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Application No.	Ref.	Date
00 981 582.0 - 1225	44703/1/JO	01.06.2006
Applicant Almondnet, Inc.		

Communication pursuant to Article 96(2) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).

Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).

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Boyadzhiev, Y
Primary Examiner
for the Examining Division

Enclosure(s): 6 page/s reasons (Form 2906)

Registered Letter
EPO Form 2001 07.02CSX

FreeWheel, Ex. 1108

The examination is being carried out on the **following application documents**:

Description, Pages

1-28 as published

Claims, Numbers

1-12 as published

Drawings, Sheets

1/3-3/3 as published

1. Reference is made to the following documents (D1-D3); the numbering will be adhered to in the rest of the procedure:

D1: WO 98/59481 A (INFORONICS INC ;BUCKLAND BRUCE H) 30 December 1998

D2: BRODY R: "The conditions and consequences of profiling in commercial and governmental settings" TECHNOLOGY AND SOCIETY, 1998. ISTAS 98. WIRING THE WORLD: THE IMPACT OF INFORMATION TECHNOLOGY ON SOCIETY., PROCEEDINGS OF THE 1998 INTERNATIONAL SYMPOSIUM ON SOUTH BEND, IN, USA 12-13 JUNE 1998, NEW YORK, NY, USA,IEEE, US, 12 June 1998 (1998-06-12), pages 148-154, XP010291443 ISBN: 0-7803-4327-1

D3: US-A-5 724 521 (DEDRICK RICK) 3 March 1998 (1998-03-03)

Article 56 EPC

2.The present application does not meet the requirements of Article 52(1) EPC because, the subject-matter of claims 1-12 does not involve an inventive step in the sense of Article 56 EPC.

2.1 The present invention relates (p.5 lines 10 and 11) to a method and a system for making electronic commerce with user profile attribute(s). Namely the present invention is related (see p.6 lines 10-14) to the process of contracting between a user and a server comprising a databank (database) for baying/selling profile attribute(s). The process of baying and selling these profile attributes is arranged according to a contract between the user and the server (the databank). The contracting process between the user and the server is defined in claim 1 as follows:

for the server (databank) : as a process of arranging an **<u>contract to own or represent a right</u>** of a portion of a profile and incorporate an agreed portion of it into the server databank; and

for the user: as a process which allows the user **<u>to own and represent a right to a</u>**

second partial profile transmitted from the databank to the user.

2.1.1 The method of claim 1 has three main steps:
a) the step of receiving a transaction having therein a partial profile;
b) the searching step for at least one proximate group) profile into the database; and
c) the contracting step between the user and the database to **own and represent a right of user profile attribute(s).**

2.1.2 The steps under "a)" and "b)" of claim 1 related to receiving, extracting, matching portions (attribute(s)) of user profiles and the features of step "c)" related to integrating (incorporating) and transmitting profile attribute(s) are well known in the art of network information systems (as exemplified in D1 and D2). The difference between the subject-matter of claim 1 and closest prior art is the feature defined by the contracting step of claim 1. Although the features of claim 1 are considered technical, the claim as a whole seeks to solve an aim in a non-technical (business) field, namely to arrange a contract between a user and a server comprising a database to **own and represent a right of user profile attribute(s)**.

The idea behind this aim, as presented by the applicant, is to arrange a contract to own and represent right of user profile attributes, the contract includes an obligation to pay for each purchase of one or more attribute(s) a brokerage fee to the user or to the web site which have provided the profile attribute(s). This fact lies however in the realm of business and is remote from the realm of computer engineering. In fact, it is obvious that the person suggesting introducing of contract to own and represent rights of user profile attributes to a known information system, is one acting as a business person pursuing the aim of getting brokerage fee for users profile attribute(s) and not acting as a technical expert.

2.2 The technical aspects come into consideration only when implementing the contracting conditions between the user and the server comprising the database.

Since network information systems comprising user profile database which receives, stores, matches, filters and transmits portions of user profiles are well known in the art (as stated in §2.1.2) the difference between that closest prior art and the subject-matter specified in claim 1 is as follows :

(A) the contracting step as defined in step "c)" of claim 1

Although the technical problem to be solved should not be formulated to contain pointers to the solution or partially anticipate it, merely because some feature appears in the claim does not automatically exclude it from appearing in the formulation of the problem. In particular where the claim refers to an aim to be achieved in a non-technical field, this aim may legitimately appear in the formulation of the problem as part of the framework of the technical problem that is to be solved, in particular as a constraint that has to be met (COMVIK T641/00).

The objective technical problem may therefore be formulated as "how to implement the contracting between the user and the databank of partial profiles, in a network information system".

It has to be noted here that the skilled person concerned with the computer implementation of this business system is someone skilled in data processing, and not merely a business man (COMVIK T641/00 and see also §2.1.2).

Since network information systems comprising user profile database which receives, stores, matches, filters and transmits attribute(s) of user profiles are well known in the art (as exemplified in D1 and D2), the solution as specified in claim 1, is namely to include the contracting step between the user and the database into a known network information system. This step is therefore a straightforward implementation consequence the skilled person would immediately consider - without any inventive activity - when confronted with the objective technical problem stated above.

Hence, claim 1 is not considered to satisfy the requirements of Article 56 EPC.

2.3 Corresponding inventive step objections apply mutatis mutandis to independent claims 10-12.

2.4 The additional features of dependent claims 2-9 represent trivial implementation details and do not contain any features which in combination with the features of any claim to which they refer, meet the requirements of the EPC with respect to inventive step.

Article 84 EPC

3. The attention of the applicant is drawn to the fact that the application in its present form does not meet the requirements of Article 84 EPC, because claims 1-3,7,9,10-12 are not clear.

3.1 The expression "... method, **for use** at a juncture **in a** data-communications topology" used in the preamble of claim 1, makes it unclear whether the protection sought is limited to the method or to the system. To avoid ambiguity the applicant should amend the wording of the claim in order that the claim should be directed either to the method or to the system per SE (Guidelines, C-III, 4.8b).

The above objection (§3.1) applies to the expression "A computer **system for facilitating ... method**" used in the preamble of claim 12.

3.2 The expression "**proximate** second file" is vague a renders the subject-matter of this claim unclear. In the light of the description (p.16 lines 12-19) it appears the proximate second profile is a group profile that matches the first partial profile. The applicant should amend the wording of the claim (Article 84 EPC).

The above objections under §3.2 also applies to the use of the same expression in claims 10-12.

3.3 The expression "substantially thereafter" used in claim 1 is indefinite and renders the subject-matter the claim unclear.

The above objections under §3.3 also applies to the same expression in claims 10-12.

3.4 It appears that the applicant's intention was to define the subject-matter of claim 10 as a computer-readable program product (according to the method of claim 1) and the subject-matter of claim 11 as a computer recording medium having recorded the computer program of claim 10. In order to avoid redundant repetition it is suggested to define the subject-matter of these claims with a reference to the method of claim 1.

3.5 The expression "key portion" used in claim 2 is vague and leaves the reader in doubt

as to the meaning of the technical feature(s) to which it refers. In the light of the description key portion is interpreted as an attribute of the partial profile.

3.5.1 The above objection also applies to the use of the expression "composite key" used in claim 3. The composite key is interpreted in the light of the description as a combination of attributes in a partial profile.

3.6 The expression "substantially like" used in claim 7 is unclear and therefore should be deleted.

3.7 Claim 9 should be accordingly redrafted in order to make it clear that the features under "a)" are part of it.

Closing remarks

4. It should be noted that the present application is not based on the recognition of an unrecognized problem that may give rise to patentable subject-matter. The present patent application is likely to be refused as one of the next official actions as it is not at present apparent which part of the application could serve as a basis for a new, allowable claim. Should the applicant regard some particular subject-matter patentable, he is requested to redraft the current version of the claims so that all deficiencies are removed and non-obvious subject-matter is claimed.

4.1 Non-obviousness of the subject-matter has to be demonstrated by defining the difference between the claimed subject-matter and the teaching of D1 to D3. According to this difference the problem underlying the alleged invention has to be defined and the proposed solution (i.e. the subject-matter of the next version of the claims) has to be demonstrated to be non-obviously derivable from the available prior art. This should be shown e.g., by indicating advantageous and unexpected properties(effects) of said next version of the claimed subject-matter.

4.2 When filing amendments the applicant should take account of the above comments, the usual requirements concerning the two-part-form for the independent claim(s), the use of reference signs in all claims (Rule 29 EPC), the acknowledgement of the relevant prior art D1 and D2 and the adaption of the description to the claims (Rule 27 EPC), preferably

by including the usual reference to the claims, should also be complied with.

4.3 The attention of the applicant is drawn to the fact that the application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC).

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Date
17-01-2007

Reference	Application No./Patent No.
JE/GM/N19245	00981582.0 - 1225
Applicant/Proprietor	
Almondnet, Inc.	

Noting of loss of rights (R. 69(1) EPC)

The European Patent application is deemed to be withdrawn under Article 96(3) EPC, because the invitation to file observations on the communication from the Examining Division dated 01.06.06 was not complied with.

Request for decision
If the applicant considers that this finding is inaccurate, he may, within (a non-extendable period of) **two months** after notification of this communication, apply in writing for a decision on the matter by the European Patent Office (R. 69(2) EPC). The application can only lead to the finding being reversed, if this does not actually correspond to the factual or legal situation.

Further processing of the application
The legal consequence that the application is deemed withdrawn will be retracted if within (a non-extendable period of) **two months** after notification of this communication further processing of the European patent application under Article 121 EPC is requested in writing, the fee for further processing is paid in accordance with the Rules Relating to Fees, and the omitted act is completed.

For the Examining Division

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Registered letter
EPO Form 2021A 01.95 10.01.07 ADWI 11

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Our Ref: JE/N19245 27 March 2007

Dear Sirs,

European Patent Application No. 00981582.0-1225
Almondnet, Inc.

We are writing in reply to the official communication dated 1 June 2006. We hereby request further processing and have paid the requisite fee herewith.

We enclose an amended pages 4 and 5 and amended claims to replace those presently on file. The claims have been amended to address the objections raised in paragraphs 3.1 to 3.6 of the official communication. The independent claims have been amended to be specifically directed to a method and system respectfully, and claims 10 and 11 have been made dependent.

With regard to paragraph 3.2, the claim wording has been amended to remove the reference to an intended result. It would be clear to the skilled reader that searching a databank that includes at least one null profile would inherently result in a match. In place of the statement of intended result, the language of part (c) of claim 1 has been amended to connect the "second partial profile" to the result of the searching step of part (b). The removal of the intended result term from part (b) and its replacement in part (c) does not materially change the scope of protection or introduce in any way added subject matter. This terminology also appears consistent with the intention of the originally filed claims and the application.

The balance of the changes to claim 1 merely rearrange the order of certain of the phrases of the claim, for improved clarity, or make the terminology match, for internal consistency.

Claim 2 has been amended in line with the interpretation given by the Examining Division. However, in view of the amendment to claim 2, it is respectfully submitted that the feature "composite key" of claim 3 does not require clarification as claim 3 now in fact defines this term.

The step a) appearing immediately below claim 9 was in fact intended to be a separate claim (hence the dependency language) and has been amended accordingly.

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VAT Registration Number: GB 232 9435 65

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A few additional changes to claims 2-13 are included to remove redundant material or make the dependent claims consistent with the changes to claim 1.

With regard to paragraph 2 of the official communication, the applicant respectfully disagrees with the conclusion of the Examining Division. None of the cited documents disclose or suggest a method or system in which a databank includes a null profile to ensure a search will always yield a result. Additionally, the cited documents do not disclose or suggest the databank incorporating a portion of the first profile into the second partial profile or transmitting a portion of the second profile to the user. These are technical implementation features that improve the matching performance of the method/system and are neither disclosed nor obvious from the prior art.

Reference numerals have been inserted into the claims and D1 and D2 acknowledged on page 4. The statement of invention on page 4 has been amended to agree with the amended claims.

We believe that this letter and its attachments address all of the objections raised. Purely as a precautionary measure, in the event that the Examining Division is minded to reject this application we hereby request oral proceedings.

Yours faithfully
Williams Powell

Jonathan Exell

server that installed that cookie, or from another third party who so acquired the data from a chain of parties going back to that cookie setting server, etc.

Contract: An agreement between a user and a system incorporating the method of the present invention wherein ownership of an attribute or a right to represent an attribute is transferred from one party to another for an agreed consideration. Generally, examples include a purchase of an attribute for cash or credit, or an acceptance of an attribute according to a brokerage fee schedule. More specifically, since there are many problems in assigning the value of an attribute, the system of the present invention may simply agree to store new attributes with the proviso that users wishing to acquire a copy of these attributes will transfer a payment specified by the original attribute provider (the royalty payment) to that provider and a brokerage fee for providing this service payable to the system's account. Alternatively, the attribute provider or the system may elect to assign a value to an attribute using a formula which factors in such parameters as newness of the attribute, geographical extent wherein the attribute is of presumable value, veracity of the attribute, etc.

Document WO 98/59481 discloses an apparatus and method for identifying clients accessing network sites. The document "The conditions and consequences of profiling in commercial and governmental settings" by Brody R, ISBN 0-7803-4327-1 pages 148-154 discusses profiling in commercial and governmental settings and consequences of collection, manipulation and analysis of profile data.

SUMMARY OF THE INVENTION

According to an aspect of the present invention, there is provided a computer implemented method according to claim 1. According to another aspect of the present invention, there is provided a computer system according to claim 13.

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The present invention comes to provide a means for making viable the economic commerce in information attributes. Since the value of such attribute will only become well understood with the implementation of the present method in the electronic commerce marketplace, the present best enabling mode for the present invention operates on a brokerage representation model. According to this model, a typical use of the present invention may be according to the following scenario.

An electronically facilitated visitor to an Internet web-site presents his credentials. These credentials could be the visitor profile itself or a cookie or a user name and so forth that enables the site to retrieve the visitor profile or any combination of the above. Of course, it could be that the site does not have a profile of the visitor to that web-site. The web-site may make better profit from the visitation if it were to know more about the visitor. The web-site forwards particulars from the visitor's credentials (a partial profile), as well as (optionally) a redirect to a portion of the visitor's page to a server located in cyberspace (at a juncture in a data communications topology). By redirecting a portion of the visitor's page to the server, the visitor's browser reports to the server a cookie the server put on the visitor's computer in the past, if any. This server interconnects the user's transactions and the server own cookie (if used) with a computer having therein software for running the method of the present invention. Associated with

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CLAIMS

1. A computer-implemented method for processing profiles at a juncture in a data-communications topology having associated therewith a maintained databank of partial profiles, the method including the steps of:
a) from a user (3), receiving (5) a transaction having therein a first partial profile;
b) using the first partial profile, searching (6) a databank (7) having a plurality of second partial profiles, wherein included in said databank is at least one null profile;
c) between the user and the databank:
i) identifying a first mutually agreed portion of the first partial profile for which the databank shall own or represent a right, and incorporating the first mutually agreed portion of the first partial profile into at least one second partial profile of the databank resulting from the searching step (10); or
ii) identifying a second mutually agreed portion of at least one said second partial profile of the databank resulting from the searching step, for which the user shall own or represent a right, and transmitting the second mutually agreed portion of the second partial profile from the databank to the user (9).

2. The method according to claim 1 wherein receiving a transaction includes extracting at least one predetermined attribute of the first partial profile, wherein at least one of these extracted predetermined attributes is then used as the first partial profile for the searching of the databank.

3. The method according to claim 2 wherein part (b) includes constructing at least one composite key for the searching of the databank using a combinatorial of at least two of the predetermined attributes of the first partial profile.

4. The method according to claim 1 wherein part (c) includes selecting a pricing structure according to a rating of the user.

5. The method according to claim 1 wherein part (c) includes accepting an obligation to pay for substantially each use or transfer of the agreed portion.

6. The method according to claim 1 wherein incorporating in part (c)(i) the agreed portion includes assigning a credibility weighting to the agreed portion of the first profile.

7. The method according to claim 6 wherein incorporating in part (c)(i) includes convoluting the assigned credibility weighting of the first profile with a pre-existing credibility weighting of a portion of the second partial profile resulting from the searching step; and storing in the databank the convoluted new credibility weighting for the agreed portion.

8. The method according to claim 7 wherein part (c) includes selecting a pricing structure according to a result of a computation comparing the new credibility weighting with the pre-existing credibility weighting.

9. The method according to claim 1 wherein receiving a transaction includes consulting an external database (11).

10. The method according to claim 1 further comprising:
i) searching at least one external database (11) for a partial profile or portion thereof that complements at least one second partial profile of the databank, and
ii) between the database and the databank, contracting for the databank to own or represent a right to a first mutually agreed portion of the complementing first partial profile, and incorporating the agreed portion of the first profile into at least one second partial profile of the databank.

11. A computer program comprising computer program code means for performing all of the steps of any of claims 1 to 10 when said program is run on a computer..

12. A computer program as claimed in claim 11 embodied on a computer readable medium.

13. A computer system including:

a) a computer (40) installed at a juncture in a data-communications topology;

b) associated with said computer, a storage device (42) for keeping a maintained databank of partial profiles; and

c) the computer system being arranged to:

i) receive (5), from a user (3), a transaction having therein a first partial profile;

ii) using the first partial profile, search (6) a databank (7) having a plurality of second partial profiles, wherein is included in said databank at least one null profile;

iii) facilitate between the user and the databank:

(1) identification of a first mutually agreed portion of the first partial profile for which the databank shall own or represent a right, and incorporate the first mutually agreed portion of the first partial profile into at least one second partial profile resulting from the searching step (10); or

(2) identification of a second mutually agreed portion of at least one second partial profile of the databank resulting from the searching step, for which the databank shall own or represent a right, and transmit the second mutually agreed portion of the second profile from the databank to the user (9).

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Date
15-07-2008

Reference	Application No./Patent No.
JE/GM/N19245	00981582.0 - 1225 / 1238353
Applicant/Proprietor	
Almondnet, Inc.	

Summons to attend oral proceedings pursuant to Rule 115(1) EPC

You are hereby summoned to attend oral proceedings arranged in connection with the above-mentioned European patent application.

The matters to be discussed are set out in the communication accompanying this summons (EPO Form 2906).

The oral proceedings, which will not be public, will take place before the Examining Division.

on 26.09.08 at 10.00 hrs, EPO Rijswijk
Patentlaan 3-9, NL-2288 EE Rijswijk (ZH)

No changes to the date of the oral proceedings can be made, except on serious grounds (see OJ EPO 10/2000, 456).
If you do not appear as summoned, the oral proceedings may continue without you (R. 115(2) EPC).
Your attention is drawn to Rule 4 EPC, regarding the language of the oral proceedings, and to the OJ EPO 9/1991, 489, concerning the filing of authorisations for company employees and lawyers acting as representatives before the EPO.

The final date for making written submissions and/or amendments (R. 116 EPC), is 26.08.08.

The actual room number will be given to you by the porter in the foyer at the above EPO address. A waiting room (S00C06) will be available (tel.: 9105, fax: 9110).

Parking is available free of charge in the underground car park (see map enclosed).

1st Examiner:	2nd Member:	Chairman:
Boyadzhiev Y	Bernardi L	Nicoli F

For the Examining Division

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Annexes:
Confirmation of receipt (Form 2936)
Communication (EPO Form 2906)

Registered letter with advice of delivery

to EPO postal service: 09.07.08

EPO Form 2008 12.07 [ORAL03=C000] 09.07.08

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4. Request language service to provide simultaneous interpretation facilities as necessary

..... Date Initials

5. Return the dossier to primary examiner after dispatching the summons

..... Date Initials

6. Check that summons has been received (Form 2936 / advice of delivery)

7. 15 days before the oral proceedings:
- dispatch the dossier to the primary examiner.

26/06/08
Date

Nicoli, Félix Chairman	Bernardi, Luca 2nd examiner	Boyadzhiev, Yavor 1st examiner	Legal member

Enclosure(s):
ep0751471

The examination is being carried out on the **following application documents**:

Description, Pages		
1-3, 6-28	as published	
4, 5	filed with telefax on	27.03.2007
Claims, Numbers		
1-12	filed with telefax on	27.03.2007
Drawings, Sheets		
1/3-3/3	as published	

1. The following document (D4) is cited by the Examiner (see Guidelines C-VI, 8.2 and 8.3). A copy of the document is annexed to the communication and the numbering will be adhered to in the rest of the procedure:
D4: EP-0 751 471 A1 (LASHKARI Y Z ET AL) 02 January 1997 (1997-01-02)

Article 123(2) EPC

2. The amendments filed with telefax on 27.03-2007 introduce subject-matter which extends beyond the content of the application as filed, contrary to the requirements of Article 123(2) EPC.

2.1 INDEPENDENT CLAIM 1

a) The statement: "... wherein is included in said databank at least one null profile so that said searching will always yield at least one proximate second partial profile to the first partial profile" used in step "b)" of the original claim 1 was replaced with the expression: "... wherein included in said databank is at least one null profile". The foregoing replacement merely defined that the databank includes a null profile and leaves the skilled person with different possible interpretations on how said "null profile" is used. However, from claim 1 and the description (p.4 lines 25-27) as originally filled, it is clear hat said null profile is used to provide at least one proximate second partial profile. The above replacement is therefore, considered by the Examining Division (ED), as a generalisation which is not directly an unambiguously derivable from the application as originally filed.

b) The expression "contracting" was deleted from the definition of step "c)".
Additionally the statement "identifying a first mutually agreed portion of the first partial profile for which the databank ..." and "of the databank resulting from the searching step (10);" and "identifying a second mutually agreed portion of at least one said second partial profile of the databank resulting from the searching step" were added to the sub-step "i)" and "ii)" of the step "c"). The ED notes that the method of the present application in all

disclosed embodiments includes the contracting step between the user and the databank and said step is considered to be an essential feature of the invention. Moreover, the ED notes, the application as originally filed does not provide any identification of profile portion during the contracting step. The contracting step according to the description (p.8 lines 17-21) only defines a pricing structure/model for contracting a right which includes an obligation to pay for the transfer of the agreed portion of the profile.

The above objection, also applies, mutatis mutandis, to the corresponding independent claims 11-13 which are also not allowable under Article 123(2) EPC for the same reasons as stated above (§2.1).

2.2 Dependent claims 2-10 are also not allowable under Article 123(2) EPC, as dependent on claim 1.

Article 84 EPC

3. The newly filed claim 13 is defined in terms of a computer system. However, the sub-features "1)" and "2)" refer to "the searching step (10)". The ED notes that the features of a system claim should be defined in terms of technical means and not in terms of method steps. The applicant should amend the wording of the claim in order to remove said inconsistency.

Article 56 EPC

4. Given the above objections (§2.1,§2.2 and §3) under Articles 123(2) and 84 EPC, a meaningful examination is not possible. However, the ED proceeds giving an opinion on inventive step based on the subject-matter of the application as a whole.

4.1 The invention of the present application (see the description p.1 lines 3-5 and p.5 lines 10 and 11) relates to a mercantile (e.g., electronic commerce) method/system for brokerage of attributes of information (e.g., user profile attributes). The problem the invention seeks to solve is how to assign and manage a financial value to profile attributes. In this context the presumed invention provides a contract, i.e. an agreement, between two parties, i.e. a user and a databank, which includes an obligation to pay for use/transfer of the agreed portions of profiles. The alleged invention of the present application include the following core steps/features:
a) the step of receiving a transaction having a partial profile;
b) the searching step for at least one proximate (group) profile into the databank; and

c) the contracting step between the user and the databank to own and represent a right of user profile attribute(s); and
d) transmitting the agreed portion of the second partial profile as a result of the searching step.

The above steps under "a)" and "b)" related to receiving, searching, comparing and transferring profile characteristics (e.g., profile attributes) are well known in the art of user profile management as exemplified in D2 (see p.148 column left lines 32-48; p.148 column right lines 5-7, lines 17-25 and lines 36-38). The ED is of the opinion that said steps related to receiving, searching, extracting, matching/comparing and transferring profile characteristics (e.g., profile attributes) in a profile database were common knowledge in the art of data profiling at the priority date of the application (13.12.1999) as exemplified in D2.

The ED is of the opinion that the step "c)" relates to a commercial decision for contracting a right between at least two parties which includes an obligation to pay for each transfer of agreed profile attributes according to a pricing model.

The step "d)" defines the transmission of the agreed profile attributes resulting from the searching step. However, the ED is of the opinion that said transmission of profile attributes relates to the implementation of the contract terms predetermined by the involved parties. The transmission of the profile attributes is then an administrative and/or commercial decision which would be implemented in a straightforward manner by the skilled person.

Starting from the common knowledge discussed above, the only non-technical problem which can be derived from the invention of the present application is how to implement the mercantile method for brokerage of attributes of information (e.g., user profile attributes). This would be the task of the person skilled in the art of computer programming who is given the business/administrative specification e.g., contracting a right which includes an obligation to pay for each transfer of agreed profile portions (e.g., profile attributes) according to a pricing model. Any technical consideration which might be involved in implementing the business steps derive in a straightforward way from the specification of the underlying business model. The proposed technical solution does not go beyond the concept of a mere automation of constraints imposed by the business-related aspects. Such automation using conventional programing methods must be considered obvious to

the skilled person. Guided by the technical constraints implied by this commercial schema, the skilled person would arrive at the proposed solution without the exercise of an inventive step.

4.3 In relation to the representative's argument that none of the cited documents disclose "a null profile to ensure that a search will always yield a result" the ED notes, that the application as a whole does not provide a clear definition what said "null profile" represents and how it is used. As it can be understood from the claims as originally filed and from the applicant's argument provided in the letter of reply (see page 2 paragraph 2) the "null profile" is used to ensure a that a search will always yield a result. However, the ED notes that it is well known in the art of information retrieval how to provide at least one search result when searching and comparing profiles as exemplified in D4. Therefore, the above feature cannot lend an inventive step to the claimed subject-matter.

4.4 In relation to the applicant's argument that the cited prior art does not disclose "incorporating a portion of a first profile into a second profile", the ED notes, said incorporation is interpreted as being technically equivalent to updating, i.e. adding and/or modifying, profile attributes. However, it is well known in the art of profile management how to update profile attributes, as exemplified in D4, therefore, said feature is considered trivial by the ED.

4.5 The Examining Division notes the document D4 cited in the present communication is not used as a prior art in the sense of Article 56 EPC but is rather used as a mere example for searching/managing user and item profiles.

5. Taking into account the argumentation provide under §4.1 - §4.5 in the present communication the ED is of the opinion that claims based on the subject-matter as summarized above would lack inventive step in the sense of Article 56 EPC.

6. At least some of the objections raised above are such that there appears to be no possibility of overcoming them by amendments. Refusal of the application under Article 97(2) EPC is therefore to be expected. The ED considers it procedurally efficient to issue summons to Oral Proceedings.

7. Any request change which the applicant wishes the examining division to consider prior to the Oral Proceedings should be filed not later than one month before the date set for the

Proceedings.

8. The attention of the applicant is drawn to the fact that the application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC).

9. Any information the applicant may wish to submit concerning the subject-matter of the invention, for example further details of its advantages or of the problem it solves, and for which there is no basis in the application as filed, should confined to the letter of reply and not be incorporated into the application (Article 123(2) EPC and the Guidelines, C-VI, 5.3.4).

10. In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which amendments are based. If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.

F. Nicoli Y. Boyadzhiev L. Bernardi

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00981582.0	15.07.08	2008

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Exell, Jonathan Mark
Williams Powell
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11 Staple Inn Buildings
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Munteenheid/Unité monétaire
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00981582.0 H04 Exam

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FAXED
26 AUG 2008
Page 1 of 9

Our Ref: JE/N19245

26 August 2008

Dear Sirs,

European Patent Application No. 00981582.0-1225
Almondnet, Inc.

We are writing in reply to the summons to attend oral proceedings dated 15 July 2008.

We enclose amended claims in the form of a main request and first auxiliary request to replace those presently on file. Both requests are based on the description currently on file.

The main and first auxiliary request are both based on the claims currently on file and include amendments to address the objections raised in paragraphs 2 and 3 of the annex to the summons.

We ask that this application be granted based on our main request. In the event that the Examining Division is not minded to grant our main request then we ask that the application be granted based on the first auxiliary request.

Main Request
Claim 1 has been amended to bring the language of step b back into line with that as filed to address the objection raised in paragraph 2.1 (a). Claim 1 has also been amended to re-introduce the feature of contracting in step c. The claim language has been selected to ensure that the contracting is separate from identification of profile information. Nevertheless, the contract does play a part in identifying profile information as can be seen from page 17, first paragraph of the application as filed and as claimed in the present claims.

Corresponding amendments have been made to claim 13. Additionally, claim 13 has been amended to remove reference to "steps" to address the objection raised in paragraph 3 of the annex to the summons.

With regards to paragraph 4, the presently claimed invention deals with trying to match an individual with a previous record containing profile information of that same individual. It

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Received at the EPO on Aug 26, 2008 15:26:45, Page 1 of 9

is recognized that the individual's prior record cannot have all information about the individual already. It is also to be realized that the individual is not identified by identifying information (such as name or number) that unambiguously identifies the person, which would make the problem simple.

It would be immediately clear to the skilled reader that if a database contained a null profile, a search that would otherwise return no results would return the null profile. In the context of the presently claimed invention, a null profile ensures that a person is added to the database if there is no match with any prior record.

Document D4 does not appear to disclose or suggest any concept like the use of a null profile as claimed in the present claims. Rather, the effort of D4 appears to be to group individuals into clusters. There appears to be no discussion of any "null profiles" or anything like it, in order to try to match new information to previous information of the same individual and create a new record if no record matches. The null profile of the present claims cannot be equated to the technique applied in D4, which addresses the proximate nature of individuals within groups, with the goal of grouping the "closest" individuals.

Paragraph 4.3 states that "it is well known in the art of information retrieval how to provide at least one search result when searching and comparing profiles as exemplified in D4". However, this is not only entirely unproven as D4 does not appear to disclose this, it is also off-point, for reasons discussed above. The presently claimed invention does not "compare profiles" (of different individuals); rather, the effort is to match partial information about a given (unidentified) individual with a pre-existing record containing partial information belonging to the same individual.

As such, document D4, does not appear to be relevant to the present claims.

The present claims address the technical problem of matching partial information to a pre-existing record in all cases to ensure all information is captured. The technical solution claimed is neither disclosed nor apparent from any of the cited prior art whether considered alone or in combination. It is therefore respectfully submitted that the present claims meet the requirements of A56 EPC.

First Auxiliary Request

The language of step c of claim 1 of the first auxiliary request has been amended to agree with that of claim 1 as originally filed.

Corresponding amendments have been made to claim 13.

It is respectfully submitted that the claims meet the requirements of A84, A123 and A56 in view of these amendments and in view of the arguments in support of inventive step made for the main request which also apply to the first auxiliary request.

The applicant wishes to avoid the costs and inconvenience of oral proceedings. We therefore request that the Examining Division consider the above requests with a view to agreeing an allowable request and contact the representative by telephone in advance of the oral proceedings to discuss this matter further. We would of course be happy to agree minor clarificatory amendments to the claims or description to address any minor matters outstanding. We believe that this letter and its attachments address all of the objections raised. Purely as a precautionary measure, in the event that the Examining Division is minded to reject this application we hereby maintain our request for oral proceedings.

Yours faithfully
Williams Powell

Jonathan Exell

First Auxiliary Request

CLAIMS

1. A computer-implemented method for processing profiles at a juncture in a data-communications topology having associated therewith a maintained databank of partial profiles, the method including the steps of:
a) from a user (3), receiving (5) a transaction having therein a first partial profile;
b) using the first partial profile, searching (6) a databank (7) having a plurality of second partial profiles, wherein included in said databank is at least one null profile so that said searching will always yield at least one proximate second profile to the first partial profile;
c) between the user and the databank, contracting:
i) for the databank to own or represent a right to a first mutually agreed portion of the first partial profile, and incorporating the first mutually agreed portion of the first partial profile, and substantially thereafter said databank incorporating the agreed portion of the first profile into at least one second partial profile; or
ii) for the user to own or represent a right to a second mutually agreed portion of at least one said proximate second partial profile, and substantially thereafter transmitting to the user the second mutually agreed portion of the second partial profile.

2. The method according to claim 1 wherein receiving a transaction includes extracting at least one predetermined attribute of the first partial profile, wherein at least one of these extracted predetermined attributes is then used as the first partial profile for the searching of the databank.

3. The method according to claim 2 wherein part (b) includes constructing at least one composite key for the searching of the databank using a combinatorial of at least two of the predetermined attributes of the first partial profile.

4. The method according to claim 1 wherein part (c) includes selecting a pricing structure according to a rating of the user.

First Auxiliary Request

5. The method according to claim 1 wherein part (c) includes accepting an obligation to pay for substantially each use or transfer of the agreed portion.

6. The method according to claim 1 wherein incorporating in part (c)(i) the agreed portion includes assigning a credibility weighting to the agreed portion of the first profile.

7. The method according to claim 6 wherein incorporating in part (c)(i) includes convoluting the assigned credibility weighting of the first profile with a pre-existing credibility weighting of a portion of the second partial profile resulting from the searching step; and storing in the databank the convoluted new credibility weighting for the agreed portion.

8. The method according to claim 7 wherein part (c) includes selecting a pricing structure according to a result of a computation comparing the new credibility weighting with the pre-existing credibility weighting.

9. The method according to claim 1 wherein receiving a transaction includes consulting an external database (11).

10. The method according to claim 1 further comprising:
i) searching at least one external database (11) for a partial profile or portion thereof that complements at least one second partial profile of the databank, and
ii) between the database and the databank, contracting for the databank to own or represent a right to a first mutually agreed portion of the complementing first partial profile, and incorporating the agreed portion of the first profile into at least one second partial profile of the databank.

First Auxiliary Request

11. A computer program comprising computer program code means for performing all of the steps of any of claims 1 to 10 when said program is run on a computer.

12. A computer program as claimed in claim 11 embodied on a computer readable medium.

13. A computer system including:
a) a computer (40) installed at a juncture in a data-communications topology;
b) associated with said computer, a storage device (42) for keeping a maintained databank of partial profiles; and
c) the computer system being arranged to:
i) receive (5), from a user (3), a transaction having therein a first partial profile;
ii) using the first partial profile, search (6) a databank (7) having a plurality of second partial profiles, wherein is included in said databank at least one null profile so that said search (6) will always yield at least one proximate second profile to the first partial profile;
iii) between the user and the databank, contracting:
(1) for the databank to own or represent a right to a first mutually agreed portion of the first partial profile, and incorporating the first mutually agreed portion of the first partial profile, and substantially thereafter said databank being arranged to incorporate the agreed portion of the first profile into at least one second partial profile; or
(2) for the user to own or represent a right to a second mutually agreed portion of at least one said proximate second partial profile, and substantially thereafter the databank being arranged to transmit to the user the second mutually agreed portion of the second partial profile.

Main Request

CLAIMS

1. A computer-implemented method for processing profiles at a juncture in a data-communications topology having associated therewith a maintained databank of partial profiles, the method including the steps of:
a) from a user (3), receiving (5) a transaction having therein a first partial profile;
b) using the first partial profile, searching (6) a databank (7) having a plurality of second partial profiles, wherein included in said databank is at least one null profile so that said searching will always yield at least one proximate second profile to the first partial profile;
c) agreeing a contract between the user and the databank and, in dependence on the contract:
i) identifying a first mutually agreed portion of the first partial profile for which the databank shall own or represent a right, and incorporating the first mutually agreed portion of the first partial profile into at least one second partial profile of the databank resulting from the searching step (10); or
ii) identifying a second mutually agreed portion of at least one said second partial profile of the databank resulting from the searching step, for which the user shall own or represent a right, and transmitting the second mutually agreed portion of the second partial profile from the databank to the user (9).

2. The method according to claim 1 wherein receiving a transaction includes extracting at least one predetermined attribute of the first partial profile, wherein at least one of these extracted predetermined attributes is then used as the first partial profile for the searching of the databank.

3. The method according to claim 2 wherein part (b) includes constructing at least one composite key for the searching of the databank using a combinatorial of at least two of the predetermined attributes of the first partial profile.

Main Request

4. The method according to claim 1 wherein part (c) includes selecting a pricing structure according to a rating of the user.

5. The method according to claim 1 wherein part (c) includes accepting an obligation to pay for substantially each use or transfer of the agreed portion.

6. The method according to claim 1 wherein incorporating in part (c)(i) the agreed portion includes assigning a credibility weighting to the agreed portion of the first profile.

7. The method according to claim 6 wherein incorporating in part (c)(i) includes convoluting the assigned credibility weighting of the first profile with a pre-existing credibility weighting of a portion of the second partial profile resulting from the searching step; and storing in the databank the convoluted new credibility weighting for the agreed portion.

8. The method according to claim 7 wherein part (c) includes selecting a pricing structure according to a result of a computation comparing the new credibility weighting with the pre-existing credibility weighting.

9. The method according to claim 1 wherein receiving a transaction includes consulting an external database (11).

10. The method according to claim 1 further comprising:
i) searching at least one external database (11) for a partial profile or portion thereof that complements at least one second partial profile of the databank, and
ii) between the database and the databank, contracting for the databank to own or represent a right to a first mutually agreed portion of the complementing first partial profile, and incorporating the agreed portion of the first profile into at least one second partial profile of the databank.

Main Request

11. A computer program comprising computer program code means for performing all of the steps of any of claims 1 to 10 when said program is run on a computer.

12. A computer program as claimed in claim 11 embodied on a computer readable medium.

13. A computer system including:
a) a computer (40) installed at a juncture in a data-communications topology;
b) associated with said computer, a storage device (42) for keeping a maintained databank of partial profiles; and
c) the computer system being arranged to:
i) receive (5), from a user (3), a transaction having therein a first partial profile;
ii) using the first partial profile, search (6) a databank (7) having a plurality of second partial profiles, wherein is included in said databank at least one null profile so that said search (6) will always yield at least one proximate second profile to the first partial profile;
iii) record a contract between the user and the databank and, in dependence on the contract:
(1) identify a first mutually agreed portion of the first partial profile for which the databank shall own or represent a right, and incorporate the first mutually agreed portion of the first partial profile into at least one second partial profile resulting from searching (6) the databank (7); or
(2) identify a second mutually agreed portion of at least one second partial profile of the databank resulting from the search (6) of the databank (7), for which the databank shall own or represent a right, and transmit the second mutually agreed portion of the second profile from the databank to the user (9).

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Application No. : 00 981 582.0

Consultation by telephone with the applicant / representative

Despatch for information

Participants

Applicant: ALMONDNET, INC.

Representative: Williams Powell - Mr. Jonathan Exell

Member(s) of the Examining Division: Boyadzhiev, Yavor

Result of consultation

The first examiner informed the representative Mr. Jonathan Exell that the Examining Division (ED) is of the preliminary opinion that the Main request as filed on 26.08.2008 does not comply with the requirements of Article 123(2) EPC. The reasons for that being as follows:
the contracting step "c)" of claim 1 reads: "identifying a first mutually agreed portion of the first partial profile" and "identifying a second mutually agreed portion of at least one second partial profile" said identification "resulting from the search step". As already communicated to the applicant in the summons (see §2.1.b) one possible interpretation of the above features is that an identification of profile portions is performed during the contracting step after the search has been performed. However, the ED is of the opinion that from the description (p.15 last paragraph) of the application it is clear that the user is identified from the transaction and based on said identification the applicable contract is selected in order to perform the search. Said applicable contract in fact specifies the search criteria in terms of profile attributes and additionally defines an obligation to pay for any use/transfer of profile portions according to a pre-agreed pricing structure.

In relation to the representative's argumentation concerning the "null profile" the ED notes, although not clearly defined in the whole application, said term appears to define an empty structure, i.e. an empty profile, which is returned to the user in case of no matching results. The ED notes that in the filed of information retrieval namely in the field of searching and/or matching data structures it is a common place feature to use an empty structure, i.e. null or nil structure, in order to limit the search process. Additionally, as already communicated to the applicant in the summons (see §4.3), in the field of information retrieval it is well known how to provide at least on search result when matching profiles and/or profiles attributes as exemplified in D4. It is noted that the document D4 was only cited as an example to demonstrate the above feature and not as a document in the sense of Article 56 EPC.

The ED notes that in the present application two possibilities are foreseen in relation the contract:

a) a user may sell profile data to the database, said data is then included into the database;
b) the user may buy profile data from the database which data is then transmitted to the user from the database.

However, the ED is of the opinion that storage and transmission of profile data are mere steps implementing data exchange as set in the contract.
In relation to the argument that the "null profile" ensure that a person is added, i.e. incorporated, to the database if there is no match with any prior profile record the ED notes that in the art of information clustering it is well known how to add a new item or item attributes into existing clusters of a particular domain as exemplified in D4 (see p.12 lines 39-41). In relation to the above argumentation it is noted that an item or item attributes new for a domain do not match any already classified items or item attributes. In the present application the process of adding profile data to a database is performed in order to fulfill the terms of a contract, therefore this feature is not considered as involving an inventive step in the sense of Article 56 EPC.

First auxiliary request
The first auxiliary request appears to be substantially similar to the claims as originally filed and corresponds to a less detailed version of the main request in the sense that the implementation of the contract terms is less defined. For the these reasons, the ED is of the preliminary opinion that objections under Article 56 EPC raised against the current main request would also be valid against the first auxiliary request. The addition of "and incorporating the first mutually agreed portion of the first partial profile" in step "c)i)" of claim 1 appears to be redundant and does not change the opinion of the ED on inventive step in the sense of Article 56 EPC.

23.09.2008
. . . .
Date

Boyadzhiev, Yavor
. . . . . .
Examiner

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Application No.	Ref.	Date
00 981 582.0 - 1225	JE/GM/N19245	26.09.2008
Applicant Almondnet, Inc.		

Result of consultation

A copy of the result of consultation of 23.09.2008 is enclosed for your information.

Boyadzhiev, Yavor
For the Examining Division

Enclosure(s): Copy of result of consultation (Form 2036)

After deliberation of the examining division, the chairman announced the following **decision**:

"The European patent application is refused."

Regarding the reasons for the decision, the chairman referred to:

Article 97(2) EPC: the application does not meet the requirements of Article/s 123(2),56 EPC.

The chairman **closed the proceedings** on 26.09.2008 at 10.45 hours.

signed:

Nicoli, Félix
. . . . . .
Chairman

signed:

Bernardi, Luca
. . . . . .
Minute Writer

Enclosure(s):

FACTS AND SUBMISSIONS

1. PCT application IL00/00829 has been accorded an international filing date 13.12.2000 and is based on priority IL133489 dated 13.12.1999. The application validly entered the regional phase on 10.06.2002 and was accorded European Patent Application 00981582.
Title : "A DESCRIPTIVE-PROFILE MERCANTILE METHOD".
Applicant: ALMONDNET, INC. et al.

2. Documents cited (D1-D3):
D1: WO 98/59481 A (INFORONICS INC ;BUCKLAND BRUCE H (US)) 30 December 1998 (1998-12-30)
D2: BRODY R: "The conditions and consequences of profiling in commercial and governmental settings" TECHNOLOGY AND SOCIETY, 1998. ISTAS 98. WIRING THE WORLD: THE IMPACT OF INFORMATION TECHNOLOGY ON SOCIETY., PROCEEDINGS OF THE 1998 INTERNATIONAL SYMPOSIUM ON SOUTH BEND, IN, USA 12-13 JUNE 1998, NEW YORK, NY, USA,IEEE, US, 12 June 1998 (1998-06-12), pages 148-154, XP010291443 ISBN: 0-7803-4327-1
D3: US-A-5 724 521 (DEDRICK RICK) 3 March 1998 (1998-03-03)

The following document (D4) was introduced in the procedure by the Examining Division:
D4: EP-0 751 471 A1 (LASHKARI Y Z ET AL) 02 January 1997 (1997-01-02).

3. In the first communication, dated 01.06.2006, the examiner argued that claims 1-3,7,9,10-12 were not compliant with Article 84 EPC for lack of clarity. An interpretation was given to the unclear terms/expressions in the light of the description and further, the examiner objected that the independent claims 1-12 did not meet the requirements of Article 52(1) EPC, because their subject-matter did not involve an inventive step in the sense of Article 56 EPC. The subject-matter of independent claim 1 was defined with three main steps: a) the step of receiving a transaction having therein a partial profile; b) the searching step for at least one proximity (i.e. group) profile into the database; and c) the contracting step between the user and the database to own and represent a right of a user partial profile (i.e. user profile attributes).
The technical features of independent claim 1, namely the steps "a)" and "b)", were considered common knowledge in the art of information retrieval at the priority date of the application (13.12.1999) as exemplified in D1 and D2. The step "c)", the contracting step,

of claim 1 was also considered not involving an inventive step in the sense of Article 56 EPC because the only technical problem derivable from it was how to implement said contracting between the user and the database. However, said implementation was considered as a straightforward possibility which the skilled person, i.e. the software developer, would immediately consider, without exercising inventive skill. As a consequence, the subject-matter of claim 1 (and corresponding independent claims 10,12) was considered not inventive in the sense of Article 56 EPC.

4. The additional technical features of dependent claims 2-9 were considered trivial implementation details which did not involve an inventive in the sense of Article 56 EPC.

5. In the letter of reply dated 27.03.2007 the applicant provided arguments and filed new claims 1-12 and pages 4 and 5 of the description which replaced claims 1-13 and pages 4 and 5 of the application document as published. With the amendments filed, the applicant attempted to overcome the Article 84, and Article 56 EPC objections raised in the first written communication.

In the letter of reply the applicant argued that the none of the cited documents disclose a database which includes a "a null profile" and that the cited documents did not disclose the incorporation or transmitting of portion of user profiles.

6. Summons to attend oral proceedings scheduled on 26.09.2008 were issued on 15.07.2008. Document D4 was introduced by the Examining Division. In the annex to the summons the following objections were raised:
a) claims 1 and 11-13 were found not to comply with Article 123(2) EPC;
b) claim 13 was also found to lack clarity in the sense of Article EPC.

Due to the above objections, an opinion on inventive step (Article 56 EPC) when considering the subject-matter of the application as a whole was given. The document D4 was used as an example in this reasoning.

7. In fax dated 26.08.2008 the applicant filed a main request (claims 1-13) and a first auxiliary request (claims 1-13). The applicant also presented arguments in favour of the allowability of the claims.

8. In a telephone conversation on 23.09.2008 the first examiner communicated to the

representative the preliminary opinion of the ED on the main and the first auxiliary requests filed by the applicant in preparation for the oral proceedings. The main request was still found not compliant with Article 123(2) EPC. The first examiner communicated to the representative the preliminary opinion of the ED that even if the objections under Article 123(2) would have been overcome the main request would still lack an inventive step in the sense of Article 56 EPC. The first auxiliary request was also found not compliant with Article 56 EPC.

9. With letter dated 25.09.2008 the representative informed the ED that he did not intend to attend the oral proceedings on 26.09.2008. Additionally, the applicant disagreed with the arguments with regard to Articles 123(2) and 56 EPC provided during the telephone conversation on 23.09.2008 and further informed the ED that the applicant would consider appeal if the application was rejected.

10. The oral proceedings in accordance with Article 116 EPC were held as scheduled on 26.09.2008. The applicant's representative was not present.

11. The ED reached the decision to refuse the application under Article 97(2) EPC on the grounds of added subject-matter in the sense of Article 123(2) and lack of inventive step in the sense of Article 56 EPC for the main request and on lack of inventive step in the sense of Article 56 EPC for the first auxiliary request.

12. This decision of the ED is based on the following application documents:

The examination is being carried out on the **following application documents**:

Main Request

Description, Pages				
1-3, 6-28	as published			
4, 5	received on	27.03.2007	with letter of	27.03.2007
Claims, Numbers				
1-13	received on	01.09.2008	with letter of	26.08.2008
Drawings, Sheets				
1/3-3/3	as published			

Auxiliary Request 1

Description, Pages	
1-3, 6-28	as published

4, 5	received on	27.03.2007	with letter of	27.03.2007
Claims, Numbers				
1-13	received on	01.09.2008	with letter of	26.08.2008
Drawings, Sheets				
1/3-3/3	as published			

Copies of the claims sets according to the main and the first auxiliary requests are annexed to the present decision.

Reasons for the decision

Main request

Article 123(2) EPC

1.The amendments filed with letter dated 26.08.2008 introduce subject-matter which extends beyond the content of the application as originally filed, contrary to the requirements of Article 123(2) EPC.

INDEPENDENT CLAIM 1

The contracting step "c)" of claim 1 reads: "identifying a first mutually agreed portion of the first partial profile" and "identifying a second mutually agreed portion of at least one second partial profile of the databank resulting from the search step". As already communicated to the applicant in the summons one possible interpretation of the above features is that an identification of profile portions is performed during the contracting step after the search has been performed. However, the ED is of the opinion that from the description (p.15 last paragraph) of the application it is clear that the user is identified from the transaction and based on said identification the applicable contract is selected in order to perform the search. Said applicable contract in fact specifies the search criteria in terms of profile attributes and additionally defines an obligation to pay for any use/transfer of profile portions according to a pre-agreed pricing structure.

Thus, the above mentioned interpretation cannot be directly and unambiguously derived from the application as originally filed.

Article 56 EPC

2. The above Article 123(2) EPC objection notwithstanding, the Examining Division considers that the subject-matter of claim 1 is not inventive in the sense of Article 56 EPC for the following reasons:

When considering the description, it appears that the present claim 1 (see the description p.1 lines 3-5 and p.5 lines 10 and 11) relates to a mercantile (e.g. electronic commerce)

method/system for brokerage of attributes of information (e.g., user profile attributes). The problem the invention seeks to solve is how to assign and manage a financial value to profile attributes. In this context the presumed invention provides a contract, i.e. an agreement, between two parties, i.e. a user and a databank, which includes an obligation to pay for use/transfer of the agreed portions of profiles. The alleged invention of the present application includes the following core steps/features:
a) the step of receiving a transaction having a partial profile;
b) the searching step for at least one proximate (group) profile into the databank; and
c) the contracting step between the user and the databank to own and represent a right of user profile attribute(s); and
d) incorporating/transmitting the agreed portion between the two parties as a result of the searching step.

The above steps under "a)" and "b)" related to receiving, searching, comparing/matching and transferring profile characteristics (profile attributes) are well known in the art of user profile management as exemplified in D2 (see p.148 left column, lines 32-48; p.148 right column, lines 5-7, lines 17-25 and lines 36-38). The ED is of the opinion that said steps related to receiving, searching, extracting, matching/comparing and transferring profile characteristics (e.g., profile attributes) in a profile database were common knowledge in the art of data profiling at the priority date of the application (13.12.1999) as exemplified in D2.

The ED is of the opinion that the step "c)" relates to a commercial decision for contracting a right between at least two parties which includes an obligation to pay for each transfer of agreed profile attributes according to a pre-agreed pricing model.

The step "d)" defines the incorporation or transmission of the agreed profile attributes resulting from the searching step. However, the ED is of the opinion that said transmission or incorporation of profile attributes relates to the implementation of the contract terms predetermined by the involved parties. Indeed, two possibilities are foreseen in relation to the contract:
a) a user may sell profile data to the database, said data is then included/incorporated into the database; b) the user may buy profile data from the database which data is then transmitted to the user from the database.
However, the ED is of the opinion that the storage/incorporation and transmission of profile data are mere steps implementing data exchange as set in the contract, which is an administrative and/or commercial decision, said incorporation or transmission of profile data

would be implemented in a straightforward manner by the skilled person.

The only non-technical problem which can be derived from the present application is how to implement the mercantile method for brokerage of attributes of information, i.e. user profile attributes. This would be the task of the person skilled in the art of computer programming who is given the business/administrative specification e.g. contracting a right which includes an obligation to pay for each transfer of agreed profile portions (e.g., profile attributes) according to a pre-agreed pricing model. Any technical consideration which might be involved in implementing the business steps derive in a straightforward way from the specification of the underlying business model. The proposed technical solution does not go beyond the concept of a mere automation of constraints imposed by the business-related aspects. Such automation using conventional programming methods must be considered obvious to the skilled person. Guided by the technical constraints implied by this commercial schema, the skilled person would arrive at the proposed solution without the exercise of an inventive step.

2.1 In relation to the argument that a "null profile" ensures that a person is added, i.e. incorporated, to the database if no match with any prior profile record can be found, the ED notes that in the art of information clustering it is well known how to add a new item or item attributes into existing cluster(s) of a domain, even if no match with any already classified items or item attributes exists as exemplified in D4 (see p.12 lines 39-41). In the present application the process of adding profile data to a database is only performed in order to fulfill the terms of the contract.

Moreover, in respect with the actual use of the "null profile", the Examining Division notes that although not clearly defined in the application as a whole, said term appears to define an empty structure, i.e. an empty profile, which is returned to the user in case of no matching results. The ED notes that in the field of information retrieval namely in the field of searching and/or matching data structures it is a common place feature to use an empty structure, i.e. null or nil structure, in order to limit the search process. Moreover, as already communicated to the applicant in the summons, in the field of information retrieval, it is well known how to provide at least one search result when matching profiles and/or profile attributes as exemplified in D4.

Therefore the subject-matter of claim 1 is not inventive in the sense of Article 56 EPC.

First auxiliary request

Article 56 EPC

3. The first auxiliary request appears to be substantially similar to the claims as originally filed and corresponds to a broader version of the main request in the sense that the implementation of the contract terms is less detailed. For the these reasons, the ED is of the opinion that the objections under Article 56 EPC raised against the current main request would also be valid against the first auxiliary request. The addition of the expression "and incorporating the first mutually agreed portion of the first partial profile" in step "c)i)" of claim 1 as originally filed appears to be redundant and does not change the opinion of the ED on the lack of inventive step in the sense of Article 56 EPC.

Therefore the subject-matter of claim 1 is not deemed inventive in the sense of Article 56 EPC.

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Substantive Examiner
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Application No.	Ref.	Date
00 981 582.0 - 1225	JE/GM/N19245	07.08.2009
Applicant Almondnet, Inc.		

Decision to refuse a European Patent application

The Examining Division - at the oral proceedings dated 26.09.2008 - has decided:

European Patent application No. 00 981 582.0 is refused.

Applicant/s:
Almondnet, Inc.
15 East North Street,
City of Dover
County of Kent, DE 19901-3609
US

Title
A DESCRIPTIVE-PROFILE MERCANTILE METHOD

The grounds for the decision are set out on the supplemental sheets annexed hereto.

Means of redress

This decision is open to appeal.
Attention is drawn to the attached text of Articles 106 to 108 EPC and Rules 97 and 98 EPC.

Registered letter with advice of delivery
EPO Form 2007 12.07CSX

Examining Division:

Chairman: Nicoli, Félix
2nd Examiner: Bernardi, Luca
1st Examiner: Boyadzhiev, Yavor

Huysing-Solles, H
Formalities Officer
Tel. No.: +31 70 340-2585 **Branch at The Hague**

Enclosure(s): 7 page/s reasons (Form 2916)
Form 2019
Main and 1st auxiliary requests

to EPO postal service: 03.08.09

Registered letter with advice of delivery
EPO Form 2007 12.07CSX

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Closure of the procedure in respect of application No. 00981582.0 - 1225 16.11.09

1. The procedure in respect of the above application is closed for the following reason:

   REFU 2/07.08.09 The time limit under Art.108 EPC has expired.
   No notice of appeal under Article 108 and Rule 99 EPC has been filed. No request for a decision under Rule 112(2), or for further processing under Article 121 EPC or for re-establishment of rights under Article 122 EPC has been filed.

   ADWI 11/17.01.07 The time limit under Rule 112(2) EPC has expired.
   No request for a decision under Rule 112(2), or for further processing under Article 121 EPC or for re-establishment of rights under Article 122 EPC has been filed.

2. The EPASYS situation has been verified in respect of item 1:

   DFIL: 13.12.00
   NOAP: ////
   RDEC: ////
   RFPR: 27.03.07/27.03.07/3
   REES: ///

   REFU 3/ADWI 3 and DEAD 1 coded. Date of legal effect 26-09-08**.**

3. Position regarding **fees**:

DEST03	005	00731663	10.06.02	EUR	525,00
EXAM02	006	00731663	10.06.02	EUR	715,00
EXAM02	006	00365603	10.06.02	EUR	715,00
RFPR02	012	00264928	27.03.07	EUR	210,00
CLMS(2)	015	00731663	10.06.02	EUR	80,00
FFEE01	020	00731663	10.06.02	EUR	125,00
RFEE 03	033	00992652	20.12.02	EUR	380,00
RFEE 04	034	00637658	19.12.03	EUR	405,00
RFEE 05	035	00711415	20.12.04	EUR	430,00
RFEE 06	036	00734167	22.12.05	EUR	715,00
RFEE 07	037	00763824	11.12.06	EUR	770,00
RFEE 08	038	00664920	15.10.07	EUR	800,00

☐ 3.1 Form **2058A** submitted to 1st examiner (if applicable)

☐ 3.2 Refund(s) ordered:

☐ 75% Exam fee ☐ Other fees: _____

4. Mark "DEAD" on the paper file and:

☐ Check whether a divisional application is pending and if so attach the DEAD file to it.

☐ Any **models** still in the Office's possession were returned on _____
(for dealing with models, please refer to Fil d'Ariane).

☐ Submit it to 1st examiner if a request for feedback is present.

☐ Keep paper file in file store (separate place) until next action for file destruction.

17-11-2009 Geisler, Nathalie

Date Formalities Officer

To 1st examiner/Director for information : Boyadzhiev Y room S07D11

Request for grant of a European patent

User reference: N22759
Application No:

	Past Record Divisional Application of earlier application No: Article 61(1)(b) EPC application for:	00981582.0
0	**For official use only** Application number MKEY Date of receipt (Rule 24(2) EPC): DREC Date of receipt at EPO (Rule 24(4) EPC): RENA Date of filing: DFIL	**MKEY - EP08103068.6** **DREC - 28 Mar 2008**
1	**Request** Grant of European patent, and examination of the application under Article 94, are hereby requested. Procedural language: Description and claims filed in: The applicant waives his right to indicate whether he wishes to proceed further with the application (Art. 96(1))	 en en
2-1	**Applicant 1** Name: Registration No.: Address:	 Almondnet, Inc. 1.8 15 East North Street City of Dover County of Kent DE 19901-3609 DE Delaware City of Dover United States of America
3-1	**Representative 1** Name: Registration No.: Company: Address of place of business: Telephone: Fax: e-mail:	 Exell, Mr. Jonathan 099692.6 Williams Powell Staple Court 11 Staple Inn Buildings WC1V 7QH Greater London London United Kingdom 44 207 2427005 44 207 2427115 mail@williamspowell.com
4	**Inventor(s)** Inventors details filled separately	
5	**Title of invention** Title of invention:	 A method of collecting and utilizing profiles of Internet-using entities
6	**Designation of the Contracting States**	
6-1	All states which are contracting states to the EPC at the time of filing of this application are hereby designated.	✓
6-2	It is requested that no communications under Rules 85a(1) and 69(1) EPC be notified concerning the contracting states not selected under 6.4	✓
6-3	If an automatic debit order has been issued, the EPO is	✓

	authorised, on expiry of the basic period under Article 79(2) EPC, to debit seven times the amount of the designation fee. If fewer than seven contracting states are indicated, the EPO will debit designation fees only for those states, unless it is instructed to do otherwise before expiry of the basic period.	
6-4	The applicants currently intend to pay designation fees for the following States:	AT BE BG CH&LI CY CZ DE DK EE ES FI FR GB GR HR HU IE IS IT LT LU LV MC MT NL NO PL PT RO SE SI SK TR
6-5	Payment of seven times the amount of the designation fee is deemed to constitute payment of the designation fees for all the contracting states (Article 2, No. 3 RFees).	✓
7	**Extension of the European patent**	
7-1	This application is deemed to be a request to extend the European patent application and the European patent granted in respect of it to all non-contracting states to the EPC with which extension agreements exist on the date on which the application is filed. However, the extension only takes effect if the prescribed extension fee is paid.	✓
7-2	The applicant currently intends to pay extension fees for the following states:	

		State	Filing date	Kind	Application number
8	**Declaration of priority**				
8-01	Priority 01	IL	13 December 1999	ap	1990133489

9	**Deposit of Biological Material**	
	The invention relates to and/or uses biological material which has been deposited under rule 28 EPC	
10	**Nucleotide and Amino Acid Sequences**	

		Details:	Electronic File:
11	**Forms**		
11-1	Request		as ep-request.pdf
11-2	1. Designation of Inventor	1. Inventor	as F1002-1.pdf
12	**Technical Documents**		
12-1	Drawings / Translation of text in drawings	5 figures	DRAW.pdf
12-2	Specification	13 claims; figure(s) 1	SPECEPO.pdf
13	**Other Documents**		
13-1	Additional Representatives		OTHER-1.pdf

14	**Payment**	
14-1	**Mode of payment**	Debit from deposit account
	The European Patent Office is hereby authorised, to debit from the deposit account with the EPO any fees and costs indicated on the fees page.	✓
	Currency:	EUR
	Deposit account number:	28050145
	Account holder:	Williams Powell

		Factor applied	Fee schedule	Amount to be paid
15	**Fees**			
15-1	001 Filing fee	1	95.00	95.00
15-2	002 Search fee	1	1 000.00	1 000.00
15-3	015 Claims fee	3	45.00	135.00
15-4	033 Renewal fee for the 3rd year	1	400.00	400.00
15-5	034 Renewal fee for the 4th year	1	425.00	425.00
15-6	035 Renewal fee for the 5th year	1	450.00	450.00
15-7	036 Renewal fee for the 6th year	1	745.00	745.00
15-8	037 Renewal fee for the 7th year	1	770.00	770.00

15-9	038 Renewal fee for the 8th year	1	800.00	800.00
	Total:		EUR	**4 820.00**
16	**Annotations**			

17 Signature(s)

Place:	**london, uk**
Date:	**28.March 2008**
Signed by:	**UK, Williams Powell, J. Exell 1999**
Capacity:	**(Representative)**

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European Patent Office
Office européen des brevets

EUROPEAN SEARCH REPORT

Application Number
EP 08 10 3068

DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
X	WO 97/16796 A (HERZ FREDERICK S M [US]; EISNER JASON M [US]; SMITH JONATHAN M [US]; S) 9 May 1997 (1997-05-09) * abstract * * page 5, line 25 - page 8, line 32 * * page 22, line 26 - page 23, line 2 * * page 42, line 11 - page 45, line 29 * * page 46, line 15 - page 46, line 33 * * page 48, line 1 - page 48, line 26 * * page 49, line 15 - page 52, line 21 * * page 55, line 27 - page 55, line 30 * * page 62, line 3 - page 62, line 17 * * page 77, line 25 - page 78, line 3 * * page 80, line 17 - page 82, line 16 * -----	1-13	INV. G06Q30/00
X	BRODY R: "The conditions and consequences of profiling in commercial and governmental settings" TECHNOLOGY AND SOCIETY, 1998. ISTAS 98. WIRING THE WORLD: THE IMPACT O F INFORMATION TECHNOLOGY ON SOCIETY., PROCEEDINGS OF THE 1998 INTERNAT IONAL SYMPOSIUM ON SOUTH BEND, IN, USA 12-13 JUNE 1998, NEW YORK, NY, USA,IEEE, US, 12 June 1998 (1998-06-12), pages 148-154, XP010291443 ISBN: 978-0-7803-4327-6 * abstract * * page 148, left-hand column, line 32 - page 148, right-hand column, line 48 * * page 150, right-hand column, line 15 - page 150, right-hand column, line 28 * * page 151, left-hand column, line 31 - page 151, right-hand column, line 14 * -----	1-13	TECHNICAL FIELDS SEARCHED (IPC) G06Q

-/--

The present search report has been drawn up for all claims

Place of search	Date of completion of the search	Examiner
The Hague	23 March 2009	Boyadzhiev, Yavor

CATEGORY OF CITED DOCUMENTS

X : particularly relevant if taken alone
Y : particularly relevant if combined with another document of the same category
A : technological background
O : non-written disclosure
P : intermediate document

T : theory or principle underlying the invention
E : earlier patent document, but published on, or after the filing date
D : document cited in the application
L : document cited for other reasons
.....
& : member of the same patent family, corresponding document

3

EPO FORM 1503 03.82 (P04C01)

Europäisches Patentamt
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EUROPEAN SEARCH REPORT

Application Number
EP 08 10 3068

DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
X	US 5 724 521 A (DEDRICK RICK [US]) 3 March 1998 (1998-03-03) * abstract * * column 1, line 63 - column 2, line 9 * * column 3, line 29 - column 4, line 22 * * column 6, line 33 - column 7, line 36 * * column 8, line 17 - column 9, line 27 * * column 11, line 7 - column 11, line 36 * * column 12, line 49 - column 12, line 65 * * column 13, line 64 - column 15, line 12 * * column 15, line 32 - column 16, line 30 * -----	1-13	

TECHNICAL FIELDS SEARCHED (IPC)

The present search report has been drawn up for all claims

3

Place of search	Date of completion of the search	Examiner
The Hague	23 March 2009	Boyadzhiev, Yavor

CATEGORY OF CITED DOCUMENTS

X : particularly relevant if taken alone
Y : particularly relevant if combined with another document of the same category
A : technological background
O : non-written disclosure
P : intermediate document

T : theory or principle underlying the invention
E : earlier patent document, but published on, or after the filing date
D : document cited in the application
L : document cited for other reasons
.....
& : member of the same patent family, corresponding document

EPO FORM 1503 03.82 (P04C01)

ANNEX TO THE EUROPEAN SEARCH REPORT ON EUROPEAN PATENT APPLICATION NO. EP 08 10 3068

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report.
The members are as contained in the European Patent Office EDP file on
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

23-03-2009

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9716796 A	09-05-1997	AU 7674996 A	22-05-1997
		EP 0941515 A1	15-09-1999
		JP 11514764 T	14-12-1999
US 5724521 A	03-03-1998	NONE	

EPO FORM P0459

For more details about this annex : see Official Journal of the European Patent Office, No. 12/82

The examination is being carried out on the **following application documents**:

Description, Pages

1-28	as originally filed			

Claims, Numbers

1-13	received on	28.03.2008	with letter of	28.03.2008

Drawings, Sheets

1/3-3/3	as originally filed

1. Reference is made to the following documents (D1-D3); the numbering will be adhered to in the rest of the procedure:
D1: WO 97/16796 A (HERZ FREDERICK S M [US]) 9 May 1997 (1997-05-09)
D2: BRODY R: "The conditions and consequences of profiling in commercial and governmental settings" TECHNOLOGY AND SOCIETY, 1998. ISTAS 98. WIRING THE WORLD: THE IMPACT O F INFORMATION TECHNOLOGY ON SOCIETY., PROCEEDINGS OF THE 1998 INTERNAT IONAL SYMPOSIUM ON SOUTH BEND, IN, USA 12-13 JUNE 1998, NEW YORK, NY, USA, IEEE, US, 12 June 1998 (1998-06-12), pages 148-154, XP010291443 ISBN: 978-0-7803-4327-6
D3: US-A-5 724 521 (DEDRICK RICK [US]) 3 March 1998 (1998-03-03)

Article 76(1) EPC

2. The present application EP08103068 is a divisional application of the earlier application SA319091. However, this divisional application EP08103068 introduces subject matter which extends beyond the content of said earlier application as originally filed.

INDEPENDENT CLAIM 1

2.1 The amendments concerned, in independent method claim 1, are the following:
a) "... plurality of unaffiliated third parties operating a website ...";
b) "... due to redirection of a portion of a page of the website accessed ...";
c) "... automatically electronically attempting to match ...";
d) "... profile believed to be related ..."
e) "... plurality of unaffiliated third parties contributed to the maintained profile ...";

The above amendments, in combination, are not directly and unambiguously derivable form the content of the parent application as originally filed, therefore new claim 1 is not allowable under Article 76(1) EPC.

The above objection (§2.1), also applies, mutatis mutandis, to the use of the same expressions in the corresponding claims 8, 12 and 13 which are also not allowable under Article 76(1) EPC.

Article 84 EPC

3. From the statement "due to redirection of a portion of a page of the website accessed" used in claim 1 it is not clear what are the technical features to which said step refers to. In the light of the description (p.5 lines 16-27) it appears that a user/entity of a web-site sends his partial profile (i.e. credentials, profile attributes, or a cookie), to an (intermediary) server which receives said request identifies the user/entity and redirects the request to the appropriate Internet server and/or web page. In other words this (intermediary) server interconnects the user's request(s)/transaction(s) and the user credentials (i.e. the server's cookie or other user/entity profile attributes). This interpretation is used for the rest of this written opinion.

3.1 The step "automatically electronically attempting to match the received partial profile to a maintained profile believed to be related to the same entity" is vague and renders the subject-matter of claim 1 unclear. In the light of the description (p.16 lines 12-19) it appears that profile attribute(s) is/are matched to a maintained/aggregated profile, e.g., a profile of a group, the user/entity might belong to.

3.2 The expression "plurality of unaffiliated third parties contributed to the maintained profile" used in claim 1 is vague and renders the subject-matter of said claim unclear. In the light of the description it appears the above step refers to acquiring additional information, i.e. additional attributes, related to the same user/entity. The above interpretation is used for the rest of this written opinion.

Article 56 EPC

4. Furthermore, notwithstanding the above-mentioned objections under Articles 76(1) and 84 EPC, the subject-matter of claims 1,8,12 and 13, does not involve an inventive step within the meaning of Article 56 EPC, and the requirements of Article 52(1) EPC are not therefore met.

4.1 The invention of the present application appears to include the following core steps/features (see §3 - §3.2) :

(a) a user/entity of a web-site sends a request with a partial profile (e.g., credentials and/or profile attributes), to an intermediary server (i.e. a proxy server) in a web environment which receives said request, identifies the user/entity, and redirects the request to the appropriate web page or web site.
The document D1 discloses (p.37 lines 16 and 17, "... system ... user."; and p.55 lines 27-29, "... a user ... web...") the use of a proxy server in a web environment. D1 also discloses (p.37 lines 30-32, "In addition ... profiling ...") that user profile attributes are determined each time the user logs on the system. Additionally, the proxy of D1 (p.453 lines 25 and 26, "The first ... servers ...") performs the bidirectional communication, between the user and the information/content servers in said web environment.
(Note: A proxy server, in a web environment, conventionally redirects/forwards user requests to the appropriate web page or web server, therefore it is obvious that the proxy of D1 also redirects the user request to the appropriate web page or web server).
(b) automatically matches the received partial profile to a maintained profile related to the same user/entity (p.7 lines 26-31, "... the system ... properties..."; p.43 lines 1-3, "... a pseudonym system ... properties."; and p.44 lines 15-17, "Our ... transactions.";);

(c) automatically generating and storing an electronic record of which of the plurality of third parties contributed to the maintained profile particular profile attributes (p.44 lines 3-5, "A second ... user U..."; and p.51 lines 9-11, "The proxy ... adult."); and

(d) allowing use of the maintained profile in targeting advertisements to the entity s computer over the global computer network (p.7 lines 21-23, "Marketers ... profiles...").

As a consequence, the examiner is of the opinion, even if the applicant was able to overcome the objections raised in the present written opinion (§2-§3.2) claims based on the subject-matter as summarised above (§4.1) would lack inventive step in the sense of Article 56 EPC over the disclosure of D1.

The above objection (§4.1), also applies, mutatis mutandis, to the corresponding claims 8,12 and 13 the subject-matter of which lacks inventive step over the teaching of D1.

4.2 The subject-matter of dependent claims 2-7 (and corresponding claims 9-11) represent only trivial implementation details and does not appear to contain any additional steps/features which, in combination with the features of any claim to which they refer,

meet the requirements of the EPC with respect to inventive step over the teaching of D1.

5.The attention of the applicant is drawn to the fact that documents D2 and D3 cited in the European Search Report (ESR) are regarded as very relevant state in the art in the sense of Article 56 EPC for all claims 1-13 (see passages cited in the ESR).

Closing remarks

6. It is not at present apparent which part of the application could serve as a basis for a new, allowable claim. Should the applicant regard some particular subject-matter patentable, he is requested to redraft the current version of the claims so that all the above deficiencies are removed and non-obvious subject-matter is claimed.

6.1 Non-obviousness of the subject-matter has to be demonstrated by defining the difference between the claimed subject-matter and the teaching of D1-D3. According to this difference the problem underlying the alleged invention has to be defined and the proposed solution (i.e. the subject-matter of the next version of the claims) has to be demonstrated to be non-obviously derivable from the available prior art. This should be shown e.g., by indicating advantageous and unexpected properties/effects of said next version of the claimed subject-matter.

6.2 Care should be taken during revision, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC). In order to facilitate the examination the applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which amendments are based.

6.3 When filing amendments the applicant should take account of the above comments, the usual requirements concerning the two-part-form for the independent claim(s), the use of reference signs in all claims (Rule 43 EPC), the acknowledgement of the relevant prior art and the adaption of the description to the claims (Rule 42 EPC), preferably by including the usual reference to the claims, should also be complied with.

6.4 The vague and imprecise statement "the spirit" used in the description (p.2 second paragraph) should be deleted (Guidelines, C-III, 4.4).

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Date
03.04.09

Reference	Application No./Patent No.
N22759	08103068.6 - 1225 / 1975868
Applicant/Proprietor	
Almondnet, Inc.	

Communication

The extended European search report is enclosed.

The extended European search report includes, pursuant to Rule 62 EPC, the European search report (R. 61 EPC) or the partial European search report/ declaration of no search (R. 63 EPC) and the European search opinion.

Copies of documents cited in the European search report are attached.

☑ 0 additional set(s) of copies of such documents is (are) enclosed as well.

The following have been approved:

☑ Abstract ☑ Title

☐ The Abstract was modified and the definitive text is attached to this communication.

The following figure(s) will be published together with the abstract: 1

Refund of the search fee

If applicable under Article 9 Rules relating to fees, a separate communication from the Receiving Section on the refund of the search fee will be sent later.

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Date 16-12-2009

Reference	Application No./Patent No.
N22759	08103068.6 - 1225 / 1975868
Applicant/Proprietor	
Almondnet, Inc.	

Noting of loss of rights pursuant to Rule 112(1) EPC

The European patent application cited above is deemed to be withdrawn because

☑ the examination fee/request (Art. 94(1) EPC)

☑ the designation fees (Art. 79(2) EPC)

has (have) not been paid/filed within the time limits laid down in Rules 70(1) and 39(1) EPC (Art. 94(2) and R. 39(2)-(3) EPC).

☐ was (were) paid/filed on . . . . . , i.e. after the time limit specified in Rules 70(1) and 39(1) EPC had expired on 06.11.09 (Art. 94(2), R. 39(2)-(3) EPC).

Means of redress

Request for a decision (R. 112(2) EPC)
If the applicant considers that the finding of the European Patent Office is inaccurate, he may, within a (non-extendable) period of **two months** after notification of this communication, apply in writing for a decision on the matter. The application can only lead to the finding being reversed if this does not actually correspond to the factual or legal situation.

Further processing (Art. 121 EPC)
The legal consequence of the failure to observe the time limit shall be deemed not to have ensued if, within a (non-extendable) period of **two months** after notification of this communication, further processing is requested by payment of the fee prescribed under Article 2(12) of the Rules relating to Fees and the omitted act is completed (R. 135(1) EPC).

Request under Article 7(3) and (4) Rules relating to Fees
The fee is considered to have been paid in due time if, within a period of **two months** from notification of this communication and in accordance with the requirements under Article 7(3) and (4) Rules relating to Fees, evidence is provided to the EPO that the payment was effected in an EPC Contracting State within the period in which the payment should have been made and, if applicable, the surcharge of 10% of the relevant fee(s) is paid.

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* = Siehe Mitteilung des Europäischen Patentamts vom 26.01.2009 über die Gebührenstruktur 2009 (**ABl. EPA 2009, 118**)
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Voir Communiqué de l'Office européen des brevets en date du 26.01.2009, relatif à la structure des taxes 2009 (**JO OEB 2009, 118**)

Hinweis/note/avis:
Die Zahlung mittels Schecks ist nicht möglich (**ABl. EPA 2007, 626**)
Payment by cheque is not accepted (**OJ EPO 2007, 626**)
Le paiement par chèque n'est pas accepté (**JO OEB 2007, 626**)

Anlage/Annex/Annexe EPA/EPO/OEB Form 1090 / 1097 (04.09)

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