "location-based positioning services" to determine the player's "real world" position and potentially augment the game based on that determination. Therefore, *Cunningham* fails to teach, suggest, or disclose "the hot spot information designating a location in-game as associated with

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activating the hot spot, within a gaming environment of the mobile video game," as recited in independent claim 22.

C. The 102(b) rejections should be withdrawn

Accordingly, in view of at least the above-noted differences between claims 15 and 22 and *Cunningham*, the Office Action has not established that *Cunningham* independently discloses the identical invention as claimed. Accordingly, Applicant respectfully submits that independent claims 15 and 22 are allowable. Claims 16-19, 23, and 24 depend from one of claims 15 and 22 and, therefore, are allowable at least due to their dependence on an allowable base claim. Accordingly, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 102(b) of claims 15-19 and 22-24.

II. Claim Rejections Under 35 U.S.C. § 103(a) Based on *Cunningham* and *Knight*

In the Office Action, claims 20, 21, and 25-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cunningham* in view of *Knight*. *See* Office Action at 4. Claims 20, 21, and 25-27 depend from one of independent claims 15 and 22. Thus, claims 20, 21, and 25-27 are patently distinguishable from *Cunningham* for at least the reasons outlined above. Further, *Knight* fails to overcome the deficiencies of *Cunningham* that are discussed above. Specifically, *Knight* discloses an application used to download and play content on a mobile device (*see Knight* at ¶ [0075]), as well as tracking of downloaded data (*see Knight* at ¶ [0100]), but fails to disclose "a hot spot associated with a mobile video game" that, when activated, presents "hidden content" to a user. Therefore, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 20, 21, and 25-27 based on *Cunningham* and *Knight*.

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III. Conclusion

In view of the foregoing remarks, Applicant submits that claims 15-27 are neither anticipated nor rendered obvious in view of the cited art. Applicant therefore respectfully requests the Examiner's reconsideration and reexamination of the application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

/Brannon C. McKay/

Dated: August 6, 2010 By:_____

Brannon C. McKay
Reg. No. 57,491
404-653-6410

Electronic Acknowledgement Receipt

EFS ID:	8173263
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Nathan A. Sloan/Gwendolyn Ramsey
Filer Authorized By:	Nathan A. Sloan
Attorney Docket Number:	09685.0044-00000
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Filing Date:	26-JUN-2007
Time Stamp:	17:01:52
Application Type:	Utility under 35 USC 111(a)

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Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		09685_0044_Reply.pdf	457201 7e8d0dc1cd244f14df3b4414f9d1f236d4f25194	yes	15

	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	15
Warnings:			
Information:			
	Total Files Size (in bytes):	457201	

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.

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
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PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
11/768,890	06/26/2007	

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☐		OR	OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)		RATE ($)	FEE ($)
☐ 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	08/06/2010	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 27	Minus	** 27	= 0	X $ =		OR	X $52=	0
	Independent (37 CFR 1.16(h))	* 4	Minus	***4	= 0	X $ =		OR	X $220=	0
	☐ 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	0

AMENDMENT		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)	OR	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:
/PAULA BRITTON/

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.**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 09/30/2010

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EXAMINER	
NGUYEN, MICHAEL	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
09/30/2010	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.

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 131 of 407

Office Action Summary	Application No.	Applicant(s)	
	11/768,890	HARTWELL, JOSHUA	
	Examiner	Art Unit	
	MICHAEL NGUYEN	2617	

-- 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 *06 August 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) *1-27* is/are pending in the application.

4a) Of the above claim(s) *1-14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-27* 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 _____ 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

Response to Amendment

1. The amendment filed on 8/6/2010 includes claims 15-27. Claims 15, 18, 19 are amended.

Response to Arguments

2. Applicant's arguments with respect to claim15-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. 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) 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.

4. Claims XXX are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham(US. Pub. No. 20030224855) in view of Knight (US Pub. No. 20080109528), and further view of Burman (US Pub. No. 20080102956).

Regarding claim 15, Cunningham teaches a method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device (Abstract), the method comprising the steps of:

storing hot spot information on a computer-readable medium (par. 0039-0040; Fig. 1 label 70 is game server and 75 is database as computer-readable medium);

receiving a communication from a mobile communication device (par. 0056-0058; Fig. 6);

determining the hot spot information to provide to the mobile device based upon the request (par. 0057-0060), the hot spot information including content for presenting to the user when the hot spot is activated (par. 0008, 0041 where the advertising and promotion information can be sent to the device. For example, the user of the device currently playing game and the device located in a spot close to Starbuck. Starbuck can send a coupon to the user of the device base on the location of the device. The user of the device may not see the information during gaming, but may see it during a pause or a break. Also, hidden object is also teach, par. 0008); and

uploading the hot spot information to the mobile communication device (par. 0008-0011, 0041 where the device get advertising and promotion information base on location).

However, Cunningham does not clearly teach hidden content for presenting to the user within a gaming environment of the mobile video game.

In an analogous art, Knight teaches content for presenting to the user within a gaming environment of the mobile video game (par. 0134).

However, Cunningham and Knight do not clearly teach hidden content.

In an analogous art, Burman teaches hidden content (i.e. embedded advertising, Abstract, par. 0122-0125).

Therefore, it would have been obvious to one skill in the art at the time of the invention was made to modify Cunningham to include hidden content for presenting to

the user within a gaming environment of the mobile video game as taught by Knight and Burman in order to enable complex mobile content interaction and improve business.

Regarding claim 16, Cunningham, Knight and Burman as a whole teach designates a location for activating the hot spot within a gaming environment of the mobile video game (Cunningham- i.e. location-base positioning service, par. 0053, i.e. virtual space, 0060).

Regarding claim 17, Cunningham, Knight and Burman as a whole teach an item that is displayed within a gaming environment of the mobile video game (Cunningham- i.e. artificially-created set of elements, par. 0003-0009).

Regarding claim 18, Cunningham, Knight and Burman as a whole teach content is promotional in nature (Cunningham- par. 0041).

Regarding claim 19, Cunningham, Knight and Burman as a whole teach pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content (Cunningham- par. 0041; Fig. 1 where device 31, 32 and 33 are in physical location of access point 20).

Regarding claim 22, the claimed limitations have been analyzed and rejected with respect to claim 15 and 16 since the analysis of the method necessitates

consideration of a corresponding system as claimed.

Regarding claim 23, the claimed limitations have been analyzed and rejected with respect to claim 15 and 18 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 24, the claimed limitations have been analyzed and rejected with respect to claim 19 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 20, Cunningham, Knight and Burman as a whole teach tracking the hot spot information that has been downloaded to the mobile communication device. (Cunningham- par. 0041; Knight- par. 0100, 0128, 0204).

Regarding claim 21, Cunningham, Knight and Burman as a whole teach tracked hot spot information is used for billing a third party associated with the hot spot information (Cunningham- par. 0026; Knight- par 0100, 0105, 0172-0179).

Regarding claim 25, Cunningham, Knight and Burman as a whole teach pre-selected by the server based on a model type associated with the communications device (Cunningham- par. 0005; Knight- par. 0099, 0105-0109).

Regarding claim 26, the claimed limitations have been analyzed and rejected with respect to claim 20 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 27, the claimed limitations have been analyzed and rejected with respect to claim 21 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nguyen whose telephone number is (571) 270-7799. The examiner can normally be reached on Mon-Thurs from 8:30-5:00.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Lewis West can be reached on (571) 272-7859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. 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).

/MICHAEL NGUYEN/
Examiner, Art Unit 2617

/Jinsong Hu/

Supervisory Patent Examiner, Art Unit 2617

Notice of References Cited	Application/Control No. 11/768,890	Applicant(s)/Patent Under Reexamination HARTWELL, JOSHUA	
	Examiner MICHAEL NGUYEN	Art Unit 2617	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2003/0224855 A1	12-2003	Cunningham, Robert	463/41
*	B	US-2008/0102956 A1	05-2008	BURMAN et al.	463/42
*	C	US-2008/0109528 A1	05-2008	Knight et al.	709/217
	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
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

✓	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	02/01/2010	04/19/2010	09/23/2010						
	1	÷	N	N						
	2	÷	N	N						
	3	÷	N	N						
	4	÷	N	N						
	5	÷	N	N						
	6	÷	N	N						
	7	÷	N	N						
	8	÷	N	N						
	9	÷	N	N						
	10	÷	N	N						
	11	÷	N	N						
	12	÷	N	N						
	13	÷	N	N						
	14	÷	N	N						
	15	÷	✓	✓						
	16	÷	✓	✓						
	17	÷	✓	✓						
	18	÷	✓	✓						
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	21	÷	✓	✓						
	22	÷	✓	✓						
	23	÷	✓	✓						
	24	÷	✓	✓						
	25	÷	✓	✓						
	26	÷	✓	✓						
	27	÷	✓	✓						

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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

SEARCHED			
Class	Subclass	Date	Examiner
455	422.1,404.2,414.1-414.4,41.1,41.2	4/19/2010	MN
370	338	4/19/2010	MN

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor search eDAN	4/19/2010	MN
Global EAST text search	4/19/2010	MN
Global EAST limited text search	9/23/2010	MN

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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BIB DATA SHEET

CONFIRMATION NO. 3812

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/768,890	06/26/2007	455	2617	09685.0044-00000

APPLICANTS
Joshua Hartwell, Santa Monica, CA;

**** CONTINUING DATA **************************

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

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****
07/16/2007

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /MICHAEL NGUYEN/ Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
		CA	7	27	4

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WASHINGTON, DC 20001-4413
UNITED STATES

TITLE

Methods and Systems for Providing In-Game Hot Spots

FILING FEE RECEIVED		
1550	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

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	461	(mobile with gam$4).ab.	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:03
L2	122	1 and (promot$3 or advertis$5)	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:04
L3	56	2 and (embed$5 or hid$4)	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:04
L4	50	3 and (location)	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:05
L5	43	4 and (server)	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:05
L6	41	5 and (bs or (base station) or bts or ap or (access point))	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:06
L7	1	6 and ((embed$5 or hid$4) near4 (promot$3 or advertis$5))	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:07
S1	1	((hot$1spot) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:00
S2	6	((hot spot) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:01
S3	620	((mobile or wireless) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:07
S4	122	S3 and (promotion$3 or advertis $3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:07
S5	34	S3 and ((promotion$3 or advertis $3) with content)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:08
S6	17	S5 and ((hot spot) or (access point) or ap)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:15
S7	18589	455/422.1,404.2,414.1-414.4,41.1,41.2.ccls. or 370/338.ccls.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:34

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S8	1140	((mobile or wireless) with (advertis$3 or game)).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:34
S9	130	S7 and S8	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:35
S10	6	S9 and (((hot spot) or (access point) or ap) near4 (location or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:36
S11	4	(20030224855|20020166119|20060136297|20060128469).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:51
S12	4122	((location or position) with gam$3).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:56
S13	514	S12 and (promotion$3 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:57
S14	9	S13 and (((hot spot) or (access point) or ap) near4 (location or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:57
S15	2	(20080102956|20030224855).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:29
S16	2	S15 and (mobile with gam$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:29
S17	2	S16 and (location or information or content or memory or stor$4)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:30
S18	1	S17 and hidden	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:30
S19	2	S17 and (promot$4 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:41
S20	0	S17 and ((promot$4 or advertis$3) near4 (content or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:41
S21	12	S8 and (hidden near4 (content or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:44
S22	1	"20090005003".pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 13:38

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S23	13	(20080268931|20080109528|20080026844|20070021198|20060189382|20060068861|20050148322|20070242645|20070178889|7343317|20060136297|20060128469|20020166119).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:17
S24	1	S23 and (advertis$3 frame)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:17
S25	10	S23 and track$3	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:53
S26	0	S23 and (track$3 content)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:53

EAST Search History (Interference)

< This search history is empty>

9/23/2010 1:09:49 PM
C:\Documents and Settings\mnguyen3\My Documents\EAST\Workspaces\11768890.wsp

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PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: NGUYEN, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

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

VIA EFS-Web

Sir:

REPLY TO OFFICE ACTION

In reply to the Office Action mailed September 30, 2010, the period for response to which extends to December 30, 2010, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims in this paper.

Remarks follow the amendment section of this paper.

AMENDMENTS TO THE CLAIMS:

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

1. (Withdrawn) A mobile communication device that provides a hot spot associated with a mobile video game, comprising:

a screen for viewing by a user;

a processor in communication with the screen;

an input device in communication with the processor; and

a memory containing instructions that, when executed by the processor, cause the mobile communication device to:

designate a location in-game for activating the hot spot;

detect activation of the hot spot during operation of the mobile video game; and

display content on the screen when the user activates the hot spot, the content being promotional or game-enhancing in nature.

2. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

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3. (Withdrawn) The mobile communication device of claim 1, wherein the hot spot information includes coordinate information used to designate the location for activating the hot spot.

4. (Withdrawn) The mobile communication device of claim 1, wherein the designated location is an item that is displayed on the screen as part of a gaming environment of the mobile video game.

5. (Withdrawn) The mobile communication device of claim 1, wherein the content is a message, the message being delivered through video, audio, text, a picture, or a combination thereof.

6. (Withdrawn) The mobile communication device of claim 5, wherein the message includes a hint related to the mobile video game.

7. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

8. (Withdrawn) The mobile communication device of claim 1, wherein activation occurs when the user manipulates the hot spot location.

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9. (Withdrawn) A computer-readable medium containing instructions for execution by a mobile communication device, the instructions causing the mobile communication device to perform a method for providing a hot spot associated with a mobile video game comprising the steps of:

designating a location in-game for activating the hot spot;

detecting activation of the hot spot during operation of the mobile video game; and

displaying content on the screen when a user activates the hot spot, the content being promotional in nature.

10. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

11. (Withdrawn) The computer-readable medium of claim 9, wherein the designated location for activating the hot spot is an item that is displayed in-game on a screen of the mobile communication device.

12. (Withdrawn) The computer-readable medium of claim 9, wherein the content includes a hint related to the mobile video game.

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13. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

14. (Withdrawn) The computer-readable medium of claim 9, wherein activation occurs when the user manipulates the hot spot location.

15. (Currently Amended) A method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device, the method comprising the steps of:

storing hot spot information on a computer-readable medium;

receiving a communication from a mobile communication device;

determining the hot spot information to provide to the mobile device based upon the request, the hot spot information comprising:

a location in-game associated with activating the hot spot; and

~~including~~ hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated; and

uploading the hot spot information to the mobile communication device.

16. (Currently Amended) The method of claim 15, wherein ~~the hot spot information designates a location for~~ the location in-game is associated with activating the hot spot within the gaming environment of the mobile video game.

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17. (Previously Presented) The method of claim 16, wherein the designated location is an item that is displayed within the gaming environment of the mobile video game.

18. (Previously Presented) The method of claim 15, wherein the hidden content is promotional in nature.

19. (Previously Presented) The method of claim 18, wherein the hidden content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content.

20. (Previously Presented) The method of claim 15, further comprising the step of tracking the hot spot information that has been downloaded to the mobile communication device.

21. (Original) The method of claim 20, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

22. (Original) A system for providing a hot spot associated with a mobile video game, the system comprising:

a storage medium for storing hot spot information for use in the mobile video game;

a server in communication with the storage medium;

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an interface coupled to the server and a network, wherein the interface receives a request for hot spot information from the mobile communication device over the network;

wherein the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game, and send the hot spot information to the mobile communication device, the hot spot information designating a location in-game as associated with activating the hot spot, within a gaming environment of the mobile video game.

23. (Original) The system of claim 22, wherein the hot spot includes hidden content that is promotional in nature.

24. (Original) The method of claim 22, wherein the content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content.

25. (Original) The system of claim 22, wherein the hot spot information is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device.

26. (Original) The system of claim 22, wherein the server tracks what hot spot information has been downloaded.

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27. (Original) The method of claim 26, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

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REMARKS

Applicant submits these Remarks in reply to the non-final Office Action mailed September 30, 2010. Claims 1-27 are present in the application. Of those claims, claims 1-14 have been presently withdrawn from consideration as being directed to non-elected subject matter. Thus, claims 15-27 remain present and pending on the merits in the present application.

In the Office Action, Applicant understands that the Examiner rejected claims 15-27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0224855 ("*Cunningham*"), in view of U.S. Patent Application Publication No. 2008/0109528 ("*Knight*"), and further in view of U.S. Patent Application Publication No. 2008/0102956 ("*Burman*").

By this Reply, Applicant has amended independent claim 15, as well as dependent claim 16. Applicant respectfully traverses all pending rejections for at least the reasons discussed below.

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I. Claim Rejections Under 35 U.S.C. § 103(a) Based on *Cunningham*, *Knight*, and *Burman*

Claims 15-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Cunningham*, in view of *Knight*, and further in view of *Burman*. Office Action at 2. Applicant respectfully traverses the Examiner's rejections of claims 15-27 under 35 U.S.C. § 103(a) because a *prima facie* case of obviousness has not been established.

The key to supporting any rejection under 35 U.S.C. § 103(a) is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. *See* MPEP § 2142, 8th Ed., Rev. 6 (Sept. 2007). "A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention." MPEP § 2145. Furthermore, "[t]he mere fact that references *can* be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" at the time the invention was made. MPEP § 2143.01(III), internal citation omitted. Moreover, "[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences *themselves* would have been obvious, but whether the claimed invention *as a whole* would have been obvious." MPEP § 2141.02(I), internal citations omitted (emphasis in original).

"[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the

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prior art." MPEP § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." MPEP § 2141(III).

Here, a *prima facie* case of obviousness has not been established with regard to claims 15-27 because the Office Action does not explain why the differences between the references and Applicant's claims would have been obvious to one of ordinary skill in the art.

A. The hypothetical combination of *Cunningham*, *Knight*, and *Burman* does not teach, suggest, or disclose "a location in-game associated with activating the hot spot"

Amended independent claim 15 recites, among other things, "determining the hot spot information to provide to the mobile device based upon the request, the hot spot information comprising: a location in-game associated with activating the hot spot . . . ." Similarly, independent claim 22 recites, in part, "the hot spot information designating a location in-game as associated with activating the hot spot . . . ." The hypothetical combination of *Cunningham*, *Knight*, and *Burman* does not teach, suggest, or disclose this subject matter.

Cunningham appears to be directed to "[a] system and method for optimizing the process of position-determining to enhance performance of location-based mobile gaming applications." *Cunningham* at Abstract. When a player enters a game, the game server may execute a position-determining function to determine the player's real-world position. *Id.* at ¶¶ [0057]-[0059]. This position information may be used to tailor the player's game experience "to in some way bear a closer resemblance to the player's reality," such as by "adjust[ing] the game environment to match that actually being

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experienced by the player." *Id.* at ¶ [0008]. In addition to enhancing the player's game experience, this position-determining system may also be used in a shopping mall or similar environment "to facilitate advertising and promotion, or to track consumer traffic." *Id.* at ¶ [0041].

Unlike the position information disclosed in *Cunningham*, the "hot spot information" recited in amended independent claim 15 comprises "a location in-game associated with activating the hot spot." A hot spot is not a "real world" position fix or reflective of a physical geographic location of the user or player, but rather is an in-game feature that may be activated upon the triggering of an in-game "activation element." *See* Specification at ¶ [0009]. In an exemplary embodiment, the hot spot information provided to the mobile device may specify a location within the gaming environment that may be triggered to display content. *Id.* at ¶ [0009]-[0010]. For example, the hot spot information may comprise "an area location or an item, sometimes hidden in the game, that can be triggered by a user or some other in-game element." *Id.* at ¶ [0010].

Whereas *Cunningham* discloses using a player's real-world position to alter a gaming environment, no part of *Cunningham* teaches or suggests "a location in-game associated with activating the hot spot." Further, no part of *Cunningham* appears to teach or suggest any location, in-game or not, as "associated with activating the hot spot." *Knight* and *Burman* fail to cure these deficiencies of *Cunningham*. Indeed, the Examiner does not cite *Knight* and *Burman* for that purpose. Rather, the Examiner cites *Knight* as "teach[ing] content for presenting to the user within a gaming environment of the mobile video game" and *Burman* as teaching "hidden content." *See* Office Action at

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3. Therefore, the hypothetical combination of *Cunningham*, *Knight*, and *Burman* fails to disclose, teach, or suggest "determining the hot spot information to provide to the mobile device based upon the request, the hot spot information comprising: a location in-game associated with activating the hot spot . . .," as recited in amended independent claim 15, and as similarly recited in independent claim 22.

B. The hypothetical combination of *Cunningham*, *Knight*, and *Burman* does not teach, suggest, or disclose "hidden content"

Amended independent claim 15 further recites that the "hot spot information" provided to the mobile device also comprises "hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated." The hypothetical combination of *Cunningham*, *Knight*, and *Burman* does not teach, suggest, or disclose this subject matter.

In the Office Action, the Examiner acknowledges that "Cunningham does not clearly teach hidden content for presenting to the user within a gaming environment of the mobile video game" and further that "Cunningham and Knight do not clearly teach hidden content." Office Action at 3. The Examiner asserts, however, that *Burman* teaches hidden content in its disclosure of "embedded advertising" in its Abstract and paragraphs [0122]-[0125]. Applicant respectfully disagrees.

Burman is directed to a gaming system that is dependent upon the player's physical location outside the game. *Burman* at Abstract. In this system, "[a] location of the gaming communication device on the property is used to alter a game play function." *Id.* For example, the system may provide "location dependent advertising," which may be "embedded in the gaming function, rather than a detraction from it." *Id.* at ¶ [0122].

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Applicants' independent claim 15 recites not that content is "embedded in the gaming function," but rather that content is hidden. *Burman* does not disclose that its "location dependent advertising" is a form of "hidden content." On the contrary, *Burman* merely appears to suggest that advertising is displayed to the user in such a way that it does not distract from the user's gaming experience. *See id.* Indeed, the advertising of *Burman* would be useless if hidden. No part of *Burman* appears to suggest that advertising is ever "hidden" from the user or that any content is presented to the user upon activation of an in-game "hot spot." Therefore, the hypothetical combination of *Cunningham*, *Knight*, and *Burman* fails to disclose, teach, or suggest "hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated," as recited in amended independent claim 15.

C. The 35 U.S.C. § 103(a) rejections should be withdrawn.

Accordingly, in view of at least the above-noted differences between claims 15 and 22 and the applied references, the Office Action has not clearly articulated a reason why the claims would have been obvious to one of ordinary skill in the art. Accordingly, Applicant respectfully submits that independent claims 15 and 22 are allowable. Claims 16-21 and 23-27 depend from the independent claims, and are allowable at least due to their dependence on an allowable base claim. Therefore, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 15-27.

III. Conclusion

In view of the foregoing remarks, Applicant submits that claims 15-27 are neither anticipated nor rendered obvious in view of the cited art. Applicant therefore

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respectfully requests the Examiner's reconsideration and reexamination of the application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

/Robert C. Stanley/

Dated: December 28, 2010

By:_____
Robert C. Stanley
Reg. No. 55,830

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 160 of 407

Electronic Acknowledgement Receipt

EFS ID:	9126911
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Nathan A. Sloan/Gwendolyn Ramsey
Filer Authorized By:	Nathan A. Sloan
Attorney Docket Number:	09685.0044-00000
Receipt Date:	28-DEC-2010
Filing Date:	26-JUN-2007
Time Stamp:	17:17:16
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		09685_0044_Reply.pdf	482857 37a556d2e9db741b3ab5931658a034340b7fe44c	yes	15

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	9
	Applicant Arguments/Remarks Made in an Amendment	10	15
Warnings:			
Information:			
	Total Files Size (in bytes):	482857	

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.

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
11/768,890	06/26/2007	

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☐		OR	OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)		RATE ($)	FEE ($)
☐ 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	12/28/2010	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 27	Minus	** 27	= 0	X $ =		OR	X $52=	0
	Independent (37 CFR 1.16(h))	* 4	Minus	***4	= 0	X $ =		OR	X $220=	0
	☐ 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	0

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:
/LORRAINE WALDEN/

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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 02/02/2011

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
NGUYEN, MICHAEL	

ART UNIT	PAPER NUMBER
2617	

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.

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Office Action Summary	Application No.	Applicant(s)	
	11/768,890	HARTWELL, JOSHUA	
	Examiner	Art Unit	
	MICHAEL NGUYEN	2617	

-- 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 *28 December 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) *1-27* is/are pending in the application.

4a) Of the above claim(s) *1-14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-27* 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 _____ 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

Response to Amendment

1. The amendment filed on 12/28/2010 includes claims 15-27. Claims 15 and 16 are amended.

Response to Arguments

2. Applicant's arguments with respect to claim15-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. 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) 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.

4. Claims 15-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauper (US. Pub. No. 20060205510) in view of Uskela (EP No. 1087312).

Regarding claim 15, Lauper teaches a method for providing a hot spot associated (Fig. 2, label 11, 12) with a mobile video game (Fig. 1 label 1), the mobile video game being operable on a mobile communication device (Abstract, Fig. 1), the method comprising the steps of:

storing hot spot information on a computer-readable medium (par. 0008, 0018-0020, 0023; Fig. 1 label 4);

receiving a communication from a mobile communication device (par. 0019, see pull or push);

determining the hot spot information to provide to the mobile device based upon the request (par. 0018-0020, 0024-0025, Fig. 2-3 where using 13 cursor to select label 11 or 12 and Fig. 3 show the detail information), the hot spot information comprisinq:

a location in-qame associated with activating the hot spot (par. 0018-0020, 0024-0025, Fig. 2-3 where using 13 cursor to select label 11 or 12 and Fig. 3 show the detail information where label 11 and 12 are location in-game for user to select to get more information); and

content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated (par. 0018-0020, 0024-0025, Fig. 2-3 where using 13 cursor to select label 11 or 12 and Fig. 3 show the detail under label 11 or 12); and

uploading the hot spot information to the mobile communication device (par. 0018-0020, 0024-0025 where update or uploading using pull or push concept).

However, Lauper does not clearly detail the hidden content concept.

In an analogous art, Uskela teaches the system of supplying advertising to gamer in mobile communication network (Abstract, Fig. 3) where the server place advertisement content in a placeholder within the game environment (par. 0065-0068; Fig. 3)

Therefore, it would have been obvious to one skill in the art at the time of the invention was made to modify Lauper to include define a placeholder, or hidden content

concept, for advertisement in the game as taught by Uskela in order to improve mobile game advertisement in selected intervals base on demographic, geographic and/or user customized database.

Regarding claim 16, Lauper and Uskela as a whole teach location in-qame is associated with activating the hot spot within the gaming environment of the mobile video game (Uskela- par. 0065-0068).

Regarding claim 17, Lauper and Uskela as a whole teach the designated location is an item that is displayed within the gaming environment of the mobile video game (Uskela- par. 0065-0068; Lauper- Fig. 2 label 11 or 12).

Regarding claim 18, Lauper and Uskela as a whole teach the hidden content is promotional in nature (Lauper- par. 0008, 0018-0020; Uskela- par. 0062-0071).

Regarding claim 19, Lauper and Uskela as a whole teach the hidden content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content (Uskela- par. 0062-0071, Fig. 3 where GSG 2, base on location 10 and terminal 4 information, get advertisement content from 12 where advertising content is place in a placeholder in the game interval. From example, the terminal 4 is playing game at location of intersection of 1st and 2nd ave., the GSG 2 know this information and sent the

advertising content base on this location. Advertising content, like coupon, can be “Taco Bell on 1st and 2nd SPECIAL from 3-5PM: 3 hard shell taco from $1”).

Regarding claim 20, Lauper and Uskela as a whole teach the step of tracking the hot spot information that has been downloaded to the mobile communication device (Lauper- i.e. previously sent, par. 0020).

Regarding claim 21, Lauper and Uskela as a whole teach the tracked hot spot information is used for billing a third party associated with the hot spot information (Lauper- i.e. billing, par. 0017, 0020-0021).

Regarding claim 22, the rejection of claim 1 is incorpated herein; furthermore, Lauper and Uskela as a whole teach a system (Lauper- Fig. 1) for providing a hot spot (Fig. 2 label 11 and 12) associated with a mobile video game (Lauper- 1 label 1 where screen is show in Fig. 2), the system comprising:

a storage medium for storing hot spot information for use in the mobile video game (Lauper- Fig. 1 label 1/41; Uskela- par. 0065-0071);

a server in communication with the storage medium (Lauper- Fig. 1 label 4);

an interface coupled to the server and a network (Lauper- Fig. 1 where the arrow between network 3 and 4 is representing the interface between these entities.), wherein the interface receives a request for hot spot information from the mobile communication

device over the network (Lauper- i.e. pull, par. 0018-0020, Fig. 1 where mobile 1 requesting, using pull, sent to server 4 thru. network 3); wherein

the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game (Lauper- i.e. pull, par. 0018-0020, Fig. 1 where mobile 1 requesting, using pull, sent to server 4 thru. network 3. The content sent to mobile is location dependent), and

send the hot spot information to the mobile communication device (Lauper- i.e. pull, par. 0018-0020, Fig. 1 where mobile 1 requesting, using pull or push, sent to server 4 thru. network 3. The content sent to mobile is location dependent; Fig. 2 where 11 and 12 are hot spot information, when click with 13, Fig. 3 popup), the hot spot information designating a location in-game as associated with activating the hot spot (Lauper- Fig. 2 where 11 and 12 are hot spot information, when click with 13, Fig. 3 popup; Uskela- par. 0065-0071), within a gaming environment of the mobile video game (Fig. 2).

Regarding claim 23, the claimed limitations have been analyzed and rejected with respect to claim 18 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 24, the claimed limitations have been analyzed and rejected with respect to claim 19 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 25, Lauper and Uskela as a whole teach the hot spot information is pre-selected by the server based on a model type associated with the communications device (Lauper- par. 0020).

Regarding claim 26, the claimed limitations have been analyzed and rejected with respect to claim 20 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 27, the claimed limitations have been analyzed and rejected with respect to claim 21 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nguyen whose telephone number is (571) 270-7799. The examiner can normally be reached on Mon-Thurs from 8:30-5:00.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Jinsong Hu can be reached on (571) 272-3965. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. 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).

/MICHAEL NGUYEN/
Examiner, Art Unit 2617

/Jinsong Hu/

Supervisory Patent Examiner, Art Unit 2617

Notice of References Cited	Application/Control No. 11/768,890	Applicant(s)/Patent Under Reexamination HARTWELL, JOSHUA	
	Examiner MICHAEL NGUYEN	Art Unit 2617	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2006/0205510 A1	09-2006	Lauper et al.	463/041
	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	EP 1087312 A2	03-2001	European Patent	USKELA et al.	G06F 17/60
	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.

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EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	1	((hot$1spot) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:00
S2	6	((hot spot) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:01
S3	620	((mobile or wireless) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:07
S4	122	S3 and (promotion$3 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:07
S5	34	S3 and ((promotion$3 or advertis$3) with content)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:08
S6	17	S5 and ((hot spot) or (access point) or ap)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:15
S7	18589	455/422.1,404.2,414.1-414.4,41.1,41.2.ccls. or 370/338.ccls.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:34
S8	1140	((mobile or wireless) with (advertis$3 or game)).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:34
S9	130	S7 and S8	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:35
S10	6	S9 and (((hot spot) or (access point) or ap) near4 (location or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:36
S11	4	(20030224855|20020166119|20060136297|20060128469).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:51
S12	4122	((location or position) with gam$3).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:56
S13	514	S12 and (promotion$3 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:57
S14	9	S13 and (((hot spot) or (access point) or ap) near4 (location or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:57

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S15	2	(20080102956|20030224855).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:29
S16	2	S15 and (mobile with gam$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:29
S17	2	S16 and (location or information or content or memory or stor$4)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:30
S18	1	S17 and hidden	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:30
S19	2	S17 and (promot$4 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:41
S20	0	S17 and ((promot$4 or advertis$3) near4 (content or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:41
S21	12	S8 and (hidden near4 (content or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:44
S22	1	"20090005003".pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 13:38
S23	13	(20080268931|20080109528|20080026844|20070021198|20060189382|20060068861|20050148322|20070242645|20070178889|7343317|20060136297|20060128469|20020166119).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:17
S24	1	S23 and (advertis$3 frame)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:17
S25	10	S23 and track$3	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:53
S26	0	S23 and (track$3 content)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:53
S27	461	(mobile with gam$4).ab.	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:03
S28	122	S27 and (promot$3 or advertis$5)	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:04
S29	56	S28 and (embed$5 or hid$4)	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:04

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S30	50	S29 and (location)	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:05
S31	43	S30 and (server)	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:05
S32	41	S31 and (bs or (base station) or bts or ap or (access point))	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:06
S33	1	S32 and ((embed$5 or hid$4) near4 (promot$3 or advertis$5))	US-PGPUB; USPAT	ADJ	ON	2010/09/23 13:07
S34	153	hot spot information	US-PGPUB; USPAT	ADJ	ON	2011/01/11 16:26
S35	38	S34 and game	US-PGPUB; USPAT	ADJ	ON	2011/01/11 16:28
S36	0	"2009005003"	US-PGPUB; USPAT	ADJ	ON	2011/01/26 10:24
S37	0	"2009005003".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 10:25
S38	1	"20090005003".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 10:25
S39	54	(hid$4 or embed$4) near4 (advertis$5 or promot$3) near4 (gam$3)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:11
S40	2	S39 and ((mobile or portable) and gam$3).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:11
S41	29169	(hid$4 or embed$4) near4 (object or advertis$5 or promot $3)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:17
S42	21	S41 and (mobile and gam$3).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:17
S43	1039	(mobile and (promotion or advertis$5)).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:48
S44	75	S43 and ((hidden or embed$4) near2 (object))	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:49
S45	62	S44 and gam$3	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:49

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S46	62	S45 and (during or defin$3)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:50
S47	0	"200700224432".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:51
S48	1	"20070224432".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:51
S49	1	"20070022442".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 11:51
S50	20	(mobile and gam$3 and (advertis $3 or promotion)).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 12:03
S51	20	S50 and (object or advertis$3 or promotion)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 12:04
S52	117	(hid$4 or embed$4) near4 (advertis$5 or promot$3) near4 object	US-PGPUB; USPAT	ADJ	ON	2011/01/26 12:32
S53	0	S52 gam$3	US-PGPUB; USPAT	ADJ	ON	2011/01/26 12:32
S54	52	S52 and gam$3	US-PGPUB; USPAT	ADJ	ON	2011/01/26 12:32
S55	2	(5737619|5,572,643).pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 12:54
S56	58888	(mobile and games)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:04
S57	329	S56 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:04
S58	0	S56 and (burger xyz)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:06
S59	0	S56 and (present near2 burger)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:06
S60	11	S57 and (ice cream)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:07
S61	489	(mobile and games).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:07

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S62	105	S61 and (advertis$5 or promotion)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:08
S63	2	S62 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:08
S64	4	S61 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:09
S65	32	S61 and (coupon)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:14
S66	1	S65 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:14
S67	13	(burger near4 coupon)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:59
S68	9	free fry	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:04
S69	31736	(mobile and advertis$4)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S70	658	(mobile and advertis$4).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S71	184	S70 and coupon	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S72	108	S71 and free	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S73	9	S72 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S74	1	("20060205510").pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:09
S75	1	EP1087312	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:10
S76	0	EP "1087312"	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:10
S77	0	"19990405088".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:15

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S78	0	"199900405088".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:15
S79	0	"19990405088".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:15
S80	0	"19990405088".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:15
S81	22	(LEPPANEN EVA-MARIA).inv.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:16

EAST Search History (Interference)

< This search history is empty>

1/28/2011 11:42:20 AM
C:\Documents and Settings\mnguyen3\My Documents\EAST\Workspaces\11768890.wsp

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Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

✓	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	02/01/2010	04/19/2010	09/23/2010	01/28/2011					
	1	÷	N	N	N					
	2	÷	N	N	N					
	3	÷	N	N	N					
	4	÷	N	N	N					
	5	÷	N	N	N					
	6	÷	N	N	N					
	7	÷	N	N	N					
	8	÷	N	N	N					
	9	÷	N	N	N					
	10	÷	N	N	N					
	11	÷	N	N	N					
	12	÷	N	N	N					
	13	÷	N	N	N					
	14	÷	N	N	N					
	15	÷	✓	✓	✓					
	16	÷	✓	✓	✓					
	17	÷	✓	✓	✓					
	18	÷	✓	✓	✓					
	19	÷	✓	✓	✓					
	20	÷	✓	✓	✓					
	21	÷	✓	✓	✓					
	22	÷	✓	✓	✓					
	23	÷	✓	✓	✓					
	24	÷	✓	✓	✓					
	25	÷	✓	✓	✓					
	26	÷	✓	✓	✓					
	27	÷	✓	✓	✓					

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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

SEARCHED			
Class	Subclass	Date	Examiner
455	422.1,404.2,414.1-414.4,41.1,41.2	4/19/2010	MN
370	338	4/19/2010	MN

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor search eDAN	4/19/2010	MN
Global EAST text search	4/19/2010	MN
Global EAST limited text search	9/23/2010	MN
Global EAST limited text search	1/28/2011	MN

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: NGUYEN, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

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

VIA EFS-Web

Sir:

REPLY TO OFFICE ACTION

In reply to the Office Action mailed February 2, 2011, the period for response to which extends to May 2, 2011, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims in this paper.

Remarks follow the amendment section of this paper.

AMENDMENTS TO THE CLAIMS:

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

1. (Withdrawn) A mobile communication device that provides a hot spot associated with a mobile video game, comprising:

a screen for viewing by a user;

a processor in communication with the screen;

an input device in communication with the processor; and

a memory containing instructions that, when executed by the processor, cause the mobile communication device to:

designate a location in-game for activating the hot spot;

detect activation of the hot spot during operation of the mobile video game; and

display content on the screen when the user activates the hot spot, the content being promotional or game-enhancing in nature.

2. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

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3. (Withdrawn) The mobile communication device of claim 1, wherein the hot spot information includes coordinate information used to designate the location for activating the hot spot.

4. (Withdrawn) The mobile communication device of claim 1, wherein the designated location is an item that is displayed on the screen as part of a gaming environment of the mobile video game.

5. (Withdrawn) The mobile communication device of claim 1, wherein the content is a message, the message being delivered through video, audio, text, a picture, or a combination thereof.

6. (Withdrawn) The mobile communication device of claim 5, wherein the message includes a hint related to the mobile video game.

7. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

8. (Withdrawn) The mobile communication device of claim 1, wherein activation occurs when the user manipulates the hot spot location.

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9. (Withdrawn) A computer-readable medium containing instructions for execution by a mobile communication device, the instructions causing the mobile communication device to perform a method for providing a hot spot associated with a mobile video game comprising the steps of:

designating a location in-game for activating the hot spot;

detecting activation of the hot spot during operation of the mobile video game; and

displaying content on the screen when a user activates the hot spot, the content being promotional in nature.

10. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

11. (Withdrawn) The computer-readable medium of claim 9, wherein the designated location for activating the hot spot is an item that is displayed in-game on a screen of the mobile communication device.

12. (Withdrawn) The computer-readable medium of claim 9, wherein the content includes a hint related to the mobile video game.

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13. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

14. (Withdrawn) The computer-readable medium of claim 9, wherein activation occurs when the user manipulates the hot spot location.

15. (Currently Amended) A method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device, the method comprising the steps of:

storing hot spot information on a computer-readable medium;

receiving a communication from a mobile communication device;

determining the hot spot information to provide to the mobile device based upon the ~~request~~ communication, the hot spot information comprising:

a location in-game associated with activating the hot spot; and

hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated; and

uploading the hot spot information to the mobile communication device.

16. (Previously Presented) The method of claim 15, wherein the location in-game is associated with activating the hot spot within the gaming environment of the mobile video game.

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17. (Previously Presented) The method of claim 16, wherein the designated location is an item that is displayed within the gaming environment of the mobile video game.

18. (Previously Presented) The method of claim 15, wherein the hidden content is promotional in nature.

19. (Currently Amended) The method of claim 18, wherein the hidden content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the hidden promotional content.

20. (Previously Presented) The method of claim 15, further comprising the step of tracking the hot spot information that has been downloaded to the mobile communication device.

21. (Original) The method of claim 20, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

22. (Currently Amended) A system for providing a hot spot associated with a mobile video game, the system comprising:

a storage medium for storing hot spot information for use in the mobile video game;

a server in communication with the storage medium;

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an interface coupled to the server and a network, wherein the interface receives a request for hot spot information from the mobile communication device over the network;

wherein the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game, and send the hot spot information to the mobile communication device, the hot spot information ~~designating~~ comprising:

a location in-game [[as]] associated with activating the hot spot; and

hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated.

23. (Currently Amended) The system of claim 22, wherein the ~~hot spot includes~~ hidden content ~~that~~ is promotional in nature.

24. (Currently Amended) The method of claim [[22]] 23, wherein the hidden content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the hidden promotional content.

25. (Original) The system of claim 22, wherein the hot spot information is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device.

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26. (Original) The system of claim 22, wherein the server tracks what hot spot information has been downloaded.

27. (Original) The method of claim 26, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

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REMARKS

Applicant submits these Remarks in reply to the non-final Office Action mailed February 2, 2011. Claims 1-27 are present in the application. Of those claims, claims 1-14 have been presently withdrawn from consideration as being directed to non-elected subject matter. Thus, claims 15-27 remain present and pending on the merits in the present application.

In the Office Action, Applicant understands that the Office has rejected claims 15-27 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Application Publication No. 2006/0205510 ("*Lauper*") in view of European Patent Application Publication No. 1 087 312 A2 ("*Uskela*").

By this Reply, Applicant has amended independent claims 15 and 22, as well as dependent claims 19, 23, and 24. Independent claim 15 has been amended merely to recite consistent claim language by replacing "request" with "communication," thus providing an exact antecedent basis. Applicant respectfully traverses all pending rejections for at least the reasons discussed below.

Claim Rejections Under 35 U.S.C. § 103(a) Based on *Lauper* and *Uskela*

Claims 15-27 stand rejected under 35 U.S.C. § 103(a) as unpatentable over *Lauper* in view of *Uskela*. Office Action at 2. Applicant respectfully traverses the rejections of claims 15-27 under 35 U.S.C. § 103(a) because a *prima facie* case of obviousness has not been established.

The key to supporting any rejection under 35 U.S.C. § 103(a) is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory

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statements. *See* MPEP § 2142, 8th Ed., Rev. 6 (Sept. 2007). "A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention." MPEP § 2145. Furthermore, "[t]he mere fact that references *can* be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" at the time the invention was made. MPEP § 2143.01(III), internal citation omitted. Moreover, "[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences *themselves* would have been obvious, but whether the claimed invention *as a whole* would have been obvious." MPEP § 2141.02(I), internal citations omitted (emphasis in original).

"[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art." MPEP § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." MPEP § 2141(III).

Here, Applicant respectfully believes that a *prima facie* case of obviousness has not been established with regard to claims 15-27 because the Office Action does not explain why the differences between the cited references and Applicant's claims would have been obvious to one of ordinary skill in the art. In particular, independent claim 15 and independent claim 22 recite that the "hot spot information" provided to the mobile

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device comprises "hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated." The hypothetical combination of *Lauper* and *Uskela* does not teach, suggest, or disclose at least this subject matter.

Lauper appears to be directed to a gaming system including a server for "broadcasting advertising contents" over a network to a game terminal, such that advertisements are "reproduced in the game to the player during the game." *Lauper* at Abstract. As an illustration of its system, Figure 2 of *Lauper* depicts a scene of a game played on a game terminal within a mobile network. *See Lauper* at ¶ [0019]. In this scene, a virtual car controlled by a player is shown driving on a street between clearly visible advertising placards. *See id.* Those non-hidden advertisements shown on the placards are immediately visible to the player once the placard placeholder is available to be presented on the screen, originate from an advertising provider's server, and may be retrieved by the game terminal in either a "push" or a "pull" mode. *See id*. Further, advertising providers can store a broadcast plan for advertising contents based on several broadcast criteria, such as the identity of a player, his profile, features of his terminal, date/time, and location of the device. *Id.* at ¶ [0020]. When a player selects one of the visible advertisements with his cursor, the player is shown a screen that may allow the player to select and purchase products or components relevant to the game. *Id.* at ¶¶ [0024], [0025]. Thus, *Lauper* is not directed to presenting any "hidden content" to a user and, quite oppositely, is concerned with providing space in a game for a clearly visible, non-hidden advertisement that can be readily accessed by the user for more information if the user so desires.

Indeed, the Office acknowledges that "Lauper does not clearly detail the hidden content concept." Office Action at 3. To remedy that deficiency, the Office cites to *Uskela* as teaching "hidden content." *See* Office Action at 3, 4. The Office asserts that *Uskela* teaches hidden content in its disclosure of placing content in a "placeholder" at its paragraphs [0065]-[0068] and Figure 3. Applicant respectfully disagrees.

Uskela appears to be directed to supplying advertisements to gamers over a communications network. *Uskela* at ¶ [0006]. According to *Uskela*, advertisements may be inserted into "predefined placeholders" according to a user's "profile, preferences and current geographic location." *Id.* at ¶¶ [0059], [0065]. By using these predefined placeholders, "advertisements inside the game scenery [may be] tailored to the user of the game." *Id.* at ¶ [0066]. *Uskela* merely discloses that advertisements are placed into its "placeholders," but fails to disclose that advertisements are "hidden" from presentation to the user, to be displayed upon activation of a "hot spot." In fact, it appears from *Uskela* that the advertisements located in placeholders are plainly visible to the users—"inside the game scenery" —not "hidden" such that they may be suddenly, unintentionally, and/or surprisingly found by users while playing a mobile video game.

Unlike *Uskela*, Applicants' independent claims 15 and 22 recite "hot spot information comprising . . . hidden content for presenting to the user . . . when the hot spot is activated." In an exemplary embodiment, the content associated with the hot spot is hidden from view and may be displayed to the user when the hot spot is "electronically manipulated in some way during game play, such as by touching it, running over it, hitting it with an item, etc." Applicant's Specification at ¶ [0029]. As a non-limiting example, a mobile video game may comprise a visible object in the field of

play, such as a lamp or a tree, which is a "hot spot." The method of claim 15 would upload "hot spot information" to the mobile communication device comprising "a location in-game associated with activating the hot spot" (such as the lamp), and "hidden content for presenting to the user" (such as an advertisement, a promotional message, and/or a text display). Then, if the gaming user in this example is manipulating a ball, the user's directing the ball to knock over the lamp or bounce off the tree will activate the "hot spot," thus displaying the "hidden content" for the user. Of course, if the user does not "activate" the hot spot—in this example, the user does not use the ball to knock over the lamp or does not bounce the ball off the tree—then the "hidden content" is never displayed to the user though the game would continue normally. The method of claim 15 would also encompass a "hot spot" with multiple activation methods—in this example, perhaps either knocking over the lamp or bouncing off the lamp—that may provide different hidden content depending upon the type of activation. Neither *Lauper* nor *Uskela* contemplate methods such as those claimed herein, at least because the advertisements or other information from those references is immediately and readily visible to the user in a predefined space intended for carrying such information, and is not "hidden content" that is only presented to the user once a "hot spot" is activated.

Therefore, the hypothetical combination of *Lauper* and *Uskela* fails to disclose, teach, or suggest "hidden content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated," as recited in amended independent claims 15 and 22.

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Conclusion

In view of at least the above-noted differences between claims 15 and 22 and the applied references, Applicant respectfully submits that independent claims 15 and 22 are allowable. As claims 16-21 and 23-27 depend from those independent claims, those additional claims should be allowable at least due to their dependence on an allowable independent claim. Therefore, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 15-27.

Applicant respectfully requests the Examiner's reconsideration and reexamination of the application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 2, 2011

By: / Robert C. Stanley /
Robert C. Stanley
Reg. No. 55,830

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Exhibit 2005 - Page 195 of 407

Electronic Acknowledgement Receipt

EFS ID:	10004557
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Robert Carroll Stanley
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	02-MAY-2011
Filing Date:	26-JUN-2007
Time Stamp:	22:19:00
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		11768890Response.pdf	123127 a55648e3fda3623852b29e0f2f8ad144b84febc6	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):	123127	

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.

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
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PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
11/768,890	06/26/2007	

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☐		OR	OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)		RATE ($)	FEE ($)
☐ 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	05/02/2011	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 27	Minus	** 27	= 0	X $ =		OR	X $52=	0
	Independent (37 CFR 1.16(h))	* 4	Minus	***4	= 0	X $ =		OR	X $220=	0
	☐ 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	0

AMENDMENT		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)	OR	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:
/SONYA HILLIARD/

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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 08/02/2011

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
NGUYEN, MICHAEL	
ART UNIT	PAPER NUMBER
2617	
MAIL DATE	DELIVERY MODE
08/02/2011	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)
	11/768,890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

-- 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 May 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) *1-27* is/are pending in the application.

4a) Of the above claim(s) *1-14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-22* 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 _____ 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)	4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) ☐ Notice of Informal Patent Application
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.	6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed on 5/2/2011 includes claims 1-27. Claims 1-14 are withdrawn. Claim 15 and 22 are amended.

Response to Arguments

2. Applicant's arguments filed 5/2/2011 have been fully considered but they are not persuasive for the following reason.

3. On page 9-10, Applicant agues prima facie of obviousness is not establish between Lauper and Uskela. The examiner has carefully considered and disagrees for the following reason. Regarding prima facie, in response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may 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), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, Lauper teaches mobile advertisement during games playing. Uskela teaches mobile advertisement during games playing. Therefore, these two arts are analogous to combine.

4. On page 10-13, Applicant argues neither Lauper nor Uskela teach or suggest 'hidden content for presenting to the user, within a gamming environment of the mobile

video game, where the hot spot is activated.' The Applicant details the different in the remark/argument, but did not detail it in the claim. The examiner exams the limitation set forth in the claim. The examiner has carefully considered and disagrees for the following reason. Lauper teaches the system place advertisement in the game environment at certain scene or place in the game (par. 0019; Fig. 2) where when the car 17 is at a location or zone in the game, the advertisement display, like label 11 and 12 (reads on 'the hot spot is activate' where label 11 and 12 are hidden content until the car 17 enter this zone or location in the game to see these label of advertisement, which reads on 'hidden content for presenting to the user, within a gamming environment of the mobile video game'.). Other interpretation that reads on this limitation, (par. 0024-0032, Fig. 2-3) where at the point of car 17 arrive at this current location or zone of Fig. 2, label 11 and 12 are display. The user use cursor 13 to select label 11 or 12, a hidden content display as in Fig. 3.

5. Uskela concept is similar to Lauper. Uskela mobile advertisement base on location where the advertisement is hidden in the place holder base on location of the gamer so that when the user in game is at certain location in the game, the content is display to him/her.

6. Therefore, Lauper and/or Uskela alone or in combination suggest or reads on the limitation 'hidden content for presenting to the user, within a gamming environment of the mobile video game, where the hot spot is activated'

7. With the explanation above, the rejection stands.

8. It should be noted that the referenced citations made in the last Office Action are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Claim Rejections - 35 USC § 103

9. 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) 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.

10. Claims 15-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauper (US. Pub. No. 20060205510) in view of Uskela (EP No. 1087312).

Regarding claim 15, Lauper teaches a method for providing a hot spot associated (Fig. 2, label 11, 12) with a mobile video game (Fig. 1 label 1), the mobile video game being operable on a mobile communication device (Abstract, Fig. 1), the method comprising the steps of:

storing hot spot information on a computer-readable medium (par. 0008, 0018-0020, 0023; Fig. 1 label 4);

receiving a communication from a mobile communication device (par. 0019, see pull or push);

determining the hot spot information to provide to the mobile device based upon the communication (par. 0008, 0018-0020, 0024-0025, Fig. 2-3 where using 13 cursor to select label 11 or 12 and Fig. 3 show the detail information,), the hot spot information comprisinq:

a location in-qame associated with activating the hot spot (par. 0018-0020, 0024-0025, Fig. 2-3 where using 13 cursor to select label 11 or 12 and Fig. 3 show the detail information where label 11 and 12 are location in-game for user to select to get more information); and

content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated (par. 0018-0020, 0024-0025, Fig. 2-3 where using 13 cursor to select label 11 or 12 and Fig. 3 show the detail under label 11 or 12); and

uploading the hot spot information to the mobile communication device (par. 0018-0020, 0024-0025 where update or uploading using pull or push concept).

However, Lauper does not clearly detail the hidden content concept.

In an analogous art, Uskela teaches the system of supplying advertising to gamer in mobile communication network (Abstract, Fig. 3) where the server place

advertisement content in a placeholder within the game environment (par. 0065-0068; Fig. 3)

Therefore, it would have been obvious to one skill in the art at the time of the invention was made to modify Lauper to include define a placeholder, or hidden content concept, for advertisement in the game as taught by Uskela in order to improve mobile game advertisement in selected intervals base on demographic, geographic and/or user customized database.

Regarding claim 16, Lauper and Uskela as a whole teach location in-qame is associated with activating the hot spot within the gaming environment of the mobile video game (Uskela- par. 0065-0068).

Regarding claim 17, Lauper and Uskela as a whole teach the designated location is an item that is displayed within the gaming environment of the mobile video game (Uskela- par. 0065-0068; Lauper- Fig. 2 label 11 or 12).

Regarding claim 18, Lauper and Uskela as a whole teach the hidden content is promotional in nature (Lauper- par. 0008, 0018-0020; Uskela- par. 0062-0071).

Regarding claim 19, Lauper and Uskela as a whole teach the hidden content that is promotional in nature is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content (Uskela-

par. 0062-0071, Fig. 3 where GSG 2, base on location 10 and terminal 4 information, get advertisement content from 12 where advertising content is place in a placeholder in the game interval. From example, the terminal 4 is playing game at location of intersection of 1st and 2nd ave., the GSG 2 know this information and sent the advertising content base on this location. Advertising content, like coupon, can be "Taco Bell on 1st and 2nd SPECIAL from 3-5PM: 3 hard shell taco from $1").

Regarding claim 20, Lauper and Uskela as a whole teach the step of tracking the hot spot information that has been downloaded to the mobile communication device (Lauper- i.e. previously sent, par. 0020).

Regarding claim 21, Lauper and Uskela as a whole teach the tracked hot spot information is used for billing a third party associated with the hot spot information (Lauper- i.e. billing, par. 0017, 0020-0021).

Regarding claim 22, the claimed limitations have been analyzed and rejected with respect to claim 15 since the analysis of the method necessitates consideration of a corresponding apparatus as claimed. Furthermore, Lauper and Uskela as a whole teach a system (Lauper- Fig. 1) for providing a hot spot (Fig. 2 label 11 and 12) associated with a mobile video game (Lauper- 1 label 1 where screen is show in Fig. 2), the system comprising:

a storage medium for storing hot spot information for use in the mobile video game (Lauper- Fig. 1 label 1/41; Uskela- par. 0065-0071);

a server in communication with the storage medium (Lauper- Fig. 1 label 4);

an interface coupled to the server and a network (Lauper- Fig. 1 where the arrow between network 3 and 4 is representing the interface between these entities.), wherein the interface receives a request for hot spot information from the mobile communication device over the network (Lauper- i.e. pull, par. 0018-0020, Fig. 1 where mobile 1 requesting, using pull, sent to server 4 thru. network 3); wherein

the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game (Lauper- i.e. pull, par. 0018-0020, Fig. 1 where mobile 1 requesting, using pull, sent to server 4 thru. network 3. The content sent to mobile is location dependent), and

send the hot spot information to the mobile communication device (Lauper- i.e. pull, par. 0018-0020, Fig. 1 where mobile 1 requesting, using pull or push, sent to server 4 thru. network 3. The content sent to mobile is location dependent; Fig. 2 where 11 and 12 are hot spot information, when click with 13, Fig. 3 popup), the hot spot information designating a location in-game as associated with activating the hot spot (Lauper- Fig. 2 where 11 and 12 are hot spot information, when click with 13, Fig. 3 popup; Uskela- par. 0065-0071), within a gaming environment of the mobile video game (Fig. 2).

Regarding claim 23, the claimed limitations have been analyzed and rejected with respect to claim 18 since the analysis of the method necessitates consideration of

a corresponding system as claimed.

Regarding claim 24, the claimed limitations have been analyzed and rejected with respect to claim 19 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 25, Lauper and Uskela as a whole teach the hot spot information is pre-selected by the server based on a model type associated with the communications device (Lauper- par. 0020).

Regarding claim 26, the claimed limitations have been analyzed and rejected with respect to claim 20 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 27, the claimed limitations have been analyzed and rejected with respect to claim 21 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Conclusion

11. **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 Michael Nguyen whose telephone number is (571) 270-7799. The examiner can normally be reached on Mon-Thurs from 8:30-5:00.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Jinsong Hu can be reached on (571) 272-3965. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. 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).

/MICHAEL NGUYEN/

Examiner, Art Unit 2617
/Jean A Gelin/
Primary Examiner, Art Unit 2617

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

✓	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	02/01/2010	04/19/2010	09/23/2010	01/28/2011	07/22/2011				
	1	÷	N	N	N	N				
	2	÷	N	N	N	N				
	3	÷	N	N	N	N				
	4	÷	N	N	N	N				
	5	÷	N	N	N	N				
	6	÷	N	N	N	N				
	7	÷	N	N	N	N				
	8	÷	N	N	N	N				
	9	÷	N	N	N	N				
	10	÷	N	N	N	N				
	11	÷	N	N	N	N				
	12	÷	N	N	N	N				
	13	÷	N	N	N	N				
	14	÷	N	N	N	N				
	15	÷	✓	✓	✓	✓				
	16	÷	✓	✓	✓	✓				
	17	÷	✓	✓	✓	✓				
	18	÷	✓	✓	✓	✓				
	19	÷	✓	✓	✓	✓				
	20	÷	✓	✓	✓	✓				
	21	÷	✓	✓	✓	✓				
	22	÷	✓	✓	✓	✓				
	23	÷	✓	✓	✓	✓				
	24	÷	✓	✓	✓	✓				
	25	÷	✓	✓	✓	✓				
	26	÷	✓	✓	✓	✓				
	27	÷	✓	✓	✓	✓				

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RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE REQUESTED
EXAMINING GROUP 2617

PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: NGUYEN, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

VIA EFS-Web

Sir:

AMENDMENT AFTER FINAL

In reply to the Final Office Action mailed August 2, 2011, the period for response to which now extends to December 2, 2011 (further to the Petition for Extension of Time submitted herewith), and pursuant to 37 C.F.R. § 1.116, Applicant proposes that this application be amended as follows:

Amendments to the Claims are reflected in the listing of claims in this paper.

Remarks follow the amendment section of this paper.

AMENDMENTS TO THE CLAIMS:

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

1. (Withdrawn) A mobile communication device that provides a hot spot associated with a mobile video game, comprising:

a screen for viewing by a user;

a processor in communication with the screen;

an input device in communication with the processor; and

a memory containing instructions that, when executed by the processor, cause the mobile communication device to:

designate a location in-game for activating the hot spot;

detect activation of the hot spot during operation of the mobile video game; and

display content on the screen when the user activates the hot spot, the content being promotional or game-enhancing in nature.

2. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

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3. (Withdrawn) The mobile communication device of claim 1, wherein the hot spot information includes coordinate information used to designate the location for activating the hot spot.

4. (Withdrawn) The mobile communication device of claim 1, wherein the designated location is an item that is displayed on the screen as part of a gaming environment of the mobile video game.

5. (Withdrawn) The mobile communication device of claim 1, wherein the content is a message, the message being delivered through video, audio, text, a picture, or a combination thereof.

6. (Withdrawn) The mobile communication device of claim 5, wherein the message includes a hint related to the mobile video game.

7. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

8. (Withdrawn) The mobile communication device of claim 1, wherein activation occurs when the user manipulates the hot spot location.

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9. (Withdrawn) A computer-readable medium containing instructions for execution by a mobile communication device, the instructions causing the mobile communication device to perform a method for providing a hot spot associated with a mobile video game comprising the steps of:

designating a location in-game for activating the hot spot;

detecting activation of the hot spot during operation of the mobile video game; and

displaying content on the screen when a user activates the hot spot, the content being promotional in nature.

10. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

11. (Withdrawn) The computer-readable medium of claim 9, wherein the designated location for activating the hot spot is an item that is displayed in-game on a screen of the mobile communication device.

12. (Withdrawn) The computer-readable medium of claim 9, wherein the content includes a hint related to the mobile video game.

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13. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

14. (Withdrawn) The computer-readable medium of claim 9, wherein activation occurs when the user manipulates the hot spot location.

15. (Currently Amended) A method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device, the method comprising the steps of:

storing hot spot information on a computer-readable medium;

receiving a communication from a mobile communication device;

determining the hot spot information to provide to the mobile device based upon the communication, the hot spot information comprising:

a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional object; and

hidden promotional content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated; and

uploading the hot spot information to the mobile communication device.

16. (Previously Presented) The method of claim 15, wherein the location in-game is associated with activating the hot spot within the gaming environment of the mobile video game.

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17-18. (Cancelled).

19. (Currently Amended) The method of claim [[18]] 15, wherein the hidden promotional content ~~that is promotional in nature~~ is pre-selected based on the proximity of the mobile communication device to a physical location related to the hidden promotional content.

20. (Previously Presented) The method of claim 15, further comprising the step of tracking the hot spot information that has been downloaded to the mobile communication device.

21. (Original) The method of claim 20, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

22. (Currently Amended) A system for providing a hot spot associated with a mobile video game, the system comprising:

a storage medium for storing hot spot information for use in the mobile video game;

a server in communication with the storage medium;

an interface coupled to the server and a network, wherein the interface receives a request for hot spot information from the mobile communication device over the network;

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wherein the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game, and send the hot spot information to the mobile communication device, the hot spot information comprising:

a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional object; and

hidden promotional content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated.

23. (Cancelled).

24. (Currently Amended) The method of claim [[23]] 22, wherein the hidden promotional content ~~that is promotional in nature~~ is pre-selected based on the proximity of the mobile communication device to a physical location related to the hidden promotional content.

25. (Original) The system of claim 22, wherein the hot spot information is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device.

26. (Original) The system of claim 22, wherein the server tracks what hot spot information has been downloaded.

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27. (Original) The method of claim 26, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

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REMARKS

Applicant submits these Remarks in reply to the Final Office Action mailed August 2, 2011. Prior to this Amendment, claims 1-27 were present in the application. Of those claims, claims 1-14 have been presently withdrawn from consideration as being directed to non-elected subject matter.

In the Final Office Action, Applicant understands that the Office has rejected claims 15-27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2006/0205510 ("*Lauper*") in view of European Patent Application Publication No. 1 087 312 A2 ("*Uskela*").

By this Amendment, Applicant proposes to amend independent claims 15 and 22, as well as dependent claims 19 and 24, and to cancel dependent claims 17, 18, and 23 without prejudice or disclaimer of their subject matter. No prohibited new matter has been added, and this Amendment After Final should be entered because the claim amendments only incorporate subject matter previously recited in dependent claims (*see* claims 17, 18, and 23) or inherent in the claims as examined. Upon entry of these amendments, claims 1-16, 19-22, and 24-27 will be pending in this application, of which claims 15, 16, 19-22, and 24-27 are currently elected for prosecution. Of the claims elected for prosecution, claims 15 and 22 are independent. Applicant respectfully traverses all pending rejections for at least the reasons discussed below.

Claim Rejections Under 35 U.S.C. § 103(a) Based on *Lauper* and *Uskela*

Claims 15-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lauper* in view of *Uskela*. Final Office Action at 4. Claims 17, 18, and 23 are cancelled by this Amendment, thus rendering moot their rejection. Applicant

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respectfully traverses the rejections of claims 15, 16, 19-22, and 24-27 under 35 U.S.C. § 103(a) because a *prima facie* case of obviousness has not been established.

Applicant's amended independent claims 15 and 22 recite that the "hot spot information" comprises "a location in-game associated with activating the hot spot, wherein the location in-game is represented by a **non-promotional** object." After the hot spot is activated by a user, "hidden promotional content [is] present[ed] to the user." In an exemplary embodiment, the location in-game may be represented by a non-promotional object, such as a blank chalk board depicted in the background of the gaming environment. *See* Applicant's Specification at ¶ [0045]. Upon activating the hot spot (e.g., by throwing a dart at the chalk board), a promotional message may be drawn on the chalk board and displayed to the user. *See id.* In other words, Applicant's amended claims 15 and 22, *inter alia*, may present promotional content once the game user activates, unknowingly, a "hot spot" associated with a non-promotional object—the non-promotional object is not an ordinary or visible place for advertisement, the user does not know that the object has a hidden hot spot, and the user does not know that activating the hidden "hot spot" will display promotional content.

Quite differently, *Lauper* presents additional promotional content once the game user activates, knowingly, the promotional content associated with a promotional object—the promotional object already displays a visible advertisement, the user knows that the object is associated with promotional content, and the user knows that activating the object will display additional promotional content. *Lauper* is indeed directed to "broadcasting advertising contents" over a network to a game terminal, such that advertisements are "reproduced in the game to the player during the game" (*Lauper*

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at Abstract). The reference discloses readily visible, non-hidden "advertising placards"—promotional objects—for displaying promotional content that may be manipulated by a user to display additional information pertaining to the displayed promotion. *Lauper* at ¶ [0019], Figure 2. When a player selects one of these readily visible, non-hidden advertisements within the promotional object (e.g., by clicking it with a cursor), the game is paused and the player is presented with additional information pertaining to the advertisement. *See, e.g., id.* at ¶¶ [0024]-[0026]. There is no "non-promotional object" in *Lauper*, as recited in amended claims 15 and 22.

Further, whereas *Lauper* appears to disclose sending the content to be displayed in an advertisement from a server to a mobile device (*see Lauper* at ¶ [0019]), it does not disclose that its server also sends "a location in-game associated with activating the hot spot," such as, for example, a location specified by coordinate information. *See* Applicant's Specification at ¶ [0078]. Rather, the location at which the advertising content is placed in *Lauper* appears to be determined by the device. Thus, nothing in *Lauper* teaches or suggests "hot spot information" comprising "a location in-game associated with activating the hot spot."

Uskela fails to cure the above-discussed deficiency of *Lauper*. Specifically, *Uskela* discloses "provid[ing] advertising to a gamer directed to him based on his demographic, geographic, preference or customized user database." *Uskela* at ¶ [0006]. According to *Uskela*, advertisements may be "inserted into predefined placeholders for advertisements in the game screen." *Id.* at ¶ [0059]. Therefore, like *Lauper*, no part of *Uskela* teaches or suggests a "non-promotional object" or "hot spot information" comprising "a location in-game associated with activating the hot spot."

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Therefore, *Lauper* and *Uskela*, whether combined or considered separately, fail to teach or suggest "a location in-game associated with activating the hot spot, wherein the location in-game represents a non-promotional object," as recited in amended independent claims 15 and 22.

Conclusion

In view of at least the above-noted differences between claims 15 and 22 and the applied references, Applicant respectfully submits that independent claims 15 and 22 are allowable. As claims 16, 19-21, and 24-27 depend from those independent claims, those additional claims should be allowable at least due to their dependence on an allowable independent claim. Therefore, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 15, 16, 19-22, and 24-27.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 15, 16, 19-22, and 24-27 in condition for allowance. Applicant submits that the proposed amendments of claims 15, 16, 19-22, and 24-27 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance. Finally, Applicant submits that the entry of the amendment

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would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant submits that the pending claims, as amended, are neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 3, 2011

By: / Robert C. Stanley /
Robert C. Stanley
Reg. No. 55,830

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 224 of 407

Electronic Patent Application Fee Transmittal

Application Number:	11768890
Filing Date:	26-Jun-2007
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Filer:	Robert Carroll Stanley
Attorney Docket Number:	09685.0044-00000

Filed as Large 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	1251	1	150	150

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
		Total in USD ($)		**150**

Electronic Acknowledgement Receipt

EFS ID:	11327280
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Robert Carroll Stanley
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	03-NOV-2011
Filing Date:	26-JUN-2007
Time Stamp:	12:17:28
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$150
RAM confirmation Number	8298
Deposit Account	
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	11768890EOT20111103.pdf	65230 38a271316140eace0218ed87af5c353b83ebb360	no	1
Warnings:					
Information:					
2		11768890AmendmentAfterFinal20111103.pdf	137123 1c39bdef1bd98a77b99a355f36ca9292f8f0e920	yes	13

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment After Final	1	1
	Claims	2	8
	Applicant Arguments/Remarks Made in an Amendment	9	13

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	30038 623aa8a1f3b5954344040ff23ec93f1826b054dc	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	232391		

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.

PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: NGUYEN, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

VIA EFS-Web

Sir:

PETITION FOR EXTENSION OF TIME

Applicant petitions for a one (1) month extension of time to file an Amendment in response to the Final Office Action of August 2, 2011. A fee of $150.00 is enclosed.

Please grant any additional extensions of time required to enter the attached Amendment and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

/ Robert C. Stanley /

Dated: November 3, 2011 By:_____
Robert C. Stanley
Reg. No. 55,830
(404) 653-6441

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
11/768,890	06/26/2007	

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☐		OR	OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)		RATE ($)	FEE ($)
☐ 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	11/03/2011	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 24	Minus	** 27	= 0	X $ =		OR	X $60=	0
	Independent (37 CFR 1.16(h))	* 4	Minus	***4	= 0	X $ =		OR	X $250=	0
	☐ 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	0

AMENDMENT		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)	OR	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:
/MARQUETTA MCGEE/

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
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 11/22/2011

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
NGUYEN, MICHAEL	
ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
11/22/2011	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.

Patent Owner Flip Phone Games, Inc.
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Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/768,890	**Applicant(s)** HARTWELL, JOSHUA
	Examiner MICHAEL NGUYEN	**Art Unit** 2617

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

THE REPLY FILED 03 November 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: *N/A*.
   Claim(s) objected to: *N/A*.
   Claim(s) rejected: *15-27*.
   Claim(s) withdrawn from consideration: *1-14*.

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: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/MICHAEL NGUYEN/ Examiner, Art Unit 2617	/Jean A Gelin/ Primary Examiner, Art Unit 2617

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Continuation of 11. does NOT place the application in condition for allowance because: The claim added new limitation "wherein the location in-game is represented by a non-promotional objection" which need further consideration..

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Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (07-09)
Approved for use through 07/31/2012. 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 contains a valid OMB control number.

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	11/768,890	Filing Date	2007-06-26	Docket Number (if applicable)	09685.0044-00000	Art Unit	2617
First Named Inventor	Joshua HARTWELL			Examiner Name	Michael Nguyen		

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. The Instruction Sheet for this form is located at WWW.USPTO.GOV

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).

☐ 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.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

☐ Other _____

☒ Enclosed

☒ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☐ Other _____

MISCELLANEOUS

☐ 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)

☐ Other _____

FEES

☒ **The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 060916

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

PTO/SB/30EFS (07-09)
Approved for use through 07/31/2012. 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 contains a valid OMB control number.

Signature of Registered U.S. Patent Practitioner			
Signature	/ Robert C. Stanley /	Date (YYYY-MM-DD)	2011-12-02
Name	Robert C. Stanley	Registration Number	55830

This collection of information is required by 37 CFR 1.114. 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.

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

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.

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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.

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PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: NGUYEN, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

VIA EFS-Web

Sir:

AMENDMENT WITH REQUEST FOR CONTINUED EXAMINATION

In reply to the Final Office Action mailed August 2, 2011, the period for response to which extends to December 2, 2011 (due to the Petition for Extension of Time for one month previously submitted on November 3, 2011), and further to the Advisory Action dated November 22, 2011, and the Request for Continued Examination ("RCE") filed herewith, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims in this paper.

Remarks follow the amendment section of this paper.

AMENDMENTS TO THE CLAIMS:

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

1. (Withdrawn) A mobile communication device that provides a hot spot associated with a mobile video game, comprising:

a screen for viewing by a user;

a processor in communication with the screen;

an input device in communication with the processor; and

a memory containing instructions that, when executed by the processor, cause the mobile communication device to:

designate a location in-game for activating the hot spot;

detect activation of the hot spot during operation of the mobile video game; and

display content on the screen when the user activates the hot spot, the content being promotional or game-enhancing in nature.

2. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

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3. (Withdrawn) The mobile communication device of claim 1, wherein the hot spot information includes coordinate information used to designate the location for activating the hot spot.

4. (Withdrawn) The mobile communication device of claim 1, wherein the designated location is an item that is displayed on the screen as part of a gaming environment of the mobile video game.

5. (Withdrawn) The mobile communication device of claim 1, wherein the content is a message, the message being delivered through video, audio, text, a picture, or a combination thereof.

6. (Withdrawn) The mobile communication device of claim 5, wherein the message includes a hint related to the mobile video game.

7. (Withdrawn) The mobile communication device of claim 1, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

8. (Withdrawn) The mobile communication device of claim 1, wherein activation occurs when the user manipulates the hot spot location.

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9. (Withdrawn) A computer-readable medium containing instructions for execution by a mobile communication device, the instructions causing the mobile communication device to perform a method for providing a hot spot associated with a mobile video game comprising the steps of:

designating a location in-game for activating the hot spot;

detecting activation of the hot spot during operation of the mobile video game; and

displaying content on the screen when a user activates the hot spot, the content being promotional in nature.

10. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to:

contact a server to check for hot spot information; and

download the hot spot information to the communications device from the server.

11. (Withdrawn) The computer-readable medium of claim 9, wherein the designated location for activating the hot spot is an item that is displayed in-game on a screen of the mobile communication device.

12. (Withdrawn) The computer-readable medium of claim 9, wherein the content includes a hint related to the mobile video game.

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13. (Withdrawn) The computer-readable medium of claim 9, wherein the instructions further cause the mobile communication device to update the hot spot information periodically by contacting the server again.

14. (Withdrawn) The computer-readable medium of claim 9, wherein activation occurs when the user manipulates the hot spot location.

15. (Currently Amended) A method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device, the method comprising the steps of:

storing hot spot information on a computer-readable medium;

receiving a communication from a mobile communication device;

determining the hot spot information to provide to the mobile device based upon the communication, the hot spot information comprising:

a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional object; and

hidden promotional content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated; and

uploading the hot spot information to the mobile communication device.

16. (Previously Presented) The method of claim 15, wherein the location in-game is associated with activating the hot spot within the gaming environment of the mobile video game.

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17-18. (Cancelled).

19. (Currently Amended) The method of claim [[18]] 15, wherein the hidden promotional content ~~that is promotional in nature~~ is pre-selected based on the proximity of the mobile communication device to a physical location related to the hidden promotional content.

20. (Previously Presented) The method of claim 15, further comprising the step of tracking the hot spot information that has been downloaded to the mobile communication device.

21. (Original) The method of claim 20, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

22. (Currently Amended) A system for providing a hot spot associated with a mobile video game, the system comprising:

a storage medium for storing hot spot information for use in the mobile video game;

a server in communication with the storage medium;

an interface coupled to the server and a network, wherein the interface receives a request for hot spot information from the mobile communication device over the network;

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wherein the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game, and send the hot spot information to the mobile communication device, the hot spot information comprising:

a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional object; and

hidden promotional content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated.

23. (Cancelled).

24. (Currently Amended) The method of claim [[23]] 22, wherein the hidden promotional content ~~that is promotional in nature~~ is pre-selected based on the proximity of the mobile communication device to a physical location related to the hidden promotional content.

25. (Original) The system of claim 22, wherein the hot spot information is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device.

26. (Original) The system of claim 22, wherein the server tracks what hot spot information has been downloaded.

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27. (Original) The method of claim 26, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

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REMARKS

Applicant submits these Remarks in reply to the Final Office Action mailed August 2, 2011, and the Advisory Action dated November 22, 2011. Prior to this Amendment, claims 1-27 were present in the application. Of those claims, claims 1-14 have been presently withdrawn from consideration as being directed to non-elected subject matter.

By this Amendment, Applicant amends independent claims 15 and 22, as well as dependent claims 19 and 24, and cancels dependent claims 17, 18, and 23 without prejudice or disclaimer of their subject matter. No prohibited new matter has been added. Upon entry of these amendments, claims 1-16, 19-22, and 24-27 will be pending in this application, of which claims 15, 16, 19-22, and 24-27 are currently elected for prosecution.

Applicant previously presented the claim amendments filed herewith in the Amendment After Final dated November 3, 2011. In the response provided with the Advisory Action dated November 22, 2011, the Office did not enter the claim amendments, stating that the limitation "wherein the location in-game is represented by a non-promotional object" would need further consideration. Accordingly, Applicant presents those claim amendments with a Request for Continued Examination so that the Office may further consider the amended claims.

In the Final Office Action, Applicant understands that the Office has rejected claims 15-27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2006/0205510 ("*Lauper*") in view of European Patent

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Application Publication No. 1 087 312 A2 ("*Uskela*"). Applicant respectfully traverses all pending rejections for at least the reasons discussed below.

Claim Rejections Under 35 U.S.C. § 103(a) Based on *Lauper* and *Uskela*

Claims 15-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lauper* in view of *Uskela*. Final Office Action at 4. Claims 17, 18, and 23 are cancelled by this Amendment, thus rendering moot their rejection. Applicant respectfully traverses the rejections of claims 15, 16, 19-22, and 24-27 under 35 U.S.C. § 103(a) because a *prima facie* case of obviousness has not been established.

Applicant's amended independent claims 15 and 22 recite that the "hot spot information" comprises "a location in-game associated with activating the hot spot, wherein the location in-game is represented by a **non-promotional** object." After the hot spot is activated by a user, "hidden promotional content [is] present[ed] to the user." In an exemplary embodiment, the location in-game may be represented by a non-promotional object, such as a blank chalk board depicted in the background of the gaming environment. *See* Applicant's Specification at ¶ [0045]. Upon activating the hot spot (e.g., by throwing a dart at the chalk board), a promotional message may be drawn on the chalk board and displayed to the user. *See id.* In other words, Applicant's amended claims 15 and 22, *inter alia*, may present promotional content once the game user activates, unknowingly, a "hot spot" associated with a non-promotional object—the non-promotional object is not an ordinary or visible place for advertisement, the user does not know that the object has a hidden hot spot, and the user does not know that activating the hidden "hot spot" will display promotional content.

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Quite differently, *Lauper* presents additional promotional content once the game user activates, knowingly, the promotional content associated with a promotional object—the promotional object already displays a visible advertisement, the user knows that the object is associated with promotional content, and the user knows that activating the object will display additional promotional content. *Lauper* is indeed directed to "broadcasting advertising contents" over a network to a game terminal, such that advertisements are "reproduced in the game to the player during the game" (*Lauper* at Abstract). The reference discloses readily visible, non-hidden "advertising placards"—promotional objects—for displaying promotional content that may be manipulated by a user to display additional information pertaining to the displayed promotion. *Lauper* at ¶ [0019], Figure 2. When a player selects one of these readily visible, non-hidden advertisements within the promotional object (e.g., by clicking it with a cursor), the game is paused and the player is presented with additional information pertaining to the advertisement. *See, e.g., id.* at ¶¶ [0024]-[0026]. There is no "non-promotional object" in *Lauper*, as recited in amended claims 15 and 22.

Further, whereas *Lauper* appears to disclose sending the content to be displayed in an advertisement from a server to a mobile device (*see Lauper* at ¶ [0019]), it does not disclose that its server also sends "a location in-game associated with activating the hot spot," such as, for example, a location specified by coordinate information. *See* Applicant's Specification at ¶ [0078]. Rather, the location at which the advertising content is placed in *Lauper* appears to be determined by the device. Thus, nothing in *Lauper* teaches or suggests "hot spot information" comprising "a location in-game associated with activating the hot spot."

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Uskela fails to cure the above-discussed deficiency of *Lauper*. Specifically, *Uskela* discloses "provid[ing] advertising to a gamer directed to him based on his demographic, geographic, preference or customized user database." *Uskela* at ¶ [0006]. According to *Uskela*, advertisements may be "inserted into predefined placeholders for advertisements in the game screen." *Id.* at ¶ [0059]. Therefore, like *Lauper*, no part of *Uskela* teaches or suggests a "non-promotional object" or "hot spot information" comprising "a location in-game associated with activating the hot spot."

Moreover, a person of ordinary skill would not consider modifying *Uskela* or *Lauper* to be directed to displaying promotional content upon activation of a non-promotional object. As discussed above, *Lauper* discloses that its system places advertisements in "advertising placards" or "advertising zones" dedicated to the display of advertisements (e.g., promotional objects). *See Lauper* at ¶¶ [0019], [0024]. *Lauper* fails to provide any suggestion that non-promotional objects may be utilized for the purpose of displaying promotional information. Likewise, *Uskela* discloses that "advertising can be inserted into predefined placeholders for advertisements" (*see Uskela* at ¶ [0059]), but no part of *Uskela* teaches or suggests that promotional information may be placed into non-promotional objects. As each of the references cited by the Examiner focuses exclusively on displaying promotional information within objects explicitly intended for display of promotional content (e.g., promotional objects), and as neither reference provides any teaching or suggestion of using non-promotional objects for the display of promotional information, one ordinary skill would not be motivated to modify either reference to be directed to the display of promotional content within non-promotional objects, as generally recited by Applicant's amended claims.

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Therefore, *Lauper* and *Uskela*, whether combined or considered separately, fail to teach or suggest "a location in-game associated with activating the hot spot, wherein the location in-game represents a non-promotional object," as recited in amended independent claims 15 and 22.

Conclusion

In view of at least the above-noted differences between claims 15 and 22 and the applied references, Applicant respectfully submits that independent claims 15 and 22 are allowable. As claims 16, 19-21, and 24-27 depend from those independent claims, those additional claims should be allowable at least due to their dependence on an allowable independent claim. Therefore, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 15, 16, 19-22, and 24-27.

In view of the foregoing remarks, Applicant submits that the pending claims, as amended, are neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 2, 2011

By: / Robert C. Stanley /
Robert C. Stanley
Reg. No. 55,830

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Electronic Patent Application Fee Transmittal

Application Number:	11768890
Filing Date:	26-Jun-2007
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Filer:	Robert Carroll Stanley
Attorney Docket Number:	09685.0044-00000

Filed as Large 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:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Request for continued examination	1801	1	930	930
		Total in USD ($)		**930**

Electronic Acknowledgement Receipt

EFS ID:	11529236
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Robert Carroll Stanley
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	02-DEC-2011
Filing Date:	26-JUN-2007
Time Stamp:	11:36:34
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$930
RAM confirmation Number	21542
Deposit Account	
Authorized User	

File Listing:

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

1	Request for Continued Examination (RCE)	20111202RCE11768890.pdf	797925 5c83eabefbb0e9e3959ac33d71da981eff5b4ef5	no	3
Warnings:					
Information:					
2		20111202RCEAmend11768890.pdf	138655 0b5fe9e75c691259c19bfd1977a26a12ed99e912	yes	13

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment Submitted/Entered with Filing of CPA/RCE	1	1
	Claims	2	8
	Applicant Arguments/Remarks Made in an Amendment	9	13

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	30291 6a4bb1d32d68c7047b58a08517ee6cf697b90605	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	966871		

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
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 11/768,890	Filing Date 06/26/2007	☐ To be Mailed

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☐		OR	OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)		RATE ($)	FEE ($)
☐ 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

		(Column 1)		(Column 2)	(Column 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
	12/02/2011	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
AMENDMENT	Total (37 CFR 1.16(i))	* 24	Minus	** 27	= 0	X $ =		OR	X $60=	0
	Independent (37 CFR 1.16(h))	* 4	Minus	***4	= 0	X $ =		OR	X $250=	0
	☐ 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	**0**

		(Column 1)		(Column 2)	(Column 3)					
		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
AMENDMENT	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:
/JASON EADDY/

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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 03/13/2013

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
NGUYEN, MICHAEL	
ART UNIT	PAPER NUMBER
2643	
MAIL DATE	DELIVERY MODE
03/13/2013	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)	
	11/768,890	HARTWELL, JOSHUA	
	Examiner	Art Unit	
	MICHAEL NGUYEN	2643	

-- 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 December 2011*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ 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.

4)☐ 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

5)☒ Claim(s) *1-27* is/are pending in the application.

5a) Of the above claim(s) *1-14* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *15-16, 19-22, 24-27* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, 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.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ 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).

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) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. 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 12/2/2011 has been entered.

2. The filed on 12/2/2011 includes claims 1-27. Claims 1-14 are withdrawn. Claims 15-16, 19-22, and 24-27. Claims 17-18 and 23 are cancelled.

3. Please cancelled the non-elected claims.

Claim Rejections - 35 USC § 103

4. 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) 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.

5. Claims 15-16, 19-22, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauper (US. Pub. No. 20060205510) in view of Chu (US. Pub. No. 20060111979).

Regarding claim 15, Lauper teaches a method for providing a hot spot associated (Fig. 2, label 11, 12) with a mobile video game (Fig. 1 label 1), the mobile video game being operable on a mobile communication device (Abstract, Fig. 1), the method comprising the steps of:

storing hot spot information on a computer-readable medium (par. 0008, 0018-0020, 0023; Fig. 1 label 4);

receiving a communication from a mobile communication device (par. 0019, see pull or push);

determining the hot spot information to provide to the mobile device based upon the communication (par. 0008, 0018-0020, 0024-0025, Fig. 2-3 where using 13 cursor to select label 11 or 12 and Fig. 3 show the detail information,),

the hot spot information comprisinq:

a location in-qame associated with activating the hot spot (par. 0018-0020, 0024-0025, Fig. 2-3 where using 13 cursor to select label 11 or 12 and Fig. 3 show the detail information where label 11 and 12 are location in-game for user to select to get more information); and

content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated (par. 0018-0020, 0024-0025, Fig. 2-3 where using 13 cursor to select label 11 or 12 and Fig. 3 show the detail under label 11 or 12); and

uploading the hot spot information to the mobile communication device (par. 0018-0020, 0024-0025 where update or uploading using pull or push concept).

However, Lauper does not expressly teach the location in-games associated with activating the hot spot, wherein **the location in-games is represented by a non-promotional object**; and wherein the **promotional content is hidden**.

In an analogous art of games (Title and Abstract), Chu teaches the object and location within the games can be non-promotional (par. 0063, where pit stop is non-promotional) and player stop at the non-promotional location, advertise can display or pop-up to the user (par. 0063), wherein the promotional content is hidden (par. 0063-0065 where pit stop include motor oil brand and coupon, and promotional can be hidden in location and object like barrels and blocks. Treasure chess is non-promotional and close to it can request to display advertising content).

Therefore, it would have been obvious to one skill in the art at the time of the invention was made to modify Lauper to include non-promotional object in the in-games location and the non-promotional object can hidden with promotional content, as taught by Chu in order to improve the gaming experience by not making advertisement intrusive, annoying and distract player during playing game (par. 0004-0006).

Regarding claim 16, Lauper and Chu as a whole teach location in-qame is associated with activating the hot spot within the gaming environment of the mobile video game (Chu- par. 0063-0065; Lauper- Fig. 1 label 1 for game on mobile device.).

Regarding claim 19, Lauper and Chu as a whole teach the hidden promotional content is pre-selected based on the proximity of the mobile communication device to a physical location related to the promotional content (Chu- par. 0065").

Regarding claim 20, Lauper and Chu as a whole teach the step of tracking the hot spot information that has been downloaded to the mobile communication device (Lauper- i.e. previously sent, par. 0020).

Regarding claim 21, Lauper and Chu as a whole teach the tracked hot spot information is used for billing a third party associated with the hot spot information (Lauper-i.e. billing, par. 0017, 0020-0021).

Regarding claim 22, the claimed limitations have been analyzed and rejected with respect to claim 15 since the analysis of the method necessitates consideration of a corresponding apparatus as claimed. Furthermore, Lauper and Chu as a whole teach a system (Lauper- Fig. 1) for providing a hot spot (Fig. 2 label 11 and 12) associated with a mobile video game (Lauper- 1 label 1 where screen is show in Fig. 2), the system comprising:

a storage medium for storing hot spot information for use in the mobile video game (Lauper- Fig. 1 label 1/41);

a server in communication with the storage medium (Lauper- Fig. 1 label 4); an interface coupled to the server and a network (Lauper- Fig. 1 where the arrow between

network 3 and 4 is representing the interface between these entities.), wherein the interface receives a request for hot spot information from the mobile communication device over the network (Lauper- i.e. pull, par. 0018-0020, Fig. 1 where mobile 1 requesting, using pull, sent to server 4 thru. network 3); wherein

the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game (Lauper- i.e. pull, par. 0018-0020, Fig. 1 where mobile 1 requesting, using pull, sent to server 4 thru. network 3. The content sent to mobile is location dependent), and

send the hot spot information to the mobile communication device (Lauper- i.e. pull, par. 0018-0020, Fig. 1 where mobile 1 requesting, using pull or push, sent to server 4 thru. network 3. The content sent to mobile is location dependent; Fig. 2 where 11 and 12 are hot spot information, when click with 13, Fig. 3 popup), the hot spot information comprising:

a location in-game as associated with activating the hot spot, wherein the location in-game is represented by a non-promotional object (Lauper- Fig. 2 where 11 and 12 are hot spot information, when click with 13, Fig. 3 popup; Chu-par. 0063-0065), and hidden promotional content is present to the user (Chu-par. 0063-0065), within a gaming environment of the mobile video game, when the hot spot is activated (Lauper- Fig. 2).

Regarding claim 24, the claimed limitations have been analyzed and rejected with respect to claim 19 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 25, Lauper and Chu as a whole teach the hot spot information is pre-selected by the server based on a model type associated with the communications device (Lauper- par. 0020).

Regarding claim 26, the claimed limitations have been analyzed and rejected with respect to claim 20 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Regarding claim 27, the claimed limitations have been analyzed and rejected with respect to claim 21 since the analysis of the method necessitates consideration of a corresponding system as claimed.

Response to Arguments

6. Applicant's arguments with respect to pending claim have been considered but are moot because the arguments apply new limitation added into the claim.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nguyen whose telephone number is (571) 270-7799. The examiner can normally be reached on Mon-Thurs from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Jinsong Hu can be reached on (571) 272-3965. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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).

/MICHAEL NGUYEN/
Examiner, Art Unit 2617

/Meless N Zewdu/
Primary Examiner, Art Unit 2643

Notice of References Cited	Application/Control No. 11/768,890	Applicant(s)/Patent Under Reexamination HARTWELL, JOSHUA	
	Examiner MICHAEL NGUYEN	Art Unit 2643	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2006/0111979 A1	05-2006	Chu, Viva	705/014
*	B	US-2006/0205510 A1	09-2006	Lauper et al.	463/041
	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.

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Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

✓	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	02/01/2010	04/19/2010	09/23/2010	01/28/2011	07/22/2011	03/01/2013			
	1	÷	N	N	N	N	N			
	2	÷	N	N	N	N	N			
	3	÷	N	N	N	N	N			
	4	÷	N	N	N	N	N			
	5	÷	N	N	N	N	N			
	6	÷	N	N	N	N	N			
	7	÷	N	N	N	N	N			
	8	÷	N	N	N	N	N			
	9	÷	N	N	N	N	N			
	10	÷	N	N	N	N	N			
	11	÷	N	N	N	N	N			
	12	÷	N	N	N	N	N			
	13	÷	N	N	N	N	N			
	14	÷	N	N	N	N	N			
	15	÷	✓	✓	✓	✓	✓			
	16	÷	✓	✓	✓	✓	✓			
	17	÷	✓	✓	✓	✓	-			
	18	÷	✓	✓	✓	✓	-			
	19	÷	✓	✓	✓	✓	✓			
	20	÷	✓	✓	✓	✓	✓			
	21	÷	✓	✓	✓	✓	✓			
	22	÷	✓	✓	✓	✓	✓			
	23	÷	✓	✓	✓	✓	-			
	24	÷	✓	✓	✓	✓	✓			
	25	÷	✓	✓	✓	✓	✓			
	26	÷	✓	✓	✓	✓	✓			
	27	÷	✓	✓	✓	✓	✓			

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EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	1	((hot$1spot) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:00
S2	6	((hot spot) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:01
S3	620	((mobile or wireless) with game).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:07
S4	122	S3 and (promotion$3 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:07
S5	34	S3 and ((promotion$3 or advertis$3) with content)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:08
S6	17	S5 and ((hot spot) or (access point) or ap)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:15
S7	18589	455/422.1,404.2,414.1-414.4,41.1,41.2.ccls. or 370/338.ccls.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:34
S8	1140	((mobile or wireless) with (advertis$3 or game)).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:34
S9	130	S7 and S8	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:35
S10	6	S9 and (((hot spot) or (access point) or ap) near4 (location or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:36
S11	4	(20030224855|20020166119|20060136297|20060128469).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:51
S12	4122	((location or position) with gam$3).ab.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:56
S13	514	S12 and (promotion$3 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:57
S14	9	S13 and (((hot spot) or (access point) or ap) near4 (location or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 11:57
S15	2	(20080102956|20030224855).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:29
S16	2	S15 and (mobile with gam$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:29
S17	2	S16 and (location or information or content or memory or stor$4)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:30
S18	1	S17 and hidden	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:30
S19	2	S17 and (promot$4 or advertis$3)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:41
S20	0	S17 and ((promot$4 or advertis$3) near4 (content or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:41
S21	112	S8 and (hidden near4 (content or information))	US-PGPUB; USPAT	ADJ	ON	2010/04/19 12:44
S22	1	"20090005003".pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 13:38
S23	13	(20080268931|20080109528|20080026844|20070021198|20060189382|20060068861|20050148322|20070242645|20070178889|7343317|20060136297|20060128469|20020166119).pn.	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:17
S24	1	S23 and (advertis$3 frame)	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:17
S25	10	S23 and track$3	US-PGPUB; USPAT	ADJ	ON	2010/04/19 14:53
S26	0	S23 and (track$3 content)	US-	ADJ	ON	2010/04/19

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			PGPUB; USPAT				14:53
S27	461	(mobile with gam$4).ab.	US-PGPUB; USPAT	ADJ	ON	2010/09/23	13:03
S28	122	S27 and (promot$3 or advertis$5)	US-PGPUB; USPAT	ADJ	ON	2010/09/23	13:04
S29	56	S28 and (embed$5 or hid$4)	US-PGPUB; USPAT	ADJ	ON	2010/09/23	13:04
S30	50	S29 and (location)	US-PGPUB; USPAT	ADJ	ON	2010/09/23	13:05
S31	43	S30 and (server)	US-PGPUB; USPAT	ADJ	ON	2010/09/23	13:05
S32	41	S31 and (bs or (base station) or bts or ap or (access point))	US-PGPUB; USPAT	ADJ	ON	2010/09/23	13:06
S33	1	S32 and ((embed$5 or hid$4) near4 (promot$3 or advertis$5))	US-PGPUB; USPAT	ADJ	ON	2010/09/23	13:07
S34	153	hot spot information	US-PGPUB; USPAT	ADJ	ON	2011/01/11	16:26
S35	38	S34 and game	US-PGPUB; USPAT	ADJ	ON	2011/01/11	16:28
S36	0	"2009005003"	US-PGPUB; USPAT	ADJ	ON	2011/01/26	10:24
S37	0	"2009005003".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	10:25
S38	1	"20090005003".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	10:25
S39	54	(hid$4 or embed$4) near4 (advertis$5 or promot$3) near4 (gam$3)	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:11
S40	2	S39 and ((mobile or portable) and gam$3).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:11
S41	29169	(hid$4 or embed$4) near4 (object or advertis$5 or promot$3)	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:17
S42	21	S41 and (mobile and gam$3).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:17
S43	1039	(mobile and (promotion or advertis$5)).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:48
S44	75	S43 and ((hidden or embed$4) near2 (object))	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:49
S45	62	S44 and gam$3	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:49
S46	62	S45 and (during or defin$3)	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:50
S47	0	"20070224432".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:51
S48	1	"20070224432".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:51
S49	1	"20070022442".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	11:51
S50	20	(mobile and gam$3 and (advertis$3 or promotion)).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	12:03
S51	20	S50 and (object or advertis$3 or promotion)	US-PGPUB; USPAT	ADJ	ON	2011/01/26	12:04
S52	117	(hid$4 or embed$4) near4 (advertis$5 or promot$3) near4 object	US-PGPUB; USPAT	ADJ	ON	2011/01/26	12:32
S53	0	S52 gam$3	US-PGPUB; USPAT	ADJ	ON	2011/01/26	12:32
S54	52	S52 and gam$3	US-PGPUB; USPAT	ADJ	ON	2011/01/26	12:32
S55	2	(5737619|5,572,643).pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26	12:54
S56	58888	(mobile and games)	US-PGPUB;	ADJ	ON	2011/01/26	13:04

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			USPAT				
S67	329	S66 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:04
S68	0	S66 and (burger xyz)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:06
S69	0	S66 and (present near2 burger)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:06
S60	11	S57 and (ice cream)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:07
S61	489	(mobile and games).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:07
S62	105	S61 and (advertis$5 or promotion)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:08
S63	2	S62 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:08
S64	4	S61 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:09
S65	32	S61 and (coupon)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:14
S66	1	S65 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:14
S67	13	(burger near4 coupon)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 13:59
S68	9	free fry	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:04
S69	31736	(mobile and advertis$4)	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S70	658	(mobile and advertis$4).ab.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S71	184	S70 and coupon	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S72	108	S71 and free	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S73	9	S72 and burger	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:05
S74	1	("20060205510").pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:09
S75	1	EP1087312	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:10
S76	0	EP "1087312"	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:10
S77	0	"19990405088".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:15
S78	0	"199900405088".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:15
S79	0	"19990405088".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:15
S80	0	"19990405088".pn.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:15
S81	22	(LEPPANEN EVA-MARIA).inv.	US-PGPUB; USPAT	ADJ	ON	2011/01/26 14:16
S82	1	ep1087312	US-PGPUB; USPAT; EPO	ADJ	ON	2011/01/28 11:43
S83	1	ep "1087312"	US-PGPUB; USPAT; EPO	ADJ	ON	2011/01/28 11:44
S84	44	(uskela near sami).inv.	US-PGPUB; USPAT; EPO	ADJ	ON	2011/01/28 11:44
S85	1	S84 and games.ti.	US-PGPUB; USPAT; EPO	ADJ	ON	2011/01/28 11:44

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S86	17	("20080268931"|"20080109528"|"20080026844"|"20070021198"|"20060189382"|"20060068861"|"20050148322"|"20070242645"|"20070178889"|"7343317"|"20060136297"|"20060128469"|"20020166119"|"20040254836"|"20080102956"|"20030224855"|"20060205510").pn.	US-PGPUB; USPAT	ADJ	ON	2013/03/01 10:29
S87	2	S86 and hidden	US-PGPUB; USPAT	ADJ	ON	2013/03/01 10:29
S88	1185	((mobile or cellular) and gam$4).ab.	US-PGPUB; USPAT	ADJ	ON	2013/03/01 10:38
S89	36	S88 and ((object or structure or build$3) near8 (advertis$5 or promot$6))	US-PGPUB; USPAT	ADJ	ON	2013/03/01 10:39
S90	1	"20090005003".pn.	US-PGPUB; USPAT	ADJ	ON	2013/03/01 10:53
S91	5916	(video and gam$4).ab.	US-PGPUB; USPAT	ADJ	ON	2013/03/01 11:24
S92	253	S91 and ((door or structure or object or spot or tree or building) near8 (promot$4 or adverti$6 or menu))	US-PGPUB; USPAT	ADJ	ON	2013/03/01 11:26
S93	112	S92 and (mobile or cellular)	US-PGPUB; USPAT	ADJ	ON	2013/03/01 11:26
S94	104	S91 and (hidden near4 (object$1 or door or spot or structure))	US-PGPUB; USPAT	ADJ	ON	2013/03/01 11:35
S95	43	S94 and (adverti$6 or promot$6)	US-PGPUB; USPAT	ADJ	ON	2013/03/01 11:35

EAST Search History (Interference)

<This search history is empty>

3/1/2013 2:16:00 PM
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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

CPC- SEARCHED		
Symbol	Date	Examiner

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
455	422.1,404.2,414.1-414.4,41.1,41.2	4/19/2010	MN
370	338	4/19/2010	MN

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor search eDAN	4/19/2010	MN
Global EAST text search	4/19/2010	MN
Global EAST limited text search	9/23/2010	MN
Global EAST limited text search	1/28/2011	MN
Global EAST limited text search	3/1/2013	MN

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner

PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2643
	)	
Application No.: 11/768,890	)	Examiner: NGUYEN, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

VIA EFS-Web

Dear Commissioner:

AMENDMENT

In reply to the Office Action mailed March 13, 2013, the period for response to which having been extended to July 15, 2013 (July 13, 2013, being a Saturday), by the request for a one-month extension of time and fee payment filed concurrently herewith, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims in this paper.

Remarks follow the amendment section of this paper.

AMENDMENTS TO THE CLAIMS:

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

1-14. (Cancelled).

15. (Currently Amended) A method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device, the method comprising the steps of:

storing hot spot information on a computer-readable medium;

receiving a communication from a mobile communication device;

determining the hot spot information to provide to the mobile device based upon the communication, the hot spot information comprising:

a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional background object; and

hidden promotional content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated; and

uploading the hot spot information to the mobile communication device.

16. (Previously Presented) The method of claim 15, wherein the location in-game is associated with activating the hot spot within the gaming environment of the mobile video game.

17-18. (Cancelled).

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19. (Previously Presented) The method of claim 15, wherein the hidden promotional content is pre-selected based on the proximity of the mobile communication device to a physical location related to the hidden promotional content.

20. (Previously Presented) The method of claim 15, further comprising the step of tracking the hot spot information that has been downloaded to the mobile communication device.

21. (Original) The method of claim 20, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

22. (Currently Amended) A system for providing a hot spot associated with a mobile video game, the system comprising:

a storage medium for storing hot spot information for use in the mobile video game;

a server in communication with the storage medium;

an interface coupled to the server and a network, wherein the interface receives a request for hot spot information from the mobile communication device over the network;

wherein the server is operative to receive the request through the interface and utilize the request to determine the hot spot information for the mobile video game, and send the hot spot information to the mobile communication device, the hot spot information comprising:

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a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional background object; and

hidden promotional content for presenting to the user, within a gaming environment of the mobile video game, when the hot spot is activated.

23. (Cancelled).

24. (Previously Presented) The method of claim 22, wherein the hidden promotional content is pre-selected based on the proximity of the mobile communication device to a physical location related to the hidden promotional content.

25. (Original) The system of claim 22, wherein the hot spot information is pre-selected by the server based on a model type associated with the communications device, a service subscription associated with the communications device, or a service provider for the service subscription associated with the communications device.

26. (Original) The system of claim 22, wherein the server tracks what hot spot information has been downloaded.

27. (Original) The method of claim 26, wherein the tracked hot spot information is used for billing a third party associated with the hot spot information.

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REMARKS

Applicant submits these Remarks in reply to the non-final Office Action mailed March 13, 2013. Prior to this Amendment, claims 1-16, 19-22, and 24-27 were present in the application. Of those claims, claims 1-14 have been previously withdrawn from consideration as being directed to non-elected subject matter.

In the Office Action, Applicant understands that the Office has rejected claims 15, 16, 19-22, and 24-27 under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent Application Publication No. 2006/0205510 ("*Lauper*") in view of U.S. Patent Application Publication No. 2006/0111979 ("*Chu*").

By this Amendment, Applicant amends independent claims 15 and 22 and cancels claims 1-14. No prohibited new matter has been added. Upon entry of these amendments, claims 15, 16, 19-22, and 24-27 will remain pending in this application, of which claims 15 and 22 are independent. Applicant respectfully traverses all pending rejections for at least the reasons discussed below.

Claim Rejections Under 35 U.S.C. § 103(a) Based on *Lauper* and *Chu*

Claims 15, 16, 19-22, and 24-27 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Lauper* in view of *Chu*. Office Action at 2. Applicant respectfully traverses the rejections of those claims under 35 U.S.C. § 103(a) because a *prima facie* case of obviousness has not been established.

Amended independent claims 15 and 22 recite, among other things, "hot spot information" comprising "a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional background object." For example, the "hot spot information" may designate a "hidden area" within a

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game, such as a background area, for activating a hot spot. *See* Applicant's Specification at ¶ [0029]. In an exemplary embodiment, "new interactive items and/or hidden features may be placed within a particular scene in the game so that the user has something new to look at or trigger (sometimes unexpectedly)." *Id.* at ¶ [0030].

The Office Action correctly acknowledges that *Lauper* does not teach "the location in-games associated with activating the hot spot, wherein the location in-games is represented by a non-promotional object; and wherein the promotional content is hidden." Office Action at 4. The Office Action asserts that this subject matter is taught by *Chu* in its disclosure pertaining to "dynamically updat[ing] the contents of an area/location within the program from a remote source." *See id.* (citing *Chu* at ¶¶ [0063]-[0065]); *see also Chu* at ¶ [0062]. Neither *Lauper* nor *Chu*, whether alone or in combination, however, teaches uploading or sending to a mobile communication device hot spot information comprising "a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional **background** object," as recited by Applicant's amended independent claims. (Emphasis added.)

Chu relates to an online game advertising system. *Chu* at Abstract. According to *Chu*, its system allows a program "to dynamically update the contents of an area/location within the program from a remote source." *Chu* at ¶ [0062]. *Chu* notes that such a capability is "particularly applicable to 'advertising' intended to take place, for example, in a game, such that the 'area/location' being updated is a virtual 'billboard' and the 'contents' are real world products such as clothing, food, services, etc that are for sale." *Id.* In addition to a virtual billboard, *Chu* also provides several other examples of areas/locations that may be updated within a game using its advertising system,

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including a "pit stop," a "secret bonus level," and a "treasure chest." *See Chu* at ¶¶ [0063]-[0065].

The game objects described in *Chu* and cited by the Examiner for this rejection are not "non-promotional background objects." For example, the Examiner cites to *Chu*'s "pit stop" and "treasure chest" as "non-promotional objects" (*see* Office Action at 4), but these objects are not "non-promotional background objects" at least because they are featured in the forefront of game play as primary objects to be manipulated or used during game play (*see Chu* at ¶¶ [0063]-[0065]). For this reason, *Chu*'s objects that can display advertisements are not "background" objects, as recited in the pending claims.

Chu also defines its "objects" as referring "to the representation of any game component such as but not limited to a game character, weapon, device, equipment, landmark, or scenery that may contain areas in which advertisements may appear." *Id.* at ¶ [0069]. "Areas" are then defined as "any region mapped to any two or three-dimensional coordinate system bounded by the spatial dimensions of the described space." *Id.* These explicit definitions of "object" and "area" distinguish *Chu's* disclosure from the instant claims for at least two reasons.

First, *Chu* characterizes its objects as "game component[s]," which appear to be featured objects that a user manipulates in order to play the game, while the recited "non-promotional background objects" are not game components, but instead they exist in the background, outside of the primary focus of game play and as unexpectedly interactive components, and are not themselves needed or required in order to play the game. Second, *Chu's* "objects" contain "areas in which advertisements may appear,"

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and the "areas" themselves appear to be mapped to dimensional coordinates on the object. Thus, as in its examples of a "freeway billboard" and "engine oil" at a "pit stop" (*see Chu* at ¶¶ [0062], [0063]), *Chu's* advertisements directly appear on the object itself. This is different than the claimed "non-promotional background object," which does not have an "area" in which advertisements directly appear, but instead represents a "hot spot" that, upon activation, causes "hidden promotional content" to then appear. Since *Chu's* objects readily indicate the presence of its promotional or advertising material to the user, *Chu* does not disclose this subject matter of the pending claims.

Lauper fails to teach or suggest this subject matter as well. Indeed, the Office Action does not cite to *Lauper* for that purpose. Therefore, the asserted combination of *Lauper* and *Chu* fails to disclose or render obvious at least "a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional background object," as recited in amended independent claims 15 and 22.

Conclusion

In view of at least the above-noted differences between claims 15 and 22 and the applied references, Applicant respectfully submits that independent claims 15 and 22 are allowable. As claims 16, 19-21, and 24-27 depend from those independent claims, those additional claims should be allowable at least due to their dependence on an allowable independent claim. Therefore, Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of claims 15, 16, 19-22, and 24-27.

In view of the foregoing remarks, Applicant submits that the pending claims, as amended, are neither anticipated nor rendered obvious in view of the prior art

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references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and continued examination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

/Jeff T. Watson/

Dated: July 15, 2013 By:_____

Jeff T. Watson
Reg. No. 70,587
(404) 653-6551

PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2643
	)	
Application No.: 11/768,890	)	Examiner: NGUYEN, Michael
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

VIA EFS-Web

Dear Commissioner:

PETITION FOR EXTENSION OF TIME

Applicant petitions for a one-month extension of time to file a reply to the Office Action of March 13, 2013. A fee of $200.00 is enclosed.

Please grant any additional extensions of time required to enter the attached reply and charge any additional required fees to deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

/Jeff T. Watson/

Dated: July 15, 2013 By:_____

Jeff T. Watson
Reg. No. 70,587
(404) 653-6551

Electronic Patent Application Fee Transmittal

Application Number:	11768890
Filing Date:	26-Jun-2007
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Filer:	Jeff Taylor Watson
Attorney Docket Number:	09685.0044-00000

Filed as Large 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	1251	1	200	200

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
		Total in USD ($)		**200**

Electronic Acknowledgement Receipt

EFS ID:	16323493
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Jeff Taylor Watson
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	15-JUL-2013
Filing Date:	26-JUN-2007
Time Stamp:	23:05:03
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$200
RAM confirmation Number	8910
Deposit Account	
Authorized User	

File Listing:

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

1		Amendment.pdf	104944 8248ce5515f724e0db5b04ee0d50c9898cc50578	yes	9

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	9

Warnings:

Information:

2	Extension of Time	EOT.pdf	54104 d5e504baad06f5c10aee38eea618e6ce91774c68	no	1

Warnings:

Information:

3	Fee Worksheet (SB06)	fee-info.pdf	29960 596cbe91ecaf84e738110ebf03ed1ee21f625152	no	2

Warnings:

Information:

Total Files Size (in bytes):	189008

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.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 11/768,890	Filing Date 06/26/2007	☐ To be Mailed

ENTITY: ☒ LARGE ☐ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)		
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	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 $310 ($155 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	

APPLICATION AS AMENDED – PART II

AMENDMENT	07/15/2013	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 10	Minus	** 27	= 0	X $80 =	0
	Independent (37 CFR 1.16(h))	* 2	Minus	***4	= 0	X $420 =	0
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	0

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

LIE
/BRENDA MURPHY/

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.

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UNITED STATES DEPARTMENT OF COMMERCE
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NOTICE OF ALLOWANCE AND FEE(S) DUE

22852 7590 11/14/2013

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
2646	

DATE MAILED: 11/14/2013

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

TITLE OF INVENTION: Methods and Systems for Providing In-Game Hot Spots

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	$1780	$300	$0	$2080	02/14/2014

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.

PTOL-85 (Rev. 02/11)

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 286 of 407

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)

22852 7590 11/14/2013

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

TITLE OF INVENTION: Methods and Systems for Providing In-Game Hot Spots

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	$1780	$300	$0	$2080	02/14/2014

EXAMINER	ART UNIT	CLASS-SUBCLASS
RAMPURIA, SHARAD K	2646	455-414300

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 credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

Patent Owner Flip Phone Games, Inc.
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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 form 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: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information 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.

Patent Owner Flip Phone Games, Inc.
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 11/14/2013

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
RAMPURIA, SHARAD K	
ART UNIT	PAPER NUMBER
2646	

DATE MAILED: 11/14/2013

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 818 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 818 day(s).

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 Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Patent Owner Flip Phone Games, Inc.
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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.

Notices of Allowance and Fee(s) Due mailed between October 1, 2013 and December 31, 2013

(Addendum to PTOL-85)

If the "Notice of Allowance and Fee(s) Due" has a mailing date on or after October 1, 2013 and before January 1, 2014, the following information is applicable to this application.

If the issue fee is being timely paid on or after January 1, 2014, the amount due is the issue fee and publication fee in effect January 1, 2014. On January 1, 2014, the issue fees set forth in 37 CFR 1.18 decrease significantly and the publication fee set forth in 37 CFR 1.18(d)(1) decreases to $0.

If an issue fee or publication fee has been previously paid in this application, applicant is not entitled to a refund of the difference between the amount paid and the amount in effect on January 1, 2014.

Notice of Allowability	Application No. 11/768,890	Applicant(s) HARTWELL, JOSHUA	
	Examiner SHARAD RAMPURIA	Art Unit 2646	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 *07/15/2013*.
   ☐ 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 *15,16,19-22 and 24-27*. 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 _____.

/Sharad Rampuria/
Primary Examiner, Art Unit 2646

Patent Owner Flip Phone Games, Inc.
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DETAILED ACTION

Allowable Subject Matter

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

Claims 17-18, 23 are cancelled.

Claims 15-16, 19-22, 24-27 are patentable.

Consequently, afterward completes a comprehensive search of the prior art and full examination of the present application, it is believed that the independent claims (**treating the claim as a whole**) are patentable over all of the references, cited in this application, individually, or in any hypothetical combination, and for at least the Applicant's arguments & remarks filed on 07/15/2013. Since the disclosed dependent claims are depend on one of the above independent claims, therefore they are also patentable.

Conclusion

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."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870 and e-mail address is sharad.rampuria@uspto.gov. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamran Afshar can be reached on (571) 272-7796. 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.

/Sharad Rampuria/
Primary Examiner
Art Unit 2646

Notice of References Cited	Application/Control No. 11/768,890	Applicant(s)/Patent Under Reexamination HARTWELL, JOSHUA	
	Examiner SHARAD RAMPURIA	Art Unit 2646	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2009/0156179 A1	06-2009	Hahn et al.	455/414.1
*	B	US-2010/0291907 A1	11-2010	MacNaughtan et al.	455/414.1
*	C	US-8,401,903 B2	03-2013	Lerman et al.	705/14.73
*	D	US-6,628,939 B2	09-2003	Paulsen, Craig	455/414.1
*	E	US-7,158,798 B2	01-2007	Lee et al.	455/456.3
*	F	US-7,577,978 B1	08-2009	Wistendahl et al.	725/113
*	G	US-2004/0127279 A1	07-2004	Gatto et al.	463/017
*	H	US-7,753,791 B2	07-2010	Hartwell, Joshua	463/42
*	I	US-2013/0282454 A1	10-2013	Alpert et al.	705/14.12
*	J	US-8,246,466 B2	08-2012	Herrmann et al.	463/42
*	K	US-7,575,518 B2	08-2009	Tabata, Hajime	463/40
*	L	US-2013/0282454 A1	10-2013	Alpert et al.	705/14.12
*	M	US-6,445,398 B1	09-2002	Gerba et al.	715/721

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.

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	**Art Unit**
	SHARAD RAMPURIA	2646

CPC		
Symbol	**Type**	**Version**

CPC Combination Sets				
Symbol	**Type**	**Set**	**Ranking**	**Version**

NONE		Total Claims Allowed:	
(Assistant Examiner)	(Date)	10	
/SHARAD RAMPURIA/ Primary Examiner.Art Unit 2646	11/8/13	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	15	01

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 296 of 407

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	**Art Unit**
	SHARAD RAMPURIA	2646

US ORIGINAL CLASSIFICATION		INTERNATIONAL CLASSIFICATION	
CLASS	SUBCLASS	CLAIMED	NON-CLAIMED
455	414.3	H 0 4 L 29 / 06 (2006.01.01)	

CROSS REFERENCE(S)					
CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)				
455	456.3	41.2			
705	14.4				
463	42				

NONE		Total Claims Allowed: 10	
(Assistant Examiner)	(Date)		
/SHARAD RAMPURIA/ Primary Examiner.Art Unit 2646	11/8/13	O.G. Print Claim(s) 15	O.G. Print Figure 01
(Primary Examiner)	(Date)		

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 297 of 407

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	**Art Unit**
	SHARAD RAMPURIA	2646

☐ 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	3	19												
-	4	4	20												
-	5	5	21												
-	6	6	22												
-	7	-	23												
-	8	7	24												
-	9	8	25												
-	10	9	26												
-	11	10	27												
-	12														
-	13														
-	14														
1	15														
2	16														

NONE (Assistant Examiner)	(Date)	**Total Claims Allowed:** 10	
/SHARAD RAMPURIA/ Primary Examiner.Art Unit 2646 (Primary Examiner)	11/8/13 (Date)	O.G. Print Claim(s) 15	O.G. Print Figure 01

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 298 of 407

EAST Search History

EAST Search History (Interference)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L9	4	455/405-408,412.1-414.3,41.2,456.1-457,517-519,566,418-420,556.1,556.2.ccls. and 463/40-42.ccls. and 705/14.$.ccls.	US-PGPUB; USPAT; UPAD	OR	ON	2013/11/08 12:19

11/8/2013 12:36:11 PM
C:\Users\srampuria\Documents\EAST\Workspaces\11768890.wsp

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 299 of 407

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L4	1	455/405-408,412.1-414.3,41.2,456.1-457,517-519,566,418-420,556.1,556.2.ccls. and 463/42.ccls. and 705/14.$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/08 10:02
L5	4	455/405-408,412.1-414.3,41.2,456.1-457,517-519,566,418-420,556.1,556.2.ccls. and 463/40-42.ccls. and 705/14.$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/08 10:03
L6	10	455/405-408,412.1-414.3,41.2,456.1-457,517-519,566,418-420,556.1,556.2.ccls. and 463/40-42.ccls. and "709"/$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/08 12:09
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L12	0	455/412.1-414.3,41.2,456.1-457,517-519,566,418-420,556.1,556.2.ccls. and 463/40-42.ccls. and 705/14.4.ccls. and 370/328-338.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/08 12:34
S3	4	Hartwell near1 Joshua.IN. and gam$4.clm.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/07 13:43
S10	5	455/405-408.ccls. and 463/42.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/07 22:56
S11	11	455/405-408,414.1-414.3.ccls. and 463/42.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/07 22:59
S12	30	455/405-408,414.1-414.3,41.2.ccls. and 463/42.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/07 22:59
S13	1	455/405-408,414.1-414.3,41.2.ccls. and 463/42.ccls. and 705/14.$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/07 23:00

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 300 of 407

S14	1	455/405-408,414.1-414.3,41.2,456.1-457.ccls. and 463/42.ccls. and 705/14.$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/07 23:03
S15	1	455/405-408,414.1-414.3,41.2,456.1-457,517-519.ccls. and 463/42.ccls. and 705/14.$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/07 23:03
S19	1	455/405-408,414.1-414.3,41.2,456.1-457,517-519,566.ccls. and 463/42.ccls. and 705/14.$.ccls.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2013/11/08 07:47

11/ 8/ 2013 12:36:01 PM
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Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 301 of 407

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BIB DATA SHEET

CONFIRMATION NO. 3812

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/768,890	06/26/2007	455	2646	09685.0044-00000

APPLICANTS
Joshua Hartwell, Santa Monica, CA;

**** CONTINUING DATA **************************

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

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ****
07/16/2007

Foreign Priority claimed ☐ Yes ☑ No 35 USC 119(a-d) conditions met ☐ Yes ☑ No Verified and Acknowledged /SHARAD K RAMPURIA/ Examiner's Signature	☑ Met after Allowance SR Initials	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
		CA	7	27	4

ADDRESS
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413
UNITED STATES

TITLE
Methods and Systems for Providing In-Game Hot Spots

FILING FEE RECEIVED		
1550	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

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	11768890	HARTWELL, JOSHUA
	Examiner	Art Unit
	MICHAEL NGUYEN	2617

CPC- SEARCHED		
Symbol	Date	Examiner

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
455	412.1,414.1-414.4,456.1-457,550.1,556.2,418-420	11/8/2013	SR
705	14.4	11/8/2013	SR
463	40-42	11/8/2013	SR

SEARCH NOTES		
Search Notes	Date	Examiner
EAST	11/8/2013	SR

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner
PLEASE SEE APPENDED FOLIO.		11/8/2013	SR

	/SHARAD RAMPURIA/ Primary Examiner.Art Unit 2646

PATENT
Customer No. 22,852
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2646
	)	
Application No.: 11/768,890	)	Examiner: Sharad K. RAMPURIA
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812
	)	

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

VIA EFS-Web

Madam:

POST-ALLOWANCE COMMUNICATION REGARDING UNSIGNED IDS

Applicant appreciates the Notice of Allowance mailed November 14, 2013. On December 5, 2008, Applicant submitted an Information Disclosure Statement under 37 C.F.R. § 1.97(b) (the "IDS"), which is present in the PAIR Image File Wrapper as "Transmittal Letter." An Office date-stamped copy is attached as a reference exhibit. To date, the Office has not returned a signed copy of the IDS Form PTO/SB/08, indicating that the listed documents have been considered. Applicant respectfully requests that the Office return a signed copy of the IDS, with appropriate notations.

Please grant any extensions of time required to enter this Communication and charge any required fees to Deposit Account 06-0916.

Respectfully submitted,
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

/ Robert C. Stanley /

Dated: January 2, 2014 By:_____
Robert C. Stanley
Reg. No. 55,830

EXHIBIT

Copy of Information Disclosure Statement

Submitted on December 5, 2008

PTO/SB/97 (07-07)
Approved for use through 07/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
DEC 05 2008
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua Hartwell	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: N/A
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

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

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the listed document on the attached PTO SB/08 Form. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application.

Copies of the listed foreign and non-patent literature documents are attached. Copies of the U.S. patent publications are not enclosed.

Applicant respectfully requests that the Examiner consider the listed document and indicate that it was considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the listed document is

material or constitutes "prior art." If the Examiner applies the document as prior art against any claim in the application and Applicant determines that the document does not constitute "prior art" under United States law, Applicant reserves the right to present to the U.S. Patent and Trademark Office the relevant facts and law regarding the appropriate status of the document.

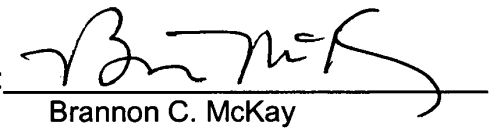
Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed document, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 5, 2008

By: 

Brannon C. McKay
Reg. No. 57,491
(404) 653-6410

IDS Form PTO/SB/08: Substitute for form 1449A/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				Application Number	11/768,890
				Filing Date	June 26, 2007
				First Named Inventor	Joshua Hartwell
				Art Unit	2617
(Use as many sheets as necessary)				Examiner Name	N/A
Sheet	1	of	2	Attorney Docket Number	09685.0044-00000

ATTY DOCKET
DEC 05 2008
PATENT & TRADEMARK OFFICE

U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS					
Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] *(if known)*	Issue or Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-2002/0166119 A1	11-07-2002	Cristofalo	
		US-2003/0224855 A1	12-04-2003	Cunningham	
		US-2006/0136297 A1	06-22-2006	Willis et al.	
		US-2006/0128469 A1	06-15-2006	Willis et al.	
		US-2004/0049419 A1	03-11-2004	Knight	
		US-2003/0105669 A1	06-05-2003	Tsuchiya	
		US-6,219,696 B1	04/17/2001	Wynblatt et al.	
		US-2006/0130046 A1	06/15/2006	O'Neill	
		US-2005/0240476 A1	10-27-2005	Bigott	
		US-			
		US-			
		US-			

Note: Submission of copies of U.S. Patents and published U.S. Patent Applications is not required.

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3] Number[4] Kind Code[5] *(if known)*	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	Translation[6]

NONPATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation[6]
		International Search Report and The Written Opinion of the International Searching Authority, or the Declaration; International Application No. PCT/US 08/68249; International Filing Date June 25, 2008; 8 pgs.	
		International Search Report and The Written Opinion of the International Searching Authority, or the Declaration; International Application No. PCT/US 08/68250; International Filing Date June 25, 2008; 8 pgs.	

Examiner Signature		Date Considered	

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Electronic Acknowledgement Receipt

EFS ID:	17796380
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Robert Carroll Stanley
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	02-JAN-2014
Filing Date:	26-JUN-2007
Time Stamp:	14:29:53
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	Post Allowance Communication - Incoming	11768890CommIDS.pdf	185494 9814d271e861d910177247cf9211808a3cb970de	no	5

Warnings:	
Information:	

Total Files Size (in bytes):	185494

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.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 01/29/2014

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
RAMPURIA, SHARAD K	
ART UNIT	PAPER NUMBER
2646	

MAIL DATE	DELIVERY MODE
01/29/2014	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.

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 311 of 407

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11/768,890	26 June, 2007	HARTWELL, JOSHUA	09685.0044-00000

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
SHARAD RAMPURIA	
ART UNIT	PAPER
2646	20140124

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The information disclosure statement (IDS) submitted on 12/05/2008. Accordingly, the information disclosure statement is being considered by the examiner.

/SHARAD RAMPURIA/
Primary Examiner, Art Unit 2646

PTO-90C (Rev.04-03)

PTO/SB/97 (07-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
DEC 05 2008
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua Hartwell	)	Group Art Unit: 2617
	)	
Application No.: 11/768,890	)	Examiner: N/A
	)	
Filed: June 26, 2007	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	Confirmation No.: 3812

Commissioner for Patents
P.O. Box 1450
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ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /S.R./

material or constitutes "prior art." If the Examiner applies the document as prior art against any claim in the application and Applicant determines that the document does not constitute "prior art" under United States law, Applicant reserves the right to present to the U.S. Patent and Trademark Office the relevant facts and law regarding the appropriate status of the document.

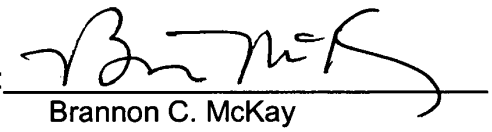
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Brannon C. McKay
Reg. No. 57,491
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PTO/SB/08a (08-03)
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PATENT & TRADEMARK OFFICE

IDS Form PTO/SB/08: Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1 of 2

Complete if Known	
Application Number	11/768,890
Filing Date	June 26, 2007
First Named Inventor	Joshua Hartwell
Art Unit	2617
Examiner Name	N/A
Attorney Docket Number	09685.0044-00000

U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS

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		US-6,219,696 B1	04/17/2001	Wynblatt et al.	
		US-2006/0130046 A1	06/15/2006	O'Neill	
		US-2005/0240476 A1	10-27-2005	Bigott	
		US-			
		US-			
		US-			

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FOREIGN PATENT DOCUMENTS

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NONPATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation[6]
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		International Search Report and The Written Opinion of the International Searching Authority, or the Declaration; International Application No. PCT/US 08/68250; International Filing Date June 25, 2008; 8 pgs.	

Examiner Signature	/Sharad Rampuria/	Date Considered	01/24/2014

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /S.R./

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)

22852 7590 11/14/2013

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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.
11/768,890	06/26/2007	Joshua Bartwell	09685.0044-00000	3812

TITLE OF INVENTION: Methods and Systems for Providing In-Game Hot Spots

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	~~$1780~~ $960	~~$300~~ $0	$0	~~$2080~~ $960	02/14/2014

EXAMINER	ART UNIT	CLASS-SUBCLASS
RAMPURIA, SHARAD K	2646	455-414300

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 Finnegan, Henderson, Farabow,
2 Garrett, and Dunner, L.L.P.
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: GOSUB 60, Inc.

(B) RESIDENCE: (CITY and STATE OR COUNTRY): Santa Monica, California

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 credit any overpayment, to Deposit Account Number 06-0916 (enclose an extra copy of this form).

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 316 of 407

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 form 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: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature /Robert C. Stanley/ Date February 14, 2014

Typed or printed name Robert C. Stanley Registration No. 55,830

This collection of information 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.

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Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 317 of 407

Electronic Patent Application Fee Transmittal

Application Number:	11768890
Filing Date:	26-Jun-2007
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Filer:	Robert Carroll Stanley
Attorney Docket Number:	09685.0044-00000

Filed as Large 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:				
Utility Appl Issue Fee	1501	1	960	960
Publ. Fee- Early, Voluntary, or Normal	1504	1	0	0

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension-of-Time:				
Miscellaneous:				
		Total in USD ($)		**960**

Electronic Acknowledgement Receipt

EFS ID:	18208680
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Robert Carroll Stanley
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	14-FEB-2014
Filing Date:	26-JUN-2007
Time Stamp:	15:23:48
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$960
RAM confirmation Number	1704
Deposit Account	
Authorized User	

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)	11768890IssueFeeTransmittal2.pdf	395219 6220b43337f34a2dfbe231b970bac501dfa102d9	no	2
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	31835 eac98d5c05059c7af73a80b0ecfab5c87b998531	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	427054		

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
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UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/768,890	04/01/2014	8688089	09685.0044-00000	3812

22852 7590 03/12/2014

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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 1341 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):

Joshua Hartwell, Santa Monica, CA;

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 Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 322 of 407

PATENT
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 8,688,089	)	
	)	
Issue Date: April 1, 2014	)	Confirmation No.: 3812
	)	
Application No.: 11/768,890	)	
	)	
Filed: June 26, 2007	)	**Attention:**
	)	**Mail Stop M Correspondence**
Inventor: Joshua HARTWELL	)	
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	

Mail Stop M Correspondence
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

VIA EFS-Web

Commissioner:

FEE ADDRESS FOR MAINTENANCE FEE PURPOSES IN ACCORDANCE WITH 37 C.F.R. 1.363

In accordance with the provisions of 37 C.F.R. 1.363, the fee address set forth below is being supplied for purposes of receiving notices, receipts, and other correspondence relating to the payment of maintenance fees:

GOSUB 60, Inc.
1334 Third Street Promenade
Santa Monica, California 90401

Customer No.: 121879

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

/ Robert C. Stanley /

Dated: April 1, 2014 By:_____
Robert C. Stanley
Reg. No. 55,830

Electronic Acknowledgement Receipt

EFS ID:	18636051
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Robert Carroll Stanley
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	01-APR-2014
Filing Date:	26-JUN-2007
Time Stamp:	09:47:54
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	Maintenance Fee Address Change	8688089MaintenanceFeeAddressForm.pdf	71955 69fb809b400ee65e10998de6b071770a438e6dfd	no	1
Warnings:					
Information:					

Total Files Size (in bytes):	71955

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.

PATENT
Attorney Docket No. 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Joshua HARTWELL	)	Group Art Unit: 2646
	)	
Application No.: 11/768,890	)	Examiner: Sharad K. RAMPURIA
	)	
Patent No.: 8,688,089	)	
	)	
Issued: April 1, 2014	)	Confirmation No.: 3812
	)	
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	

MAIL STOP PATENT EXT.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

VIA EFS-Web

Dear Commissioner:

APPLICATION FOR PATENT TERM ADJUSTMENT–POST GRANT

In accordance with 37 C.F.R. § 1.705(d), Applicant hereby applies for patent term adjustment under 35 U.S.C. § 154(b) of 1480 days. This application is being filed within two months of issuance of the above-referenced patent, as required by 37 C.F.R. § 1.705(d).

I. Statement of the Facts Involved

A. Correct Patent Term Adjustment

The information printed on the face of the above-identified issued patent indicates this patent is entitled to 1341 days of patent term adjustment. However, Applicant has calculated a patent term adjustment of 1480 days based on the following facts:

- The above-identified application was filed on June 26, 2007.
- An RCE was filed on December 2, 2011.
- The above-identified application was allowed on November 14, 2013.
- The issue fee was paid on February 14, 2014.
- The patent's issue date is April 1, 2014.

The recent Federal Circuit decision, *Novartis v. Lee*, 740 F.3d 593 (Fed. Cir. 2014), determined that filing an RCE, either before or after the date that is 3 years after the filing date or date of commencement of the national stage, will terminate the accumulation of patent term adjustment, *but only up until the mailing of the Notice of Allowance.* Therefore, the time period after the Notice of Allowance up to patent issuance should be considered when calculating "B Delay." In this case, the additional "B Delay" beginning on the date the Notice of Allowance was mailed (November 14, 2013) up to and including the date the patent was issued (April 1, 2014), is 139 days.

Thus, the total adjustment based on PTO delay is 1542 days and the reduction in term adjustment is 62 days, resulting in a patent term adjustment of 1480 days total. Applicant respectfully requests that the current patent term adjustment be reconsidered and changed to 1480 days.

B. Terminal Disclaimer

The above-identified application is not subject to a Terminal Disclaimer.

C. Reasonable Efforts

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing of examination of the above-identified application, as set forth in 37 C.F.R. § 1.704.

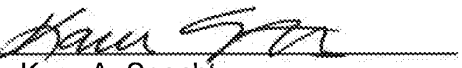
II. Fee

As required by 37 C.F.R. § 1.705(b)(1), this application is accompanied by a payment for $200.00 to cover the required fee. Please charge any deficiencies to deposit account 06-0916. If there are any other fees due in connection with the filing of this request, please charge them to deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 21, 2014

By: 

Kara A. Specht
Reg. No. 69,560
(404) 653-6400

Electronic Patent Application Fee Transmittal

Application Number:	11768890
Filing Date:	26-Jun-2007
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Filer:	Kara A. Specht
Attorney Docket Number:	09685.0044-00000

Filed as Large 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:				
Application for patent term adjustment	1455	1	200	200
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
		Total in USD ($)		**200**

Electronic Acknowledgement Receipt

EFS ID:	19090371
Application Number:	11768890
International Application Number:	
Confirmation Number:	3812
Title of Invention:	Methods and Systems for Providing In-Game Hot Spots
First Named Inventor/Applicant Name:	Joshua Hartwell
Customer Number:	22852
Filer:	Kara A. Specht
Filer Authorized By:	
Attorney Docket Number:	09685.0044-00000
Receipt Date:	21-MAY-2014
Filing Date:	26-JUN-2007
Time Stamp:	13:36:48
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$200
RAM confirmation Number	10188
Deposit Account	
Authorized User	

File Listing:

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

1	Patent Term Adjustment Petition	096850044_PTAPetition.pdf	148753 3ce20012740a0515da015aaa5acc7d2db4db67a1	no	3
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	29881 dc33ffa344273fac224d94f8e4799c16ccc698f3	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	178634		

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
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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.
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000	3812

22852 7590 03/26/2015

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
RAMPURIA, SHARAD K	

ART UNIT	PAPER NUMBER
2646	

MAIL DATE	DELIVERY MODE
03/26/2015	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

In re Patent No. 8,688,089
Issue Date: April 1, 2014
Application No. 11/768,890
Filed: June 26, 2007
Attorney Docket No. 09685.0044-00000

REDETERMINATION
OF PATENT TERM ADJUSTMENT
AND
NOTICE OF INTENT TO ISSUE
CERTIFICATE OF CORRECTION

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRANT", filed May 21, 2014 requesting that the Office adjust the PTA from 1341 days to 1480 days. The Office has re-determined the PTA to be 1479 days.

This redetermination of patent term adjustment is not the Director's decision on the applicant's request for reconsideration within the meaning of 35 U.S.C. 154(b)(4) that triggers a 180-day period for applicant disagreeing with the Office redetermination to commence a civil action in the District Court for the Eastern District of Virginia.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee set forth in 37 CFR 1.18(e) is a requirement and will not be refunded.

Relevant Procedural History

On April 1, 2014, this patent issued with a patent term adjustment determination of 1341 days. On May 21, 2014, patentee timely filed an "APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRANT" seeking an adjustment of the determination patent term adjustment.

Patentee argues "The information printed on the face of the above-identified issued patent indicates this patent is entitled to 1341 days of patent term adjustment. However, Applicant has calculated a patent term adjustment of 1480 days based on the following facts: • The above-identified application was filed on June 26, 2007. • An RCE was filed on December 2, 2011. • The above-identified application was allowed on November 14, 2013. • The issue fee was paid on February 14, 2014. • The patent's issue date is April 1, 2014. The recent Federal Circuit decision, Novartis v. Lee, 740 F.3d 593 (Fed. Cir. 2014), determined that filing an RCE, either before or after the date that is 3 years after the filing date or date of commencement of the national stage, will terminate the accumulation of patent term adjustment, but only up until the mailing of the Notice of Allowance. Therefore, the time period after the Notice of Allowance up to patent issuance should be considered when calculating "B Delay." In this case, the additional

"B Delay" beginning on the date the Notice of Allowance was mailed (November 14, 2013) up to and including the date the patent was issued (April 1,2014), is 139 days. Thus, the total adjustment based on PTO delay is 1542 days and the reduction in term adjustment is 62 days, resulting in a patent term adjustment of 1480 days total. Applicant respectfully requests that the current patent term adjustment be reconsidered and changed to 1480 days".

Upon review, the USPTO finds that patentee is entitled to 1479 days of PTA. The Office has revisited the amount of "B" delay under 35 U.S.C. § 154(b)(1)(B) and the amount of overlapping days under 35 U.S.C. § 154(b)(2)(A) pursuant to the Federal Circuit's decision in *Novartis AG v. Lee*, 740 F.3d 593 (Fed. Cir. 2014).

The Office notes that the interpretation of the "B" delay was based upon rule 37 CFR 1.703(b)(1) which excluded from the amount of "B" delay the period beginning on the date of filing of the continued examination and ending on the date of the issuance of the patent. However, subsequent to the filing of this lawsuit and remand to the Office, the Federal Circuit reviewed the statutory interpretation of 35 U.S.C. § 154(b)(1)(B)(i) and issued a decision regarding the effects of a Request for Continued Examination ("RCE") on "B" delay in the *Novartis* appeal. In *Novartis*, the Federal Circuit agreed with the Office that "no ["B" delay] adjustment time is available for any time in continued examination, even if the continued examination was initiated more than three calendar years after the application's filing." *Novartis*, 740 F.3d at 601. However, the *Novartis* court found that if the Office issues a notice of allowance after an RCE is filed, the period after the notice of allowance should not be excluded from the "B" delay period but should be counted as "B" delay. *Id.* at 602. The Federal Circuit issued its mandate in the *Novartis* appeal on March 10, 2014.

Pursuant to the Novartis decision, the USPTO has determined that patentee is entitled to 661 days of "B" delay. In this case, the filing date of the application is June 26, 2007, and the patent issued on April 1, 2014; thus, the application was pending for 2472 days. A request for continued examination (RCE) was filed on December 2, 2011. Under 35 U.S.C. § 154(b)(1)(B)(i), there was one time period consumed by continued examination ("RCE period"). The RCE period began on December 2, 2011 and ended on November 14, 2013 – i.e., 714 days. Subtracting the RCE period from the total number of days the application was pending results in 2472 - 714= 1758 days. Thus, for purposes of "B" delay, the application was pending for 1758 – 1097 [i.e., 3 years from the actual filing date] = 661 days beyond the 3-year anniversary of the filing date.

The Office has also determined that no periods of overlap exist.

Overall PTA Calculation

Formula:

"A" delay + "B" delay + "C" delay - Overlap - applicant delay = X

USPTO's Calculation:

880 + 661 + 0 – 0 – 62 = 1479

Patentee's Calculation

880 + 662 + 0 – 0 – 62 = 1480

Conclusion

Patentee is entitled to PTA of one thousand four hundred seventy-nine days (1479) days. Using the formula "A" delay + "B" delay + "C" delay - overlap - applicant delay = X, the amount of PTA is calculated as following: *880 + 661 + 0 – 0 – 62 = 1479* days.

Patentee has two (2) months from the date of this decision to request a redetermination if patentee continues to disagree with this determination. Extensions of time may be granted pursuant to 37 CFR 1.136. After the two month extendable period, the Office will *sua sponte* issue a certificate of correction adjusting the PTA to one thousand four hundred seventy-nine days (1479) days.

Telephone inquiries specific to this decision should be directed to the undersigned Attorney at (571) 272-3212.

/Patricia Faison-Ball/

Patricia Faison-Ball
ATTORNEY ADVISOR
Office of Petitions

Enclosures: Copy of DRAFT Certificate of Correction
Adjusted PTA calculation

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 8,688,089 B2

DATED : April 1, 2014

INVENTOR(S) : Joshua Hartwell

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1341) days

Delete the phrase "by 1341 days" and insert – by 1479 days--

Office of Petitions: Decision Count Sheet

Mailing Month

Application No. 11768890

11768890

For US serial numbers: enter number only, no slashes or commas. Ex: 10123456
For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

Deciding Official: FAISON-BALL, PATRICIA

Count (1) - Palm Credit 11/768,890

Decision: DISMISSED

FINANCE WORK NEEDED ☐ Select Check Box for YES

DISMISSED

Decision Type: 551 - 37 CFR 1.705(d) - PATENT TERM ADJUSTMENT AF

551

Notes:

Count (2)

Decision: n/a

FINANCE WORK NEEDED ☐ Select Check Box for YES

Decision Type: NONE

Notes:

Count (3)

Decision: n/a

FINANCE WORK NEEDED ☐ Select Check Box for YES

Decision Type: NONE

Notes:

Initials of Approving Official (if required)

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

Printed on: *3/24/2015*

Office of Petitions Internal Document - Ver. 5.0

Office of Petitions: Routing Sheet



Application No. 11/768,890

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

☐ **GRANTED**

☒ **DISMISSED**

☐ **DENIED**

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 11/768,890

Filing or 371(c) Date:	06-26-2007	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	04-01-2014	Non-Overlapping USPTO Delays:	1403
A Delays:	880	PTO Manual Adjustments:	138
B Delays:	523	Applicant Delays:	62
C Delays:	0	Total PTA Adjustments:	1479

Patent Term Adjustment History Explanation Of Calculations

Number	Date	Contents Description	PTO(Days)	APPL(Days)	Start
100	03-24-2015	Adjustment of PTA Calculation by PTO	661		0
100	03-24-2015	Adjustment of PTA Calculation by PTO	661		0
99	03-24-2015	Adjustment of PTA Calculation by PTO		523	0
99	03-24-2015	Adjustment of PTA Calculation by PTO		523	0
95.5	12-01-2011	PTA 36 Months	523		0.5
95	04-01-2014	Patent Issue Date Used in PTA Calculation			0
94	03-06-2014	Export to Final Data Capture			0
93	03-05-2014	Dispatch to FDC			0
92	03-05-2014	Application Is Considered Ready for Issue			0
91	02-14-2014	Issue Fee Payment Verified			0
90	02-14-2014	Issue Fee Payment Received			0
89	02-06-2014	Finished Initial Data Capture			0
88	01-29-2014	Printer Rush- No mailing			0
87	01-29-2014	Mail Miscellaneous Communication to Applicant			0
86	01-27-2014	Office Action Review			0
85	01-24-2014	Miscellaneous Communication to Applicant - No Action Count			0
82	01-23-2014	Pubs Case Remand to TC			0
81	11-15-2013	Export to Initial Data Capture			0
80	11-14-2013	Mail Notice of Allowance			0
79	11-13-2013	Office Action Review			0
78	11-13-2013	Office Action Review			0
	11-13-				

77	2013	Issue Revision Completed			0
76	11-13-2013	Notice of Allowance Data Verification Completed			0
75	11-13-2013	Case Docketed to Examiner in GAU			0
74	11-10-2013	Document Verification			0
73	11-08-2013	Reasons for Allowance			0
72	11-08-2013	Allowability Notice			0
68	11-04-2013	case Inherited			0
67	11-04-2013	Case Docketed to Examiner in GAU			0
66	10-23-2013	case Inherited			0
65	10-23-2013	Case Docketed to Examiner in GAU			0
64	10-21-2013	case Inherited			0
63	10-21-2013	Case Docketed to Examiner in GAU			0
62	07-16-2013	Date Forwarded to Examiner			0
61	07-15-2013	Response after Non-Final Action		32	59
60	07-15-2013	Request for Extension of Time - Granted			0
59	03-13-2013	Mail Non-Final Rejection	345		54
58	03-08-2013	Office Action Review			0
57	03-04-2013	Non-Final Rejection			0
56	12-08-2011	Date Forwarded to Examiner			0
55	12-02-2011	Amendment Submitted/Entered with Filing of CPA/RCE			0
54	12-02-2011	Request for Continued Examination (RCE)		30	45
53	12-08-2011	Disposal for a RCE / CPA / R129			0
52	12-02-2011	Workflow - Request for RCE - Begin			0
51	11-22-2011	Mail Advisory Action (PTOL - 303)			0
50	11-21-2011	Office Action Review			0
49	11-20-2011	Advisory Action (PTOL-303)			0
48	11-08-2011	Date Forwarded to Examiner			0
47	11-03-2011	Response after Final Action			0

46	11-03-2011	Request for Extension of Time - Granted		0
45	08-02-2011	Mail Final Rejection (PTOL - 326)		0
44	08-01-2011	Office Action Review		0
43	07-29-2011	Final Rejection		0
42	05-03-2011	Date Forwarded to Examiner		0
41	05-02-2011	Response after Non-Final Action		0
40	02-02-2011	Mail Non-Final Rejection		0
39	01-31-2011	Non-Final Rejection		0
38	12-30-2010	Date Forwarded to Examiner		0
37	12-28-2010	Response after Non-Final Action		0
36	09-30-2010	Mail Non-Final Rejection		0
35	09-28-2010	Non-Final Rejection		0
32	08-09-2010	Date Forwarded to Examiner		0
31	08-06-2010	Response after Non-Final Action		0
30	05-06-2010	Mail Non-Final Rejection		0
29	05-05-2010	Non-Final Rejection		0
27	03-10-2010	Information Disclosure Statement considered		0
26	03-11-2010	Date Forwarded to Examiner		0
25	03-10-2010	Response to Election / Restriction Filed		0
24	03-10-2010	Information Disclosure Statement (IDS) Filed		0
23	03-10-2010	Information Disclosure Statement (IDS) Filed		0
22	02-12-2010	Mail Restriction Requirement	535	0.5
21	02-04-2010	Restriction/Election Requirement		0
20	09-25-2007	Information Disclosure Statement considered		0
16	01-25-2010	Case Docketed to Examiner in GAU		0
15	01-02-2009	PG-Pub Issue Notification		0
14	05-19-2008	Case Docketed to Examiner in GAU		0
13	12-21-2007	Case Docketed to Examiner in GAU		0

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 342 of 407

12	11-07-2007	IFW TSS Processing by Tech Center Complete	0
11	09-25-2007	Reference capture on IDS	0
10	09-25-2007	Information Disclosure Statement (IDS) Filed	0
9	10-22-2007	Application Dispatched from OIPE	0
8	09-25-2007	Information Disclosure Statement (IDS) Filed	0
7	07-16-2007	Sent to Classification Contractor	0
6	07-17-2007	Application Is Now Complete	0
3	07-06-2007	Cleared by OIPE CSR	0
2	06-27-2007	IFW Scan & PACR Auto Security Review	0
1	06-26-2007	Initial Exam Team nn	0
0.5	06-26-2007	Filing date	0

Close Window

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 8,688,089 B2
APPLICATION NO. : 11/768890
DATED : April 1, 2014
INVENTOR(S) : Joshua Hartwell

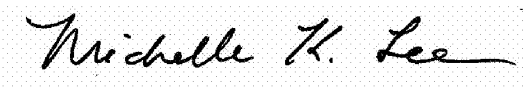
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title Page:

The first or sole Notice should read --

Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1479 days.

Signed and Sealed this
Thirtieth Day of May, 2017



Michelle K. Lee
Director of the United States Patent and Trademark Office

UNITED STATES
PATENT AND TRADEMARK OFFICE

P.O. Box 1450
Alexandria, VA 22313 - 1450
www.uspto.gov

ELECTRONIC PAYMENT RECEIPT

APPLICATION #	RECEIPT DATE / TIME	ATTORNEY DOCKET #
11/768,890	05/25/2023 12:12:15 PM ET	09685.0044-00000

Title of Invention

Methods and Systems for Providing In-Game Hot Spots

Application Information

APPLICATION TYPE	Utility - Nonprovisional Application under 35 USC 111(a)	PATENT #	8688089
CONFIRMATION #	3812	FILED BY	Linda Clark
PATENT CENTER #	62153643	AUTHORIZED BY	Matthew Karas
CUSTOMER #	22852	FILING DATE	06/26/2007
CORRESPONDENCE ADDRESS	-	FIRST NAMED INVENTOR	Joshua Hartwell

Payment Information

PAYMENT METHOD	PAYMENT TRANSACTION ID	PAYMENT AUTHORIZED BY
CARD / 1005	E20235OC20279371	Linda Clark

FEE CODE	DESCRIPTION	ITEM PRICE($)	QUANTITY	ITEM TOTAL($)
1811	CERTIFICATE OF CORRECTION	160.00	1	160.00
			TOTAL AMOUNT:	$160.00

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 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.

PTO/AIA/96 (08-12)
Approved for use through 11/30/2020. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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STATEMENT UNDER 37 CFR 3.73(c)

Applicant/Patent Owner: Flip Phone Games, Inc.

Application No./Patent No.: 8,688,089 Filed/Issue Date: April 1, 2014

Titled: Methods and Systems for Providing In-Game Hot Spots

Flip Phone Games, Inc., a Corporation

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that, for the patent application/patent identified above, it is (choose **one** of options 1, 2, 3 or 4 below):

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

2. ☐ An assignee of less than the entire right, title, and interest (check applicable box):

   ☐ The extent (by percentage) of its ownership interest is _____%. Additional Statement(s) by the owners holding the balance of the interest must be submitted to account for 100% of the ownership interest.

   ☐ There are unspecified percentages of ownership. The other parties, including inventors, who together own the entire right, title and interest are:

   Additional Statement(s) by the owner(s) holding the balance of the interest must be submitted to account for the entire right, title, and interest.

3. ☐ The assignee of an undivided interest in the entirety (a complete assignment from one of the joint inventors was made). The other parties, including inventors, who together own the entire right, title, and interest are:

   Additional Statement(s) by the owner(s) holding the balance of the interest must be submitted to account for the entire right, title, and interest.

4. ☐ The recipient, via a court proceeding or the like (*e.g.*, bankruptcy, probate), of an undivided interest in the entirety (a complete transfer of ownership interest was made). The certified document(s) showing the transfer is attached.

The interest identified in option 1, 2 or 3 above (not option 4) is evidenced by either (choose **one** of options A or B below):

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.

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

1. From: Joshua Hartwell To: GOSUB 60, INC.

   The document was recorded in the United States Patent and Trademark Office at

   Reel 031911, Frame 0513, or for which a copy thereof is attached.

2. From: GOSUB 60, INC. To: FLIP PHONE GAMES, INC.

   The document was recorded in the United States Patent and Trademark Office at

   Reel 057106, Frame 0814, or for which a copy thereof is attached.

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.

PTO/AIA/96 (08-12)
Approved for use through 11/30/2020. 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(c)

3. From: JOSHUA HARTWELL and PAUL BOLTEN To: FLIP PHONE GAMES, INC.

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

4. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

5. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

6. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☑ As required by 37 CFR 3.73(c)(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.

/Matthew M. Karas/	May 25, 2023
Signature	Date
Matthew M. Karas	74,279
Printed or Typed Name	Title or Registration Number

SOLE/JOINT INVENTION
(Worldwide Rights)
Attorney Docket No. 09685.0044-00000; 09685.0044-01000; 09685.0045-00000; 09685.0045-01000; 09685.0045-02000; 15919.0003-03000

ASSIGNMENT

WHEREAS I/We are the below-named inventors (hereinafter referred to as **Assignors**) of the inventions titled Methods and Systems for Providing In-Game Hot Spots and Methods and Systems for Updating In-Game Content, including as disclosed and claimed in the applications and patents identified below.

Patent Number	Issue Date	Application Number	Filing Date	Title	Country of Filing
8,688,089	April 1, 2014	11/768,890	June 26, 2007	Methods and Systems for Providing In-Game Hot Spots	US
9,427,662	August 30, 2016	14/180,890	February 14, 2014	Methods and Systems for Providing In-Game Hot Spots	US
9,731,202	August 15, 2017	11/768,892	June 26, 2007	METHODS AND SYSTEMS FOR UPDATING IN-GAME CONTENT	US
10,617,958	April 14, 2020	15/645,028	July 10, 2017	METHODS AND SYSTEMS FOR UPDATING IN-GAME CONTENT	US
11,117,056	September 14, 2021	16/844,256	April 9, 2020	METHODS AND SYSTEMS FOR UPDATING IN-GAME CONTENT	US
		17/411,181	August 25, 2021	SYSTEMS AND METHODS FOR UPDATING IN-GAME CONTENT	US

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 349 of 407

WHEREAS, **Flip Phone Games, Inc.**, a corporation of **Delaware** whose post office address is **841 23rd Street, Santa Monica, California 90403** (hereinafter referred to as **Assignee**), is desirous of securing the entire right, title, and interest in and to these inventions in all countries throughout the world, and in and to all applications for patents on these inventions in all countries throughout the world, including any PCT International Application and all national stage applications based thereon that may be filed, and all patents issued upon such applications in all countries throughout the world;

NOW THEREFORE, be it known that, for good and valuable consideration the receipt of which from Assignee is hereby acknowledged, I/We, as Assignors, have sold, assigned, transferred, and set over, and do hereby sell, assign, transfer, and set over unto the Assignee, its lawful successors and assigns, my/our entire right, title, and interest in and to these inventions, the above-referenced applications and patents that disclose and claim these inventions, any PCT International Applications and all national stage applications based thereon that may be filed, any other applications for patents filed anywhere in the world that claim these inventions, and all divisions, and continuations of any such application, and all patents which may be granted thereon, and all reissues thereof, and all rights to claim priority in any country on the basis of any such applications, and all extensions, renewals, and reissues thereof; and I/We hereby authorize and request that any official of any country whose duty it is to issue patents on applications as described above, to issue all Letters Patent for these inventions to Assignee, its successors and assigns, in accordance with the terms of this Assignment;

AND, I/WE covenant that I/We have the full right to convey the interest assigned by this Assignment, and I/We have not executed and will not execute any agreement in conflict with this Assignment;

AND, I/WE further covenant and agree that I/We will, without further consideration, communicate with Assignee, its successors and assigns, any facts known to me/us respecting these inventions, and testify in any legal proceeding, sign all lawful papers when called upon to do so, execute and deliver any and all papers that may be necessary or desirable to perfect the title to these inventions in said Assignee, its successors or assigns, execute all divisional, continuation, and reissue applications, make all rightful oaths and generally do everything possible to aid Assignee, its successors and assigns, to obtain and enforce proper patent protection for these inventions in the United States and any foreign country, it being understood that any expense incident to the execution of such papers shall be borne by the Assignee, its successors and assigns.

IN TESTIMONY WHEREOF, I/We have hereunto set our hands.

ASSIGNOR (Inventor 1)

Joshua Hartwell

Print Name

841 23rd Street

Santa Monica, CA 90403

Address

/Joshua Hartwell/

Signature

5-12-23

Execution Date

ASSIGNOR (Inventor 2)

Paul Bolten

Print Name

7709 W. 85th St
Playa del Rey, CA, 90293

Address

/Paul Bolten/

Signature

May 12, 2023

Execution Date

Assignee Name: Flip Phone Games, Inc.

Signature: /Joshua Hartwell/

Printed Name: Joshua K. Hartwell

Corporate Title: President

Date: 5-12-23

PTO/AIA/81A (02-15)
Approved for use through 03/31/2021. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PATENT - POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Patent Number	8,688,089
Issue Date	April 1, 2014
First Named Inventor	Joshua Hartwell
Title	Methods and Systems for Providing In-Game Hot Spots
Attorney Docket No.	09685.0044-00000

I hereby revoke all previous powers of attorney given in the above-identified patent.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint Practitioner(s) associated with the Customer Number identified in the box at right as my/our attorney(s) or agent(s) with respect to the patent identified above, and to transact all business in the United States Patent and Trademark Office connected therewith: 22852

OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) with respect to the patent identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified patent to:

☒ The address associated with the above-identified Customer Number.

OR

☐ The address associated with the Customer Number identified in the box at right:

OR

☐ Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Email			

I am the:

☐ Applicant.

OR

☒ Patent owner.

Statement under 37 CFR 3.73(c) (Form PTO/AIA/96) submitted herewith or filed on _____.

SIGNATURE of Applicant or Patent Owner

Signature	/Joshua Hartwell/	Date	5-11-23
Name	Josh Hartwell	Telephone	
Title and Company	President, Flip Phone Games, Inc.		

NOTE: Signatures of all the applicants or patent owners of the entire interest or their representative(s) are required. If more than one signature is required, submit multiple forms, check the box below, and identify the total number of forms submitted in the blank below.

☑ A total of 1 forms are submitted.

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 update (and by the USPTO to process) the file of a patent or reexamination proceeding. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 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.

UNITED STATES
PATENT AND TRADEMARK OFFICE

P.O. Box 1450
Alexandria, VA 22313 - 1450
www.uspto.gov

ELECTRONIC ACKNOWLEDGEMENT RECEIPT

APPLICATION #	RECEIPT DATE / TIME	ATTORNEY DOCKET #
11/768,890	**05/25/2023 12:12:15 PM ET**	**09685.0044-00000**

Title of Invention

Methods and Systems for Providing In-Game Hot Spots

Application Information

APPLICATION TYPE	Utility - Nonprovisional Application under 35 USC 111(a)	PATENT #	8688089
CONFIRMATION #	3812	FILED BY	Linda Clark
PATENT CENTER #	62153643	FILING DATE	06/26/2007
CUSTOMER #	22852	FIRST NAMED INVENTOR	Joshua Hartwell
CORRESPONDENCE ADDRESS	-	AUTHORIZED BY	Matthew Karas

Documents

TOTAL DOCUMENTS: 7

DOCUMENT	PAGES	DESCRIPTION	SIZE (KB)
09685_0044-00000_Statement_by_FlipPhone_in_Support_of_Request_Under_37_C_F_R__1_324-signed.pdf	1	Request for Certificate of Correction	137 KB
09685_0044-00000_Statement_of_Current_Inventor_in_Support_of_Request_Under_37_C_F_R__1_324-signe.pdf	1	Request for Certificate of Correction	135 KB
09685_0044-00000_Statement_by_New_Inventor_in_Support_of_Requ	1	Request for Certificate of Correction	150 KB

est_Under_37_C_F_R__1_324.pdf			
09685_0044-00000_3_73c_Statement.pdf	5	Assignee showing of ownership per 37 CFR 3.73	285 KB
09685_0044-00000_POA81A-signed.pdf	1	Power of Attorney	229 KB
09685_0044-00000_Request_Under_37_C_F_R__1_324.pdf	2	Request for Certificate of Correction	147 KB
09685_0044-00000_Certificate_of_Correction.pdf	1	Request for Certificate of Correction	100 KB

Digest

DOCUMENT	MESSAGE DIGEST(SHA-512)
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09685_0044-00000_Request_Under_37_C_F_R__1_324.pdf	7A1646F65E20BBE9BCF745B41A0D82B0E1019C5E35151F9A66814438F87C303A6B9B00F212C6E07279DB845BF8646099C936421D5AAA3675461D2A7FDAFCC3B3
09685_0044-00000_Certificate_of_Correction.pdf	4A5C7B23E2B6436AECFC7CA89E21A094E5BFFF10A118935691CCBF660C7A2E99E3356AE6F4B217A832673BD36B079441A73B6999C68FEF9584860E06DF296202

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 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.

PATENT
Attorney Docket No.: 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 8,688,089	)	
	)	
Inventor: Joshua Hartwell et al.	)	Confirmation No.: 3812
	)	
Issued: April 1, 2014	)	
	)	***VIA PATENT CENTER***
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	

Commissioner for Patents
Office of Data Management Attention: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.324

Pursuant to 35 U.S.C. § 256 and 37 C.F.R. § 1.324, this is a request for a Certificate of Correction to correct inventorship. It is respectfully requested that the following inventor be added to the above-captioned patent: 8,688,089. Currently, this patent lists Joshua Hartwell as the inventive entity. The correct inventive entity of the above-captioned patent should be: **Joshua Hartwell and Paul Bolten**.

As required by 37 C.F.R. § 1.324(b), enclosed are statements from the current named inventors and from the person being added as inventor stating that they agree to the requested change of inventorship, and a statement from the assignee of record, Flip Phone Games, Inc., stating that it agrees to the change of inventorship in the patent. In addition, a declaration under 37 C.F.R. § 1.63 by the person being added as inventor are submitted herewith.

Patentee requests the Director to issue a Certificate of Correction naming the correct list of inventors. A Certificate of Correction of one page is filed with this paper.

The $160 fee set forth in 37 C.F.R. § 1.20(b) is enclosed.

If there are any additional fees due in connection with the filing of this request, please charge the fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 25, 2023

By: /Matthew M. Karas/
Matthew M. Karas
Reg. No. 74,279
(571) 203-2745

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 8,688,089 Page 1 of 1

APPLICATION NO.: 11/768,890

ISSUE DATE: April 1, 2014

INVENTOR(S): Joshua HARTWELL et al.

It is hereby certified that an error or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title Page of the patent, Inventor information in paragraph (75) should read as follows:

(75) Inventors: **Joshua Hartwell**, Santa Monica, CA (US); **Paul Bolten**, Playa del Rey, CA (US)

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

PATENT
Attorney Docket No.: 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 8,688,089	)	
	)	
Inventor: Joshua Hartwell et al.	)	Confirmation No.: 3812
	)	
Issued: April 1, 2014	)	
	)	***VIA PATENT CENTER***
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	

Commissioner for Patents
Office of Data Management Attention: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

STATEMENT IN SUPPORT OF REQUEST UNDER 37 C.F.R.§ 1.324

Pursuant to 37 C.F.R. § 1.324(b)(1), I, Paul Bolten, agree to be added as an inventor to the above-captioned patent.

Date: May 12, 2023 By: /Paul Bolten/
Paul Bolten

PATENT
Attorney Docket No.: 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 8,688,089	)	
	)	
Inventor: Joshua Hartwell et al.	)	Confirmation No.: 3812
	)	
Issued: April 1, 2014	)	
	)	***VIA PATENT CENTER***
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	

Commissioner for Patents
Office of Data Management Attention: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

STATEMENT OF INVENTORS
IN SUPPORT OF REQUEST UNDER 37 C.F.R.§ 1.324

Pursuant to 37 C.F.R. § 1.324(b)(1), I, Joshua Hartwell, named inventor in the above-captioned patent, agree to the change of inventorship to add Paul Bolten as an inventor.

Date: 5-11-23 By: /Joshua Hartwell/
Joshua Hartwell

PATENT
Attorney Docket No.: 09685.0044-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 8,688,089	)	
	)	
Inventor: Joshua Hartwell et al.	)	Confirmation No.: 3812
	)	
Issued: April 1, 2014	)	
	)	***VIA PATENT CENTER***
For: METHODS AND SYSTEMS FOR PROVIDING IN-GAME HOT SPOTS	)	

Commissioner for Patents
Office of Data Management Attention: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450
Commissioner:

STATEMENT BY ASSIGNEE
IN SUPPORT OF REQUEST UNDER 37 C.F.R. § 1.324

Pursuant to 37 C.F.R. § 1.324(b)(2), and in accordance with 37 C.F.R. § 3.73(c), Flip Phone Games, Inc., submits that it is the assignee of the entire right, title, and interest in the above-identified patent by virtue of the assignment(s) recorded herewith and at Reel/Frame: 031958/0110 and 057106/0814.

Flip Phone Games, Inc., agrees to change inventorship in U.S. Patent No. 8,688,089 by adding Paul Bolten as a named inventor.

I, the undersigned, have the authority to act on behalf of the assignee, Flip Phone Games, Inc.

Date: 5-11-23_____

By: /Joshua Hartwell/
Joshua Hartwell
President
Flip Phone Games, Inc.

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
11/768,890	06/26/2007	Joshua Hartwell	09685.0044-00000

CONFIRMATION NO. 3812

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

POA ACCEPTANCE LETTER

OC000000058049636

Date Mailed: 06/09/2023

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/25/2023.

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.

Questions about the contents of this notice and the requirements it sets forth should be directed to the Office of Data Management, Application Assistance Unit, at **(571) 272-4000** or **(571) 272-4200** or **1-888-786-0101**.

/snguyen/

Patent Owner Flip Phone Games, Inc.
Exhibit 2005 - Page 362 of 407

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 8,688,089 B2
APPLICATION NO. : 11/768890
DATED : April 1, 2014
INVENTOR(S) : Joshua Hartwell et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title Page

Inventor information in item (75) should read as follows:
(75) Inventors: **Joshua Hartwell**, Santa Monica, CA (US); **Paul Bolten**, Playa del Rey, CA (US)

Signed and Sealed this
Twentieth Day of June, 2023

Katherine Kelly Vidal

Katherine Kelly Vidal
Director of the United States Patent and Trademark Office

Trials@uspto.gov
571-272-7822

Paper 10
Date: April 29, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLR WORLDWIDE SALES LTD.,
Petitioner,

v.

FLIP PHONE GAMES INC.,
Patent Owner.

IPR2024-00133
Patent 8,688,089 B2

Before DAVID C. McKONE, DANIEL J. GALLIGAN, and SCOTT B. HOWARD, *Administrative Patent Judges*.

Opinion for the Board filed by *Administrative Patent Judge* SCOTT B. HOWARD.

Opinion Dissenting filed by *Administrative Patent Judge* DANIEL J. GALLIGAN.

HOWARD, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

A. Background and Summary

PLR Worldwide Sales Ltd. ("Petitioner") filed a Petition for *inter partes* review (Paper 2, "Pet.") challenging claims 1–10 ("challenged claims") of U.S. Patent No 8,688,089 B2 (Ex. 1001, "the '089 patent"). Flip Phone Games Inc. ("Patent Owner") filed a Preliminary Response (Paper 7, "Prelim. Resp."). With our authorization, Petitioner filed a Reply to Patent Owner's Preliminary Response (Paper 8) and Patent Owner filed a Preliminary Sur-reply (Paper 9).

We have authority, acting on the designation of the Director, to determine whether to institute an *inter partes* review under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a). *Inter partes* review may not be instituted unless "the information presented in the petition filed under [35 U.S.C.] section 311 and any response filed under [35 U.S.C.] section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a) (2018). "When instituting *inter partes* review, the Board will authorize the review to proceed on all of the challenged claims and on all grounds of unpatentability asserted for each claim." 37 C.F.R. § 42.108(a) (2023).

For the reasons set forth below, upon considering the briefing and the evidence of record, we determine that Petitioner has not established a reasonable likelihood that it will prevail in proving the unpatentability of at least one challenged claim of the '089 patent. Accordingly, we deny Petitioner's request and do not institute an *inter partes* review.

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B. Real Parties in Interest

Petitioner identifies itself and Playrix Holdings Ltd. as the real parties in interest. Pet. 2; Paper 6, 1 (Petitioner's Amended Mandatory Notices).

Patent Owner identifies itself as the real party in interest. Paper 3, 1 (Patent Owner's Mandatory Notices).[1]

C. Related Matters

Both parties identify the following district court proceeding as a related matter: *Flip Phone Games, Inc. v. PLR Worldwide Sales Limited*, Case No. 2:23-cv-00139-JRG (E.D. Tex.). Pet. 2–3; Paper 3, 1.

The parties also identify additional *inter partes* review proceedings. *See* Pet. 3; Paper 3, 1.

D. The '089 Patent

The '089 patent is titled "Methods and Systems for Providing In-Game Hot Spots" and "relates generally to systems and methods for providing in-game hot spots to a mobile communication device." Ex. 1001, code (54), 1:6–8. "A hot spot can be thought of as a location or item, sometimes hidden within the game, that triggers additional specialized content when activated by a user or some other in-game element." *Id.* at 1:63–66; *see also id.* at 4:7–9 ("Generally, a hot spot is an in-game feature that includes an activation element and a content element that is triggered by the activation element.").

The '089 patent explains that "all video games tend to have a popularity life span" and "[a]s game elements become increasingly familiar to players, the game may hold less surprises and/or no longer present a

[1] Patent Owner did not paginate its Mandatory Notices. All citations are based on the page after the title page being page 1.

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challenge to the user," such that "games that hold user interest for longer period of time are more valuable than games that users leave behind quickly." Ex. 1001, 1:28–41. Taking these considerations into account, the '089 patent discloses systems and methods that provide hot spots of triggered content within the gaming environment of a mobile video game on a mobile communication device. *Id.* at 1:60–63. According to the '089 patent, providing hot spots of triggered content within a mobile gaming environment, and updating in-game hot spot information, may prolong user interest in the game, as it may "allow game companies to keep game elements fresh and prolong user enjoyment of the game." *Id.* at 1:66–2:2, 4:17–24. For example, new interactive items and/or hidden features may be placed within a particular scene in the game so that the user has something new to look at or trigger (sometimes unexpectedly). *Id.* at 4:25–31.

The '089 patent describes a mobile communication device programmed to: operate a video game; contact a remote system to check for hot spot information to use in the video game; download the hot spot information to the communications device from a server; designate a location in-game for activating the hot spot; detect manipulation of the designated location as activating the hot spot; and display content when the device's user activates the hot spot. Ex. 1001, 2:11–19.

A hot spot's activation element may comprise an area location or an item, sometimes hidden in the game, that can be triggered by a user or some other in-game element. Ex. 1001, 2:27–29. The hot spot information may identify content (a content element) to be displayed when the hot spot is activated, such as a promotional message; non-promotional content; a message including a hint related to the game; and a new game level or an

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item useful in playing the game. *Id.* at 2:34–44. More particularly, hot spot information may include information that allows the mobile communication device to designate a location in-game (such as an item or hidden area) for activating the hot spot. *Id.* at 4:9–16. When the location is electronically manipulated in some way during game play, such as by touching it, running over it, hitting it with an item, etc., the content associated with the hot spot may be displayed. *Id.*

Figures 2A and 2B of the '089 patent are reproduced below.

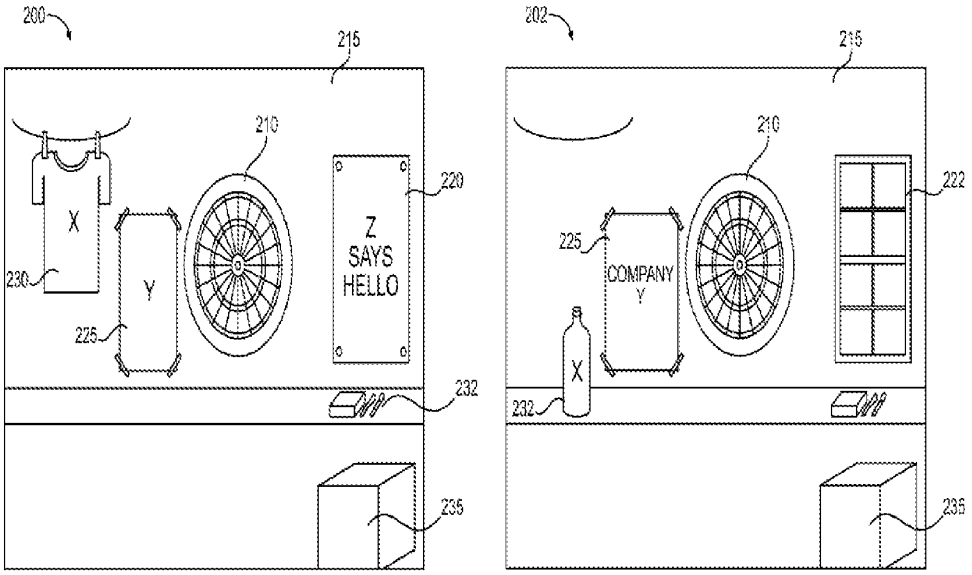


FIG. 2A FIG. 2B

Figures 2A and 2B "are diagrams of an exemplary scene in a video game played on a mobile communication device." Ex. 1001, 3:43–45; *see also id.* at 6:36–40. The exemplary scene is from a darts game, which includes dart board 210. *Id.* at 6:36–43. Figure 2A shows several items 210, 220, 225, 230, and 235 within scene 200. *Id.* at 6:44–54. Any of these items may be defined as hot spots on the mobile communication device. *Id.* For instance,

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if the user throws a dart that hits shirt 230, a promotional message associated with third party X may pop up on screen. *Id.* Messages might also be displayed if the user activates hot spots on poster 225 or chalk board 220. *Id.* Additionally, if the user activates a hot spot defining a piece of chalk 232, a new message might be drawn on chalk board 220. *Id.*

As shown in Figure 2B, a hot spot may be assigned to window 222. Ex. 1001, 7:12–24. When the user hits the window with a dart, the hot spot is activated, and activation causes the mobile communication device to display content, such as an animation of window 222 shattering. *Id.* The hot spot information may include coordinates for defining the placement and/or boundaries of the window, the window graphic, the shatter animation content, and coordinates for displaying the animation. *Id.*

E. Illustrative Claim

The '089 patent includes 10 claims, all of which are challenged. Claim 1 is the only independent claim, and is reproduced below.

> 1. [1(a)] A method for providing a hot spot associated with a mobile video game, the mobile video game being operable on a mobile communication device, the method comprising the steps of:
>
> [1(b)] storing hot spot information on a computer-readable medium;
>
> [1(c)] receiving a communication from a mobile communication device;
>
> [1(d)] determining the hot spot information to provide to the mobile device based upon the communication, the hot spot information comprising:
>
> [1(d)(i)] a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional background object; and
>
> [1(d)(ii)] hidden promotional content for presenting to the

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user, within a gaming environment of the mobile video game, when the hot spot is activated;
and

[1(e)] uploading the hot spot information to the mobile communication device.

Id. at 14:16–34; *see also* Pet. vii (adding brackets).

F. Prior Art and Asserted Grounds

Petitioner asserts that claims 1–10 would have been unpatentable on the following grounds:

Claims Challenged	35 U.S.C. §[2]	References/Basis
1–3, 6–8	103(a)	Ho,[3] Jiau,[4] Choi[5]
4, 5, 9, 10	103(a)	Ho, Jiau, Choi, Ellis[6]
1–10	103(a)	Sturman,[7] Ho

Petitioner also relies on the testimony of José P. Zagal, Ph.D. (Ex. 1003).

[2] The Leahy-Smith America Invents Act ("AIA") included revisions to 35 U.S.C. § 103 that became effective on March 16, 2013. Because the application that issued as the '089 patent was filed before March 16, 2013, we apply the pre-AIA version of the statutory basis for unpatentability. *See* Ex. 1001, code (22).

[3] WO 2008/008038 A1, published January 17, 2008, filed designating the United States July 12, 2006 (Ex. 1004).

[4] WO 2000/70489, published November 23, 2000 (Ex. 1005).

[5] US 2007/0174490 A1, published July 26, 2007, filed January 19, 2007 (Ex. 1008).

[6] US 8,825,521 B2, issued September 2, 2014, filed August 30, 2006 (Ex. 1007).

[7] WO 2006/071246 A1, published July 6, 2006 (Ex. 1006).

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II. ANALYSIS

A. Legal Standards

In *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966), the Supreme Court set out a framework for assessing obviousness under 35 U.S.C. § 103 that requires consideration of four factors: (1) the "level of ordinary skill in the pertinent art," (2) the "scope and content of the prior art," (3) the "differences between the prior art and the claims at issue," and (4) if in evidence, "secondary considerations" of non-obviousness such as "commercial success, long-felt but unsolved needs, failure of others, etc." *Id.* at 17–18. "While the sequence of these questions might be reordered in any particular case," *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 407 (2007), the U.S. Court of Appeals for the Federal Circuit has repeatedly emphasized that "it is error to reach a conclusion of obviousness until all those factors are considered," *WBIP, LLC v. Kohler Co.*, 829 F.3d 1317, 1328 (Fed. Cir. 2016). Because Patent Owner does not address objective evidence of non-obviousness, we focus solely on the first three *Graham* factors.

B. Level of Ordinary Skill in the Art

The level of ordinary skill in the pertinent art at the time of the invention is a factor in how we construe patent claims. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc). It is also one of the factors we consider when determining whether a patent claim is obvious over the prior art. *See Graham*, 383 U.S. at 17–18.

Factors pertinent to a determination of the level of ordinary skill in the art include "(1) the educational level of the inventor; (2) type of problems encountered in the art; (3) prior art solutions to those problems; (4) rapidity

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with which innovations are made; (5) sophistication of the technology; and (6) educational level of active workers in the field." *Envtl. Designs, Ltd. v. Union Oil Co. of Cal.*, 713 F.2d 693, 696–697 (Fed. Cir. 1983) (citing *Orthopedic Equip. Co. v. All Orthopedic Appliances, Inc.*, 707 F.2d 1376, 1381–82 (Fed. Cir. 1983)). "Not all such factors may be present in every case, and one or more of these or other factors may predominate in a particular case." *Id.*

Petitioner argues that a person having ordinary skill in the art at the time of the invention would have had "an undergraduate degree in game design, computer science, computer engineering, or a related field, with at least two years of experience working with computer gaming systems or software application development," and that "[l]ess work experience may be compensated by a higher level of education or vice versa." Pet. 12 (citing Ex. 1003 ¶¶ 67–72).

Petitioner's recitation of the level of ordinary is consistent with the invention disclosed in the '089 patent. It is also not disputed by Patent Owner at this time. *See* Prelim. Resp. Accordingly, for purposes of this Decision, we adopt Petitioner's formulation of the person having ordinary skill in the art, with the exception of the open-ended phrase "at least" which we change to "about."

C. Claim Construction

We apply the same claim construction standard used in the federal courts, in other words, the claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. § 282(b), which is articulated in *Phillips*, 415 F.3d 1303. *See* 37 C.F.R. § 42.100(b). Under the *Phillips* standard, the "words of a claim 'are generally given their ordinary

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and customary meaning,' which is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Phillips*, 415 F.3d at 1312–13.

Petitioner argues that "[no] terms require construction to resolve the patentability disputes because the challenged claims are rendered unpatentable by the cited art under any reasonable interpretation of the claims." Pet. 13. Petitioner further asserts that their "application of the claims is also consistent with Patent Owner's application thereof in its infringement contentions served in the related district court litigation, examples of which are attached hereto as Exhibit 1019." *Id.*

Patent Owner does not expressly request any claim constructions. *See* Prelim. Resp. Patent Owner does, however, argue that Petitioner presented different claim constructions in the district court litigation. *See, e.g.*, Prelim. Resp. 21–25 (citing Ex. 2001). However, Patent Owner never argues that the claim constructions proposed by Petitioner in the district court are correct. *Id.*

For the purposes of this Decision, we need not expressly construe any claim terms. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (noting that "we need only construe terms 'that are in controversy, and only to the extent necessary to resolve the controversy'" (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))). To the extent necessary, we address the parties' implicit claim constructions in the context of the arguments on the merits of the Petition.

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D. Obviousness Based on Ho, Jiau, and Choi

1. Overview of Ho

Ho is titled "An Incentive-Based Video Gaming System" and "relates to a video game . . . incorporating [an] interactive information element into a video game." Ex. 1005, code (54), 1:5–7.

Ho describes prior systems as offering "in-game advertising to 'capture' eyeballs;" however, the advertisements were "restricted to in-game . . . non-interactive in-game elements" and, thus, providing "no impetus for the player to pay more attention," e.g., "to the static advertisements." Ex. 1004, 1:19–31. Ho generalizes the prior technology as having "no methods available to incorporate interactive and update-able advertisements into existing video games." *Id.* at 1:35–37.

Ho "provide[s] a method of playing a video game with at least one interactive information element incorporated within the game," e.g., "an icon in the game, a character in the game[,] or an item in the game." Ex. 1004, 2:1–12. "[T]he player ha[s] an option to engage the at least one interactive information element." *Id.* at 2:2–5. Preferably, "gameplay is not disrupted when the . . . element is engaged[,] the . . . element is not mandatory for continuation of gameplay[,] the . . . element may be either advertisements or public announcement services," and "the . . . element is able to be updated." *Id.* at 2:1–18.

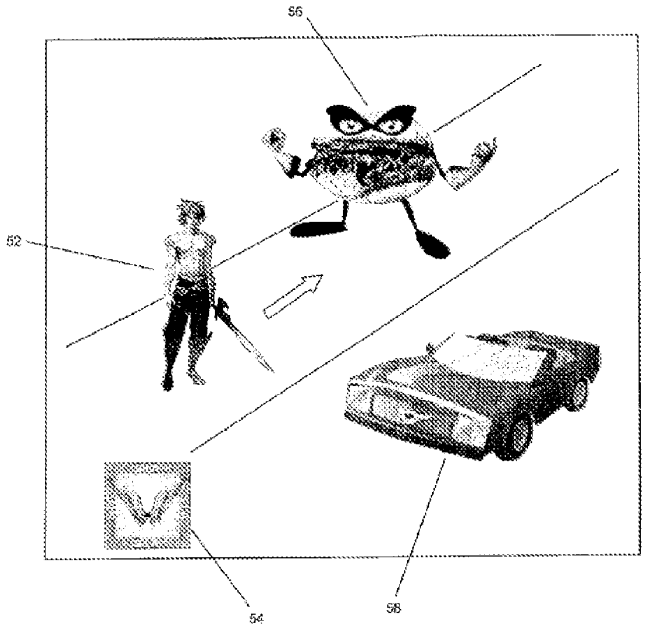
"[I]ncorporating . . . [the] element into a video game[] include[s]: adding an engageable module into the video game; updating the engageable module with the . . . element; and locating the . . . element at a juncture in the video game." Ex. 1004, 2:35–38. "The juncture . . . may be either a specific event . . . or a specific location in the game." *Id.* at 3:1–2.

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Preferably, "the engageable module may be updated either locally or from a remote source via a network." *Id.* at 2:40–3:1.

"Engagement of the . . . element may activate an action," e.g., "an on-screen presentation, an electronic token generation." Ex. 1004, 3:10–12. "The on-screen presentation may be either within the course of gameplay or in a sub-screen in the game." *Id.* at 3:12–13. "Electronic tokens may also be stored either locally or on a network." *Id.* at 3:13–14.

Ho's Figure 3, reproduced below, illustrates examples of interactive information elements being incorporated in a MMORPG (massively multiplayer online role playing game). Ex. 1004, 5:1–2.



As shown in Figure 3, at a particular juncture in gameplay, a character 52 in the MMORPG controlled by the player encounters some interactive information elements such as (i) a "wings" button 54 to enable character 52 to fly (an example of an icon in the game), (ii) a hamburger monster 56 (an example of a character in the game), and (iii) a car 58 (an example of an

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item in the game). *Id.* at 5:1–25. Each interactive information element 54, 56, and 58 may be linked/related to a particular advertiser. *Id.* Interactive information elements 54, 56, and 58 may be engaged in different ways, with the way of engaging interactive information elements 54, 56, 58 depending on the type of element being engaged. *Id.* For example, hamburger monster 56 may be engaged only when character 52 fights and successfully slays the hamburger monster, car 58 may be engaged when character 52 enters the car, and "wings" button 54 may be engaged (for example when character 52 wishes to fly) by clicking on icon 54 using a pointer, or by using an enclosure moving between different icons to highlight icon 54 to engage the icon. *Id.* The player may be informed of a reward prior to engaging the interactive information element(s). *Id.*

If the player chooses to engage any of interactive information elements 54, 56, and 58 in one of a number of ways, an action may be activated. *Id.* at 5:27–38. For example, highlighting icon 54 may activate an on-screen presentation that may be within the course of gameplay or in a sub-screen in the game. *Id.* The on-screen presentation may be, for example, an airliner with a particular airline's (an advertiser) paint scheme flying across the screen (overlaid on the game environment) trailing a catchphrase of the airline. *Id.* Making character 52 enter car 58 may activate the generation of a roar of an engine starting and revving recorded from an engine of an actual car depicted by car 58. *Id.* Making character 52 slay hamburger monster 56 may generate a sub-screen showing an advertisement of a chain of fast food restaurants, with the sub-screen overlaid on the game environment so as not to be disruptive to gameplay. *Id.*

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2. Overview of Jiau

Jiau is titled "Method and Apparatus for Providing Hotspots in a Shared Virtual World" and "relates . . . to a method and apparatus that allow users to access and explore a multi-owner, three-dimensional virtual world in a network environment." Ex. 1005, code (54), 1:7–9.

Jiau describes prior "multi-player games[whereby] players can [see] representations of each other in the three-dimensional world as they move within some predetermined distance of each other." Ex. 1005, 1:19–21. Jiau generalizes "[s]uch three-dimensional games[as] involv[ing] a predetermined, predefined virtual world that does not change . . . [—]defined by the game designer and the players move within the predefined spaces." *Id.* at 1:22–24.

Jiau's invention provides "[a] virtual world . . . divided into a plurality of 'lots,' similar to 'lots' of real estate in the real world" and whereby "[u]sers can reserve . . . these lots to design as they please." Ex. 1005, 1:32–2:2. "[U]sers access the virtual world via client data processing systems using a networking model such as the World Wide Web." *Id.* at 2:4–5. "The server assigns each newly registered lot to a location in the virtual world[,] stores the lots in a memory or database," and thus provides "each lot . . . an ownership attribute." *Id.* at 2:7–9. "Users can alter and modify their lots, even while others are visiting them in the virtual world[;] the lots . . . can be constantly updated and changed." *Id.* at 2:29–31.

"Users can include objects in their lots that allow a virtual person walking in their lots to move to another lot that is not physically contiguous to their lot[;]" e.g., the virtual person "walks into it" for "teleporting." Ex. 1005, 2:13–16. "Users can also define objects in their lots that have

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certain behaviors, such as playing an ad or animation when selected." *Id.* at 2:19–20. "Users can also associate objects with the URLs of pages on the world wide web, so that a web page is displayed when the object is approached or activated." *Id.* at 2:20–21.

"If the user . . . turn[s and] . . . a new lot is viewed, the client system determines whether it needs to load new lots or objects." Ex. 1005, 11:7–9. "If the user walks into an object or selects an object though a mouse click or similar means . . . , the client system takes various actions . . . depending on how the object is defined." *Id.* at 11:16–18. "This activity is part of the attributes of object 320." *Id.* at 15:7 (citing Fig. 13(b) for such attributes of an attribute). One attribute is that, per a "hotspace link defined around object 320", the "object 320 has a pop-up advertisement 1182 that is activated when the user's location becomes within a predetermined virtual distance in the virtual world." *Id.* at 15:4–8.

"Hot spaces are defined as two or three-dimensioned areas or the virtual world (which may or may not have an object located therein) that have an associated link." Ex. 1005, 15:32–16:2; *see also id.* at 17:1 ("[A] 'hotspace' is a predetermined space surrounding an object."). "For example, when a user walks within ten virtual feet of a hotspace, a pop-up advertisement may appear." *Id.* at 17:1–2.

"Hot spots are defined as areas of an object (or a whole object) that have an associated link." Ex. 1005, 15:31–32. "For example, when the user touches or selects an object, a pop-up advertisement may appear." *Id.* at 16:31–32.

Figure 11(d) of Jiau, reproduced below, illustrates an example of a three-dimensional view of a virtual world having advertisements activated

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by user actions, and Figure 11(e) of Jiau, reproduced below, illustrates an example of an object having a hotspot allowing a user to enter an interior of the object. Ex. 1005, 5:28–31.

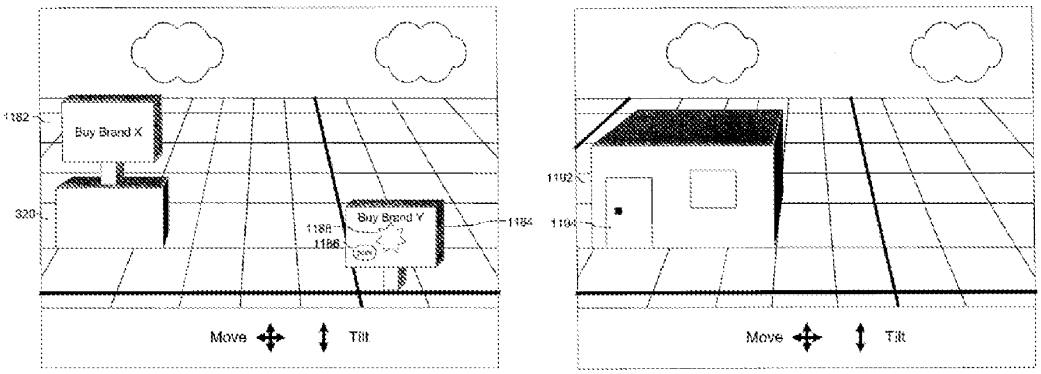


Fig. 11(d)

Fig. 11(e)

In Figure 11(d), an object 320 has a pop-up advertisement 1182 that is activated when the user's location is within a predetermined virtual distance in the virtual world. *Id.* at 15:3–17. When the user approaches object 320, advertisement 1282 pops up. *Id.* This activity is part of the attributes of object 320—there is a hotspace link defined around object 320. *Id.* Figure 11(d) further shows a static object 1184 that is always visible when it comes into view in the three-dimensional representation of the virtual world. *Id.* Object 1184 is a sign containing an advertisement, and there is a hotspot link 1186 defined on object 1184. *Id.* When the user clicks or otherwise selects hotspot link 1186 (e.g., by approaching it), an animation 1188 (represented in the figure by a star) spins, changes color, or animates. *Id.* Hotspot 1186 and the activity associated with object 1184 (as well as the appearance of object, including the advertising text) are defined as attributes of object 1184. *Id.*

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Figure 11(e) shows an object 1192 having a hotspot link 1194 (e.g., a door-shape) allowing the user to enter an interior of the object. Ex. 1005, 15:18–16:2. The user enters the interior of the object when the user activates hotspot 1192 (i.e., when the user collides with, or passes sufficiently close to, the hotspot). *Id.* When a user activates hotspot 1194, the user passes to the interior of object 1192, and the client computer renders an interior view of the object. *Id.* Other objects that appear similar to object 1192 may have hotspots that are effectively teleportation links, so that the user steps through a door, but ends up in another location in the virtual world (or in a sub-world, or a related virtual world). *Id.* Hot spots are areas of an object (or a whole object) that have an associated link, and hotspaces are two or three-dimensioned areas that have an associated link. *Id.*

3. Overview of Choi

Choi is titled "System and Methods for Managing Content in Pre-Existing Mobile Applications" and "relates to . . . modifying existing mobile applications to permit either of both insertion of content adapted for operation on the target device[] and retrieval of appropriate user and usage information from the device." Ex. 1008, code (54), ¶ 2.

Choi describes prior "useful functionality that could be added to a mobile application after it has been developed and sent to an application distributor." Ex. 1008 ¶ 4. "A primary example of additional functionality is receipt and display of advertising content." *Id.* Choi identifies "a long-standing need . . . for managing distribution of data (such as advertising content) and for retrieval of appropriate data (such as advertising impression counts)." *Id.* ¶ 6.

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Choi's invention includes "an instrumented application communicating directly with an ad server." *Id.* ¶ 78. "[T]he instrumented application typically communicates periodically with the ad server . . . ; for example, the application can contact the ad server once it has shown its current ad content some fixed number of times[] or . . . immediately in response to user interaction with ad content." *Id.* "This communication can include the application sending its identification to the ad server along with any usage statistics." *Id.* "The communication can also include the application sending a request for new ad content to the ad server," including "information related to the current mobile device . . . location." *Id.* "The application renders the ad content in the instrumented inventory locations according to any constraints indicated by the ad content meta-data." *Id.*

"[An] Ad Manager module[,] on top of the persistent storage mechanisms available on the mobile device, . . . can use GPS location information to request location-specific advertising content from the network server." *Id.* ¶ 43. "Inventory modules provide logic for presenting content at specific locations within an application." *Id.* "Action modules . . . provide logic for executing some set of actions in response to user input related to an inventory placement, [e.g.,] Click-to-Web and Click-to-Call." *Id.*

4. Claims 1–3 and 6–8

Claim 1 limitation 1(d)(i) recites that the claimed "hot spot information" comprises "a location in-game associated with activating the hot spot, wherein the location in-game is represented by a non-promotional background object." Ex. 1001, 14:25–29. Petitioner argues that "[t]he combined teachings of Ho and Jiau render limitation 1(d)(i) obvious."

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Pet. 29 (citing Ex. 1003 ¶¶ 119–124). For the reasons set forth below, we are not sufficiently persuaded by Petitioner's arguments.

Specifically, Petitioner argues that "Ho teaches an interactive information element that comprises a hot spot, such as 'a character in the game or an item in the game,' that 'may be located at a juncture in the game, such as . . . a specific location in the game.'" Pet. 29 (citing Ex. 1004, 2:11–17).

Petitioner further argues that Ho "teaches that interactive information elements (*i.e.*, hot spots) may be non-promotional background objects at their in-game locations." Pet. 31 (citing Ex. 1003 ¶ 122). More specifically, Petitioner argues that "Ho's interactive information elements are represented by ***non-promotional*** objects, specifically, because they correspond to in-game characters or items, and do not display promotional content until a user has perform[ed] a predetermined action." *Id.* (citing Ex. 1004, 2:11–12, 5:1–7, 5:27–38). According to Petitioner, this includes a "hamburger monster" and a "car." *Id.* (citing Ex. 1004, 5:1–7). Petitioner further argues that the objects are background objects because the objects are optional for game play, which Petitioner argues is consistent with the applicant's arguments during the prosecution of the '089 patent:

> The '089 Patent does not define or otherwise describe a "non-promotional background object"; however, during prosecution, the Applicant explained that "'non-promotional background objects' are not game components," *i.e.*, "featured objects that a user manipulates in order to play the game," but are rather "outside of the primary focus of game play" and "are not themselves needed or required in order to play the game." Ex. 1002, 85 [(Prosecution History of the '089 patent)]. . . . Ho's interactive information elements are further represented by background objects because Ho expressly teaches that

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> "engagement of the at least one interactive information element may not be mandatory for the continuation of gameplay," (*i.e.*, it is not needed or required in order to play the game), and activating the interactive information element "does not disrupt gameplay" (i.e., it is outside of the primary focus of gameplay). *Id.*, 4:26–28, 5:30–33, 5:36–38. This is consistent with the Applicant's description of a "background" object during prosecution.

Pet. 31–32.

For our analysis we begin with the plain and ordinary meaning of the term "background." "Background" refers to "[t]he part of a pictorial representation that appears to be in the distance and that provides relief for the principal objects in the foreground." Ex. 3002 (American Heritage Dictionary); *see also* Ex. 3003 ("the scenery or ground behind something," "the part of a painting representing what lies behind objects in the foreground") (Merriam-Webster Dictionary). In other words, "background" objects are not primary objects. And, in terms of a mobile video game, such as the one claimed in the '089 patent, "background" refers to objects other than primary game objects. We find nothing in the specification to contradict this ordinary meaning. And Petitioner does not contend that the specification informs the meaning of "non-promotional background objects." Rather, Petitioner argues that "[t]he '089 Patent does not define or otherwise describe a 'non-promotional background object.'" Pet. 31.

Petitioner does not apply the prior art to the challenged claims under the ordinary meaning. Rather, as explained above, Petitioner argues that the prosecution history provides a different meaning of "background." However, Petitioner's argument is not commensurate with the distinctions made during the prosecution of the '089 patent. Rather, the plain and

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ordinary meaning is consistent with the Patent Owner's arguments during the prosecution of the '089 patent, which focused on whether the non-promotional object was a primary object. During prosecution, the applicant distinguished Chu's[8] "pit stop" and "treasure chest" as not being non-promotional background objects. *See* Ex. 1002, 85. Although the applicant mentioned that one characteristic of a background object is that it was not required to be played with, that was not the only basis for distinguishing Chu. *Id.* Instead, the primary focus of the applicant's argument was whether the object is the primary focus of play. *See id.*

To begin, when arguing that Chu's elements were not background objects, the applicant focused solely on whether the object was a primary object that was manipulated during game play:

> For example, the Examiner cites to Chu's "pit stop" and "treasure chest" as "non-promotional objects" at least because they are featured in the forefront of the game play *as primary objects to be manipulated or used during game play* (*see* Chu at ¶¶ [0063]–[0065]). For this reason, Chu's objects that can display advertisements are not "background" objects, as recited in the pending claims.

Ex. 1002, 85 (emphasis added).[9] The applicant continued to focus on whether the object was the primary focus of game play throughout the rest of the remarks:

> First, Chu characterizes its objects as "game component[s]," which appear to be featured objects that a user manipulates in order to play the game, while the recited "non-promotional background objects" are not game components, but instead they

[8] US 2006/0111979 A1, published May 25, 2006 (Ex. 3001).

[9] The parties emphasize the names of prior art references. Here and elsewhere the emphasis has been omitted.

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> exist in the background, *outside the primary focus of game play and as unexpectedly interactive components*, and are not themselves needed or required in order to play the game.

Id.

As discussed above, Petitioner argues that the various "interactive information elements" it relies on—"a 'wings' button 54 to enable the character 52 to fly (an example of an icon in the game), a hamburger monster 56 (an example of a character in the game) and a car 58 (an example of an item in the game)"—are background objects because they are optional. *See* Pet. 31–32 (citing Ex. 1004, 4:26–28, 5:1–5, 5:30–33, 5:36–38). However, nothing in the cited paragraphs indicates that those interactive information elements are "outside the primary focus of game play and as unexpectedly interactive components." In fact, the Petition is silent as to whether Ho's "interactive information elements" are primary objects. *See* Pet. 31–32. Instead, Petitioner focuses solely on whether the "interactive information elements" are optional or mandatory. *Id.*

Figure 3, reproduced on the next page, and its description in the specification shows each of those interactive information elements are primary objects of game play that the user will interact with.

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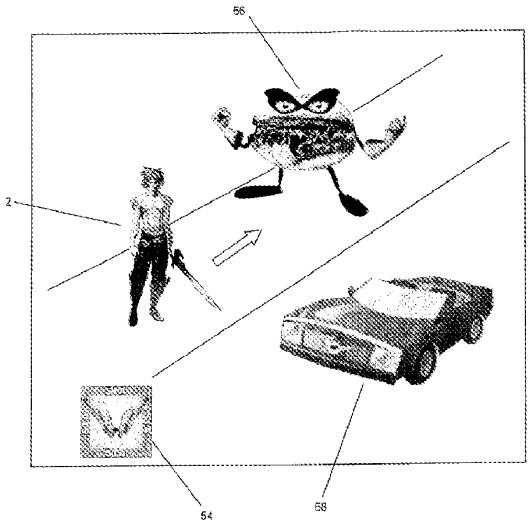


Figure 3 above is an example of the embodiment of Ho showing a wings button, a car, and a hamburger monster in the foreground. Ex. 1004, 5:1–5, Fig. 3. Ho describes how the various interactive information elements are used for game play. *See id.* at 5:11–38. For example, hamburger monster 56 may be engaged when character 52 fights and successfully slays the hamburger monster, car 58 may be engaged when character 52 enters the car, and "wings" button 54 may be engaged (for example when character 52 wishes to fly) by clicking on icon 54 using a pointer, or by using an enclosure moving between different icons to highlight icon 54 to engage the icon. *Id.* Because Petitioner has not shown persuasive evidence that a user would not have expected those objects to be ones that the user could interact with, Petitioner has not shown them to be background objects.

Petitioner also argues that Ho teaches that activating the interactive information elements "does not disrupt gameplay" and is therefore "outside the primary focus of game play." Pet. 31–32 (quoting 5:36–38). We do not find that argument persuasive for two reasons. First, we do not see how the fact that activating an element without disrupting game play means the

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element is in the background. Petitioner and its expert simply make a statement without any explanation. *See id.*; Ex. 1003 ¶ 122. Such conclusory statements are not persuasive.

Second, the language in Ho Petitioner relies on is not about the interactive information element, which Petitioner maps to the hotspot. Instead, Ho describes a sub-screen that appears after the user interacts with one of the interactive information elements, namely when the user slays the hamburger monster: "Similarly, making the character 52 slay the hamburger monster 56 may generate a sub-screen showing an advertisement of a chain of fast food restaurants. The sub-screen may also be overlain on the game environment and may not be disruptive to gameplay." Ex. 1004, 5:35–38. Petitioner does not persuasively explain how a nondisruptive sub-screen that appears after an interaction with an object makes the object a background object.

Alternatively, Petitioner argues that "Jiau's hotspots and hotspaces also disclose limitation 1(d)(i)." Pet. 32 (citing Ex. 1003 ¶ 124). Specifically, Petitioner focuses on Jiau's hot spaces and argues that "a 'hotspace' may cause a pop-up advertisement to unexpectedly appear when a user passes through a background location within a predetermined distance of an associated object." *Id.* (citing Ex. 1005 15:4–8, 17:1–6, Fig. 11(d)). Petitioner also argues that "[i]t would have been obvious to a [person having ordinary skill in the art] based on these teachings that a hotspace may define a region that contains one of several types of background objects disclosed by Jiau, such as a 'solid object' or an 'object with pass-through.'" *Id.* (citing Ex. 1003 ¶ 124; Ex. 1005, 11:18–20, 11:29–31).

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We are not sufficiently persuaded by Petitioner's argument. First, Petitioner does not sufficiently explain how a "solid object" or an "object with a pass-through" is a background object. *See* Pet. 32; Ex. 1003 ¶ 124. A "solid object" is something that "will cause the user to stop" and an "object with pass-through" is something like a tunnel that "will cause the user to pass through to the other side." Ex. 1005, 11:19–31. Neither of those appears to be a background object which is outside the focus of play and results in an unexpected interaction. Instead, Jiau describes various foreground objects that a user would expect to interact with. Although Dr. Zagal states that they are background objects, his testimony omits any explanation as to why that is so. *See* Ex. 1003 ¶ 124. Such conclusory testimony is not persuasive.

Second, limitation 1(d)(i) makes it clear that the "location in-game is represented by a non-promotional background *object*." Ex. 1001, 14:27–29 (emphasis added). But a hotspace is not an object. Instead, "a 'hotspace' is a predetermined spaced surrounding an object." Ex. 1005, 16:32–17:1. Jiau further describes how you interact with a hotspace by moving within a certain distance from the hotspace, not by interacting with an object in that space. *Id.* at 17:1–4. Petitioner has not sufficiently shown that space is an object.

Accordingly, Petitioner has not shown a reasonable likelihood of prevailing on the challenges to independent claim 1 and dependent claims 2, 3, and 6–8 based on the combination of Ho, Jiau, and Choi. *See In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious.").

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E. Obviousness Based on Ho, Jiau, Choi, and Ellis

1. Summary of Ellis

Ellis is titled "Method and System for Dynamically Incorporating Advertising Content into Multimedia Environments" and is directed to "a computer system for dynamically incorporating content such as advertisements into multimedia systems." Ex. 1007, code (54), 1:9–12.

Ellis describes a dynamic advertisement system that provides "a minimally intrusive mechanism" for "an advertiser to dynamically incorporate content, such as advertisements, into a video game." Ex. 1007, 2:31–36. Ellis's system uses a "dynamic inserter" to deliver ads to a "game client system . . . based upon a set of criteria." *Id.* at 2:42–46. Ads are provided by an ad server, which "selects a particular advertisement from its collection according to a set of criteria" in response to a request from a game client. *Id.* at 4:36–46. The ad server logs information about ad delivery, which can be used to "bill[] the advertiser . . . each time an ad is inserted into a video game." *Id.* at 19:45–60.

2. Claims 4, 5, 9, and 10

Petitioner relies on Ellis to teach various elements of claims 4, 5, 9, and 10. *See* Pet. 46–48. However, Petitioner does not rely on Ellis with regard to limitation 1(d)(i). Accordingly, for the same reasons discussed in section II.D.4, *surpa*, Petitioner has not shown a reasonable likelihood of prevailing on the challenges dependent claims 4, 5, 9, and 10 based on the combination of Hi, Jiau, Choi, and Ellis. *See Fritch*, 972 F.2d at 1266 ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious.").

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F. Obviousness Based on Sturman and Ho

1. Summary of Sturman

Sturman is titled "Matching and Scoring of Advertisements for Targeted Delivery into Multiple Video Games, Such as Single and Multiplayer Games" and is directed to "[a]n advertisement delivery scheme and associated computerized facility [to] allow advertisers to deliver their campaign messages to specific audiences they wish to target across one or multiple game titles played across multiple platforms . . . without being limited to delivering their campaign to only a single specific game title." Ex. 1006 code (54), ¶ 18. Sturman describes "[a]n advertisement delivery scheme" that "provide[s] targeted advertisements for multiple video games without advertisers having to specify specific game titles in which they would like their advertisements placed." *Id.* at code (57).

Sturman uses an advertisement server which "deliver[s] advertising to one or more advertising recipient systems." Ex. 1006 ¶ 41. This is done in response to a client "request[ing] advertisements for delivery to one or more available ad units within the client software application." *Id.* ¶ 44. The ad units are spaces that are used to display advertisements:

> In accordance with some embodiments, the advertisement delivery scheme and associated facility present advertisements as texture maps or other graphical displays (e.g., animations, video, etc.) on pre-designated geometry within the game, such as billboards, storefront signs, panel trucks, Jumbotron screens in a sports stadium, posters on walls, T-shirts on a game character, items used by game characters (e.g., a brand name soft drink or energy bar) and so on. Each of these spaces may be termed an "available ad unit" or "inventory element."

Id. ¶ 19.

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2. Claims 1–10

Petitioner argues that Sturman teaches and "renders obvious" limitation 1(d)(i). Pet. 56–57. Specifically, Petitioner argues that Sturman's advertisements are hotspots:

> Sturman teaches an "advertisement delivery scheme" that "allow[s] advertisers to deliver their campaign messages to specific audiences they wish to target across one or multiple game titles played across multiple platforms." Ex. 1006, [0018]. Sturman expressly identifies "mobile phone[s]" as one of the platforms supported by its advertisement delivery system. *Id.*, [0018], [0022], [0036]. Sturman discloses an advertisement server that delivers targeted advertisements to one or more locations within the game (referred to by Sturman as an "ad unit" or "inventory element"), such as "billboards, storefront signs, panel trucks, Jumbotron screens in a sports stadium, posters on walls, T-shirts on a game character, items used by game characters . . . and so on." *Id.* [0019], [0022].

Id. at 53; *see also id.* at 54 ("To the extent Patent Owner argues that that Sturman's advertisements are not considered to be hot spots (as that term is used in the '089 Patent), the combined teachings of Sturman and Ho disclose this limitation."). With regard to the elements of limitation 1(d)(i), Petitioner argues, Petitioner relies on Sturman's ad units:

> An ad unit may be "interactive," such that the ad unit information will identify an in-game location that may be interacted with/activated. [Ex. 1006], [0020]. Sturman also teaches that ad units may designate in-game locations represented by non-promotional background objects. Ex. 1003, ¶176. For example, Sturman's ad units may include nonpromotional in-game background elements, such as storefront signs, Jumbotron screens, posters, and t-shirts on characters. Ex. 1006, [0019].

Pet. 57.

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We are not sufficiently persuaded by Petitioner's argument. Petitioner makes a conclusory argument that Sturman's ad units are non-promotional hot spots without providing sufficient explanation. *See* Pet. 57. For example, Sturman does not describe its ad units as non-promotional objects. *See* Ex. 1006 ¶ 19. To the contrary, Sturman identifies a number of objects that a person having ordinary skill in the art would understand are or could be promotional objects such as billboard or storefront signs. *Id.* Indeed, paragraph 19 makes it clear that each of the identified ad units may be available for advertisements at the beginning of the game, *i.e.*, they start the game as ad units with promotional advertisements. Because Petitioner does not provide sufficient reasoning, Petitioner has not satisfied its burden.

Moreover, it is unclear that all of the ad units that Petitioner relies on are background objects. For example, "T-shirts on a game character" would be a foreground object if the character is in the foreground. The Petition is silent as to any reasoning as to why it is a background object. Again, Petitioner's conclusory argument without sufficient reasoning does not satisfy Petitioner's burden of persuasion.

Dr. Zagal's testimony is equally conclusory. The relevant portion of his testimony is as follows:

> Sturman's ad units may also correspond to in-game locations represented by non-promotional background objects. For example, Sturman describes a number of exemplary ad units that correspond to background elements, such as storefront signs, Jumbotron screens, posters, and t-shirts on characters. Ex. 1006, ¶19.

Ex. 1003 ¶ 176. Similar to the Petition, Dr. Zagal simply provides a conclusory statement without any reasoning as to why the ad units are "non-promotional backgrounds objects." Without such explanatory evidence, we

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give his testimony no weight. *See* 37 C.F.R. § 42.65(a) ("Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.").

In the alternative, Petitioner argues that Ho's interactive information elements are non-promotional background objects. Pet. 57–58. For the same reasons discussed above in Section II.D.4, *supra*, we are not persuaded by that argument.

Accordingly, Petitioner has not shown a reasonable likelihood of prevailing on the challenges to independent claim 1 and dependent claims 2–10 based on the combination of Sturman and Ho. *See Fritch*, 972 F.2d at 1266 ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious.").

G. Remaining Arguments

Patent Owner also argues that we should deny the Petition because of section 325(d), abuse of process, and Ho is not prior art. Because we find Petitioner has not established a reasonable likelihood that it will prevail in proving the unpatentability of at least one challenged claim of the '089 patent, those arguments are moot.

III. CONCLUSION

For the foregoing reasons and on the present record, we determine that the information presented in the Petition does not demonstrate a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of any of the challenged claims of the '089 patent.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is *denied*.

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Trials@uspto.gov
571-272-7822

Paper 10
Date: April 29, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLR WORLDWIDE SALES LTD.,
Petitioner,

v.

FLIP PHONE GAMES INC.,
Patent Owner.

IPR2024-00133
Patent 8,688,089 B2

Before DAVID C. McKONE, DANIEL J. GALLIGAN, and SCOTT B. HOWARD, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*, dissenting.

I respectfully dissent.

Independent claims 1 and 6 recite "a location in-game associated with activating the hot spot, *wherein the location in-game is represented by a non-promotional background object*" (emphasis added). The italicized language was added during prosecution of the application for the '089 patent and is the focus of the parties' dispute. *See* Prelim. Resp. 8–12 (overview of prosecution history), 26–36 (addressing merits of Petitioner's grounds).

For the reasons explained below, I do not believe that the disputed language is a distinguishing feature over the prior art asserted in this proceeding. I also question whether it should be given any patentable

weight at all, and, if this trial were instituted, I would invite the parties to brief that issue.

For its ground based on Sturman and Ho, Petitioner asserts that "Sturman's ad units may include non-promotional in-game background elements, such as storefront signs, Jumbotron screens, posters, and t-shirts on characters." Pet. 57 (citing Ex. 1006 ¶ 19). Patent Owner contends that "the elements disclosed in Sturman as locations for Sturman's advertisements—*e.g.*, 'storefront signs'; 'Jumbotron screens'; 'posters'—are plainly not 'non-promotional' objects." Prelim. Resp. 35. According to Patent Owner, "during prosecution, the Applicant explained that the claimed 'non-promotional object is not an ordinary or visible place for advertisement' and, relatedly, distinguished the claim 'non-promotional' object from the advertising placards disclosed in Lauper." Prelim. Resp. 36 (citing Ex. 1002, 122).

I disagree with Patent Owner because it is not clear to me why something like a Jumbotron is "promotional." A "Jumbotron screen[] in a sports stadium" (Ex. 1006 ¶ 19) is simply a medium by which to convey information, and in a sports stadium such information often includes player and team statistics. Patent Owner relies on a statement from the prosecution history that a "non-promotional object is not an ordinary or visible place for advertisement." Ex. 1002, 122, *quoted in* Prelim. Resp. 36. It is not clear to me how a location that is not "visible" would include an advertisement, and, therefore, I do not find this argument during prosecution to be very enlightening as to the meaning of "non-promotional background object."

Patent Owner also argues that posters "are plainly not 'non-promotional' objects." Prelim. Resp. 35. I find this argument

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particularly unpersuasive given the applicant's arguments during prosecution relying on the description of Figure 2A, which expressly includes a poster. The applicant argued:

> In an exemplary embodiment, the location in-game may be represented by a non-promotional object, such as a blank chalk board depicted in the background of the gaming environment. *See* Applicant's Specification at ¶ [0045]. Upon activating the hot spot (e.g., by throwing a dart at the chalk board), a promotional message may be drawn on the chalk board and displayed to the user. *See id.* In other words, Applicant's amended claims 15 and 22, *inter alia*, may present promotional content once the game user activates, unknowingly, a "hot spot" associated with a non-promotional object—the non-promotional object is not an ordinary or visible place for advertisement, the user does not know that the object has a hidden hot spot, and the user does not know that activating the hidden "hot spot" will display promotional content.

Ex. 1002, 122.

Paragraph 45 of the originally-filed application corresponds to column 6, lines 44–54 of the '089 patent, which describes Figure 2A, reproduced below.

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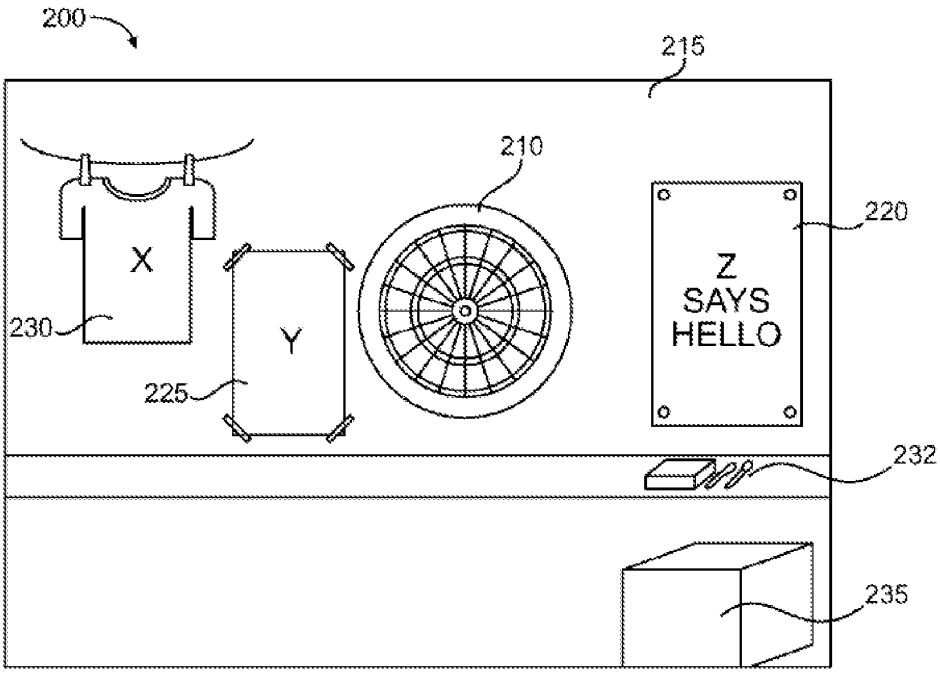


Figure 2A illustrates "an exemplary scene in a video game played on a mobile communication device." Ex. 1001, 3:43–45. The '089 describes Figure 2A and the elements within it as follows:

> Turning now to FIG. 2A, several items 210, 220, 225, 230, and 235 are shown within scene 200. In this example, virtually any of these items may be defined as hot spots on the mobile communication device. For instance, if the user throws a dart that hits shirt 230, a promotional message associated with third party X may pop up on screen. A message may include a picture, text, video, audio, or combination thereof. Promotional messages might also be displayed if the user activates hot spots on poster 225 or chalk board 220. Additionally, if the user activates a hot spot defining a piece of chalk 232, a new message might be drawn on chalk board 220.

Ex. 1001, 6:44–54. It is not clear why Sturman's poster is "plainly not 'non-promotional'" (Prelim. Resp. 35) while the '089 patent's poster 225 presumably is a "non-promotional background object" given the applicant's

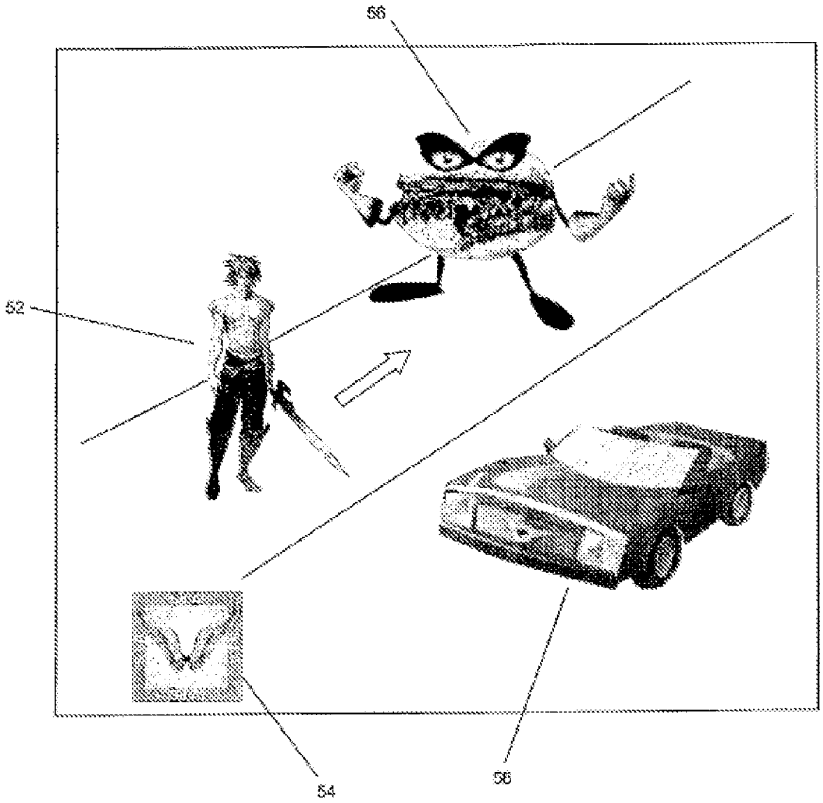
citation of this disclosure in support of its claim amendments.

Ex. 1002, 122.

During prosecution, the applicant specifically relied on the chalk board, not the poster, in paragraph 45 of the originally-filed specification. The applicant argued that "the location in-game may be represented by a non-promotional object, such as a blank chalk board depicted in the background of the gaming environment." Ex. 1002, 122 (citing Spec. ¶ 45). I have two issues with this argument. First, a chalk board is not inherently promotional or non-promotional but certainly can be used to convey promotional information, such as when a café advertises its menu using a chalk board on a sidewalk. Second, I do not view chalk board 220 as "depicted in the background," as asserted by the applicant. *See* Ex. 1002, 122. It appears to be in the same plane as dart board 210. This is a matter of human perception and not related to any particular technological feature of the alleged invention. Indeed, Sturman discloses displaying ads on "pre-designated geometry within the game," which presumably can be any part of the screen. Ex. 1006 ¶ 19. The '089 patent does not disclose any graphics rendering techniques that distinguish foreground and background objects. Patent Owner, however, relies on an alleged distinction between background and foreground in disputing Petitioner's contentions based on Ho.

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Ho's Figure 3 is reproduced below.



Ho's Figure 3 above "shows examples of the interactive information elements being incorporated in a" massively multiplayer online role playing game (MMORPG). Ex. 1004, 5:1–2. Figure 3 depicts character 52, "wings" button 54, hamburger monster 56, and car 58. Patent Owner asserts that Ho's Figure 3 "depicts each of the exemplary 'interactive information elements' of Ho in the ***foreground***." Prelim. Resp. 31. That may be Patent Owner's perception of Figure 3, but I see no distinction between the spatial relationship of the elements depicted in Ho's Figure 3 and the spatial relationship of dart board 210 and chalk board 220 in Figure 2A of the '089 patent.

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In asserting that Ho teaches that the elements in Figure 3 are in the background, Petitioner relies on statements the applicant made during prosecution about what it means to be in the background. Pet. 31–32 (citing Ex. 1002, 85). Specifically, during prosecution, the applicant distinguished prior art game components that were allegedly "featured objects that a user manipulates in order to play the game" and asserted that "the recited 'non-promotional background objects' are not game components, but instead they exist in the background, outside of the primary focus of game play and as unexpectedly interactive components, and are not themselves needed or required in order to play the game." Ex. 1002, 85. Petitioner argues that Ho teaches these characteristics by its disclosure that engaging with the interactive information elements is not mandatory and that activating them does not disrupt the game. Pet. 31–32 (citing Ex. 1004, 4:26–28, 5:30–33, 5:36–38).

Patent Owner responds that Ho's interactive information elements are "designed to be manipulated or used during game play" and "intended for user interaction" and, thus, "do not 'exist in the ***background***, outside of the primary focus of game play and as ***unexpectedly*** interactive components.'" Prelim. Resp. 32–35 (quoting Ex. 1002 at 85; citing Ex. 1004, 4:22–29, 5:1–5, Fig. 3)." During prosecution the applicant made other distinctions over the asserted prior art based on what a user would expect, arguing that its amended claims

> may present promotional content once the game user activates, unknowingly, a "hot spot" associated with a non-promotional object—the non-promotional object is not an ordinary or visible place for advertisement, the user does not know that the object has a hidden hot spot, and the user does not know that

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> activating the hidden "hot spot" will display promotional content.

Ex. 1002, 122.

I find the applicant's and Patent Owner's reliance on what a user might know or expect to be problematic. The method of claim 1 and the system of claim 6 are defined in terms of steps and operations of a computer, which is programmed to perform certain functions regardless of how a user perceives something. Patent Owner appears to be asserting that, if a user knows that a spot on the screen is a hot spot, then the claims are not met. I do not think a claim can be drafted to cover or exclude such knowledge. Under Patent Owner's theory, the second time the user plays an infringing game and knows the hot spots, the claim is not infringed. This seems incorrect.

Furthermore, as discussed above, the applicant's arguments during prosecution relied on the chalk board of Figure 2A as allegedly "depicted in the background of a gaming environment." Ex. 1002, 122. That gaming environment is a dart game, and someone who has played darts and sees chalk 232 and chalk board 220 may very well expect those items to be part of the game, as they often are in the real world for keeping score. Thus, I do not see how the arguments made during prosecution show patentable distinctions over the art.

Even assuming Patent Owner's position is correct that the claims are defined by what a user might perceive, know, or expect, I find Petitioner's contentions sufficiently persuasive based on the combined teachings of Sturman and Ho. Sturman discloses that a "Jumbotron screen[] in a sports stadium" is an "available ad unit." Ex. 1006 ¶ 19. In a sports video game, I consider a Jumbotron in a sports stadium to "exist in the background, outside

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of the primary focus of game play," and not to be "needed or required in order to play the game," as the applicant described a background object during prosecution. Ex. 1002, 85. I also consider a Jumbotron to be "non-promotional," as discussed above. On this record, I find sufficiently persuasive Petitioner's proposed combination of Sturman's available ad unit teachings with Ho's disclosure of delivering ads to certain designated areas of a screen when activated. *See* Pet. 49 ("Ho's teachings relating to interactive information elements are then applied to make Sturman's advertisements interactive, such that they are provided as a hot spot corresponding to an in-game character or object, with the advertisement appearing only when a player interacts with the hot spot location."). In the proposed combination, therefore, Sturman's available ad units as modified are "unexpectedly interactive components." *See* Ex. 1002, 85. Indeed, Sturman discloses that "[a]vailable ad units may also be available at the beginning of a game, at the end of a game, [and] in between levels (e.g., as commercial-like intermissions)" and that "available ad units may be interactive within the game context." Ex. 1006 ¶¶ 19–20, *cited in* Pet. 56–57. Thus, I believe Ho's interactive information element teachings fit well with Sturman's available ad unit teachings. *See* Pet. 51 ("Ho teaches specific improvements that are complementary to Sturman's teachings and further improve the effectiveness of Sturman's in-game ads."). On this record, I also agree with Petitioner that "incorporating Ho's teachings into Sturman would be straightforward and well within the capabilities of a" person of ordinary skill in the art. *See* Pet. 53; *see also KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007) ("[W]hen a patent simply arranges old elements with each performing the same function it had been

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known to perform and yields no more than one would expect from such an arrangement, the combination is obvious." (quotation omitted)).

I believe the record shows "a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a). I do not believe Patent Owner has set forth any persuasive reason to exercise discretion to deny.

I do not believe denial under 35 U.S.C. § 325(d) is appropriate here. *See* Prelim. Resp. 12–25. The Notice of Allowance states that the claims were allowed based on "the Applicant's arguments & remarks filed on 07/15/2013." Ex. 1002, 68. Those remarks include the argument that "non-promotional background objects" are "unexpectedly interactive components" and, thus, rely on what a human might perceive something to be. Ex. 1002, 85. I believe the Office erred in allowing the claims based on the arguments presented.

Patent Owner argues that Petitioner's conduct amounts to an "abuse of process" because Petitioner is arguing that certain claim terms are indefinite in district court while asserting in this proceeding that no claim terms require construction. Prelim. Resp. 21–25. I disagree because indefiniteness "does not necessarily preclude the Board from addressing the patentability of the claims on section 102 and 103 grounds." *Samsung Elecs. Am. Inc. v. Priusa Eng'g Corp.*, 948 F.3d 1342, 1355 (Fed. Cir. 2020).

Patent Owner argues that we should give no weight to the testimony of Dr. José Zagal, Petitioner's technical declarant, because it largely parrots the Petition. Prelim. Resp. 36–42 (citing *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (PTAB Aug. 24, 2022) (precedential)). I disagree. *Xerox* stands for the proposition that a declaration is entitled to

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little weight when it restates a petition's unsupported, conclusory assertions without any additional supporting evidence or reasoning. IPR2022 00624, Paper 9 at 15 ("Dr. Jones does not cite to any additional supporting evidence or provide any technical reasoning to support his statement. Thus, the cited declaration testimony is conclusory and unsupported, adds little to the conclusory assertion for which it is offered to support, and is entitled to little weight."). I believe that the assertions in the Petition are sufficiently supported by the teachings of the references, thus distinguishing this situation from the one described in *Xerox*.

I also disagree with Patent Owner's interpretation of 35 U.S.C. § 311(b) as not allowing published patent applications to be used unless their publication dates precede the invention date of the challenged patent, and, therefore, I would not deny on this basis. *See* Prelim. Resp. 42–45.

If a trial were instituted, I would invite the parties to brief what, if any, patentable weight should be accorded the claim phrase "wherein the location in-game is represented by a non-promotional background object." I do not believe there is any dispute that the prior art relied on during prosecution and the prior art asserted in this proceeding show "a location in-game associated with activating the hot spot." For example, the arguments during prosecution acknowledged that the relied-on prior art "provides several . . . examples of areas/locations that may be updated within a game using [an] advertising system." Ex. 1002, 84–85. The alleged distinction over any art, therefore, is simply how the location is represented on a screen, which, according to the applicant's arguments during prosecution, largely depends on what a user might perceive or expect, as discussed above.

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On the present record, I question how content's status as "non-promotional" lends patentable weight. Just as "[i]nforming a patient about the benefits of a drug in no way transforms the process of taking the drug with food," *King Pharmaceuticals, Inc. v. Eon Labs, Inc.*, 616 F.3d 1267, 1279 (Fed. Cir. 2010), a computer's process for displaying information on activation of a hot spot does not change based on how a user might perceive a hot spot location. Rather, the computer performs as programmed on activation of the hot spot. Similarly, on the present record, I question how the perception of an object as being in the foreground or in the background lends patentable weight in view of the disclosure of the '089 patent, which mentions "background" in terms of the video game only once: "For example, the background of the video game might contain a permanent advertisement for a third party." Ex. 1001, 1:55–57. The '089 patent does not teach any techniques for programming a computer to present images that a user will perceive as in the background rather than in the foreground, such as through a particular graphics rendering process. Thus, on this record, I do not see how a human's perception of an object as being in the background of a video game has a functional or structural relation to the claimed computer methods and systems. *See In re Distefano*, 808 F.3d 845, 850 (Fed. Cir. 2015) ("Printed matter is given [patentable] weight if the claimed informational content has a functional or structural relation to the substrate."); *see also King Pharms.*, 616 F.3d at 1279 (explaining that the "rationale behind [the printed matter] line of cases is preventing the indefinite patenting of known products by the simple inclusion of novel, yet functionally unrelated limitations."). For these reasons, I would invite further briefing on the matter.

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For the foregoing reasons, I would institute trial, and, therefore, I respectfully dissent.

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