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EXAMINER

POND, ROBERT M

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3684

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 14/230,938	Applicant(s) MIKKELSEN ET AL.	
	Examiner ROBERT POND	Art Unit 3684	AIA (First Inventor to File) Status No

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/22/14.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

- 5) ☒ Claim(s) 1-20 is/are pending in the application.
5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-20 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) ☐ All b) ☐ Some** c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 3) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date <u>6/20/14;8/28/14;10/31/14</u> . | 4) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

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

Priority

The declaration filed under Rule 131 pertains to a different application #14/057,831. The declaration will be reviewed once formal matters are corrected. The effective priority date for claims 1-9, 11-13, 16, 19 and 20 is 26 June 2002. The effective priority date for independent claims 10, 14, 15 and 18 is 27 June 2001. The effective priority date for claim 17 is 26 October 2001.

Response to Amendment

All pending claims 1-20 were examined in this non-final office action necessitated by a new ground of rejection under 35 USC 101, *Alice Corporation Pty. Ltd. v. CLS Bank International, et al.*

Response to Arguments

35 USC 112 2nd

Claims 18-20 were corrected to overcome rejection, now withdrawn.

35 USC 102(e)

Applicant's arguments filed have been fully considered but they are not persuasive. In Fritsch, consumers access the web site via a personal computer or

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any other wired or wireless Internet access device, such as WebTV, personal digital assistant, cellular telephone, etc., to obtain a variety of services and products. For instance, a consumer may browse through artists, tracks or albums, pre-listen to a portion of the song and purchase the selected song either by downloading the digital data to her computer hard drive or by placing a mail order for a compact disk (CD). A specially encoded or encrypted MP3 files called "NETrax" are delivered from a server over the Internet or cable services to the end consumers' home PC, see col. 2, line 64-col. 3, line 9. The server is a node on a global computer-implemented network, such as the Internet. As known to those skilled in the art, a network router may be used to connect the server to the Internet for controlling the flow of data. Also connected to the Internet is a plurality of nodes, such as personal computers, Web devices, etc., under control by the users (hereinafter collectively referred to as PC users). It is implied that the "etc" aspect of this applies to the cellular telephone previously grouped with personal computers and web devices and therefore the methods pertaining to using the personal computer likewise apply to the cellular telephone.

35 USC 103(a)

The declaration filed under Rule 131 pertains to a different application #14/057,831. The declaration will be reviewed once formal matters are corrected. Kontio relates to wireless delivery of digital files to a cellular telephone using OFDM.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- 1. Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Subject Matter Eligibility Standard

When considering subject matter eligibility under 35 U.S.C. 101, it must be determined whether the claim is directed to one of the four statutory categories of invention, i.e., process, machine, manufacture, or composition of matter. If the claim does fall within one of the statutory categories, it must then be determined whether the claim is directed to a judicial exception (i.e. law of nature, natural phenomenon, and abstract idea), and if so, it must additionally be determined whether the claim is a patent-eligible application of the exception. If an abstract idea is present in the claim, any element or combination of elements in the claim must be sufficient to ensure that the claim amounts to significantly more than the abstract idea itself. Examples of abstract ideas include fundamental economic practices; certain methods of organizing human activities; an idea itself; and mathematical relationships/formulas. *Alice Corporation Pty. Ltd. v. CLS Bank International, et al.*, 573 U.S. ____ (2014).

Analysis

In the instant case, claim 18 is directed to a process. Additionally, the claim is directed to distributing electronic content to an electronic device which is considered to be an abstract idea inasmuch as such activity is considered This is considered to be an abstract idea inasmuch as such activity is considered both a fundamental economic practice and method of organizing human activity by requiring a user of the wireless device to interact with a website in a specific manner to achieve the claimed outcome. The instant disclosure clearly indicates the wireless device is under control of a user who makes requests to the website via the wireless device. Interaction with the website organizes the interaction of the wireless device under control of the user in order to successfully request and receive the digital files. Given that the method of claim 1 is designed to facilitate the purchase of data files, the claimed method is presently determined to support a fundamental economic process.

The elements of the process are:

- step for providing a database of electronically-accessible data files, each data file being subject to a copyright owner;
- step for-receiving a selection from the user corresponding to at least one of the data files;
- steps for providing, in response to the received selection, a portion of the selected data file to the electronic device;

step for receiving a request for the data file for which the portion was provided to the electronic device; and

step for transmitting the requested data file to the electronic device.

The elements of the instant process, when taken alone, each execute in a manner routinely and conventionally expected of these elements. That is, a selection of a data file is received, a portion of the data file is provided to the electronic device, a request is received and the requested data file is transmitted.

The elements of the instant process, when taken in combination, together do not offer substantially more than the sum of the functions of the elements when each is taken alone. That is, the elements involved in the recited process undertake their roles in performance of their activities according to their generic functionalities which are well-understood, routine and conventional. The elements together execute in routinely and conventionally accepted coordinated manners and interact with their partner elements to achieve an overall outcome which, similarly, is merely the combined and coordinated execution of generic computer functionalities which are well-understood, routine and conventional activities previously known to the industry.

Conclusion

The claim as a whole, does not amount to significantly more than the abstract idea itself. This is because the claim does not effect an improvement to another technology or technical field; the claim does not amount to an improvement to the functioning of a computer itself; and the claim does not move beyond a general link of the use of an abstract idea to a particular technological environment.

The claim merely amounts to the application or instructions to apply the abstract idea (i.e. distributing electronic content to an electronic device) on a computer, and is considered to amount to nothing more than requiring a generic computer system (e.g. a generic computer system comprising a generic database; a generic element for receiving input; a generic element for displaying output) to merely carry out the abstract idea itself. As such, the claim, when considered as a whole, is nothing more than the instruction to implement the abstract idea (i.e. distributing electronic content to an electronic device) in a particular, albeit well-understood, routine and conventional technological environment .

Accordingly, the Examiner concludes that there are no meaningful limitations in the claim that transform the judicial exception into a patent eligible application such that the claim amounts to significantly more than the judicial exception itself.

Note: The analysis above applies to all statutory categories of invention. As such, the presentment of claim 18 otherwise styled as a machine or manufacture, for example, would be subject to the same analysis.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-5, 7-16 and 18-20 are rejected under 35 USC 102(e) as being anticipated by Fritsch, US 6,247,130, previously applied.

Fritsch teaches all the limitations of claims 1-5, 7-16 and 18-20. For example, Fritsch discloses a system and method for maintaining a music web site on the Internet. Consumers may access the web site via a personal computer or any other wired or wireless Internet access device, such as WebTV, personal digital assistant, cellular telephone, etc., to obtain a variety of services and products. For instance, a consumer may browse through artists, tracks or albums, pre-listen to a portion of the song and purchase the selected song either by downloading the digital data to her computer hard drive or by placing a mail order for a compact disk (CD). A specially encoded or encrypted MP3 files called "NETrax" are delivered from a server over the Internet or cable services to the end consumers' home PC, see col. 2, line 64-col. 3, line 9.

Fritsch's invention is directed to, among other things, a network-based system for distribution of musical products over a network, such as the Internet for example. The system includes a server platform for processing user requests and other information associated with the operation of the system. The server is connected to a database, which may be remote or local, for storing data. The stored data

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represents digitized songs, text associated with each song such as track name, album name, artist name, lyrics, etc., image data, graphics, etc., see at least col. 3, lines 10-18.

The server is a node on a global computer-implemented network, such as the Internet. As known to those skilled in the art, a network router may be used to connect the server to the Internet for controlling the flow of data. Also connected to the Internet is a plurality of nodes, such as personal computers, Web devices, etc., under control by the users (hereinafter collectively referred to as PC users). The PC users communicate with the server using dial-up modems, cable modems, IDSN, DSL, etc., and using browser programs executing on their personal computers or other Internet-compatible devices, as well known to those skilled in the art. Communication links or sessions are established between the PC users and the server, via the Internet, when the PC users log onto the web site hosted by the server, see col. 3, lines 19-33. Fritsch further discloses:

- Regarding claim 18:
 - step for providing a database of electronically-accessible data files,

The system includes a server platform for processing user requests and other information associated with the operation of the system. The server is connected to a database, which may be remote or local, for storing data. The stored data represents digitized songs, text associated with each song such as track name, album name, artist name, lyrics, etc., image data, graphics, etc., see at least col. 3, lines 10-18.

FIG. 6 shows a block diagram of the database structure in accordance with the present invention. A central server 60 is connected to a database which is a repository of sound files in digital format for downloading to the PC users. Another portion of the database contains user accounts, wherein each account holds user ID, password, key, and pointers to the purchased music in the database. Still another portion of the database contains a historical list of all items sold, either in digital format or CD. For each sold item, its title, price, artist name, etc., are maintained in the database, which is used for checking royalty information as described above, see at least col. 9, lines 18-33.

each data file being subject to a copyright owner;

A rights-holder accesses a web page for entering the proper identification information. As shown in the figure, login name and password are required for gaining access to the sales information. After entering the identifier, including the login name or username and password, the rights-holder is presented with a complete list of time, date and product name, amount, pricing and sales of the product distributed through the web site vendor. For example, royalty collection societies get access 24 hours/day, 7 days/week to the digital distribution platform where they can access the digitally distributed NETrax sales and then can collect money from the relevant parties. The sales sub-system of the present invention maintains a record on a computer database (or the like) of all the

purchases ever made by the user. Certain products and services will generate revenue for third party rights holders. For example, songwriters and royalty societies will obtain revenue based on the sales of records and songs. The sub-system permits the rights holders to access the web page of the computer system and determine what royalties they have generated. This royalty information can be maintained as a historical record (showing all the royalties earned to date) or as an incremental record (showing all the royalties currently outstanding), as illustrated in FIG. 3B. The rights-holders for a particular song can access the web site and determine that a particular song was purchased, how many times the song was purchased, what the cost of the song was and what royalties are due to the rights holder. Of course, other information about the sale can be presented to the rights-holder, as desired by the designer of the particular system. FIG. 3C is a block diagram of the sales sub-system for determining sales and royalties for the rights-holders in accordance with the present invention. After a customer 30 buys a track or album via the web site as described above, the sales information is stored to a database 32 at MCY Music web site. A rights-holder may access the stored information via the Internet to check for royalties due, see at least col. 7, lines 15-45.

- step for receiving a selection from the user corresponding to at least one of the data files;

The system permits the purchase of audio music files over the Internet. The PC user logs onto the vendor's web site and browses the songs available for purchase. The songs can be arranged by artist, music style, etc., as mentioned above. Further, the vendor can provide suggestions on the web site, directing the PC user to songs that might be desirable, based on that PC user's previous purchases, her indicated preferences, popularity of the songs, paid advertising and the like, see at least col. 4, lines 57-65.

- step for providing, in response to the received selection, a portion of the selected data file to the electronic device;

If interested in a song, the PC user has the option of clicking on a song to "pre-listen" to it--hearing a 20-second clip, for example--as illustrated in FIG. 1C, see at least col. 4, line 65-col. 5, line 1.

- step for receiving a request for the data file for which the portion was provided to the electronic device;

If the PC user then wishes to purchase the song, she can submit her order by clicking on the icons located next to each song/album, as also shown in FIG. 1C. The order will be reflected in the shopping basket, always visible on the screen. As the PC user selects more items, each and every item is displayed in the shopping basket (to the extent that space permits--a scroll bar may be necessary should the PC user select a large number of items). At any point in time, the PC user can review her

selections, deleting items she no longer desires, see at least col. 5, line 1-10.

- and step for transmitting the requested data file to the electronic device.

When the PC user has developed a satisfactory list, she can submit her order by clicking on the "Purchase Items" button, as illustrated in FIG. 1E showing the magnified right portion of the screen, including the shopping basket. The purchased items will be delivered immediately over the Internet to the user's computer if the selected music is in downloadable digital format. The user can then listen to the song at his computer or download it onto a portable player, see at least col. 5, lines 10-20.

- Regarding claim 1:

- a wireless network accessible by an electronic device;

Consumers may access the web site via a personal computer or any other wired or wireless Internet access device, such as WebTV, personal digital assistant, cellular telephone, etc., see at least col. 2, line 64-col. 3, line 2.

- a content server operably coupled to the wireless network and configured to store a plurality of media files and provide the media files for download to the electronic device;

The server is connected to a database, which may be remote or local, for storing data. The stored data represents digitized songs, text

associated with each song such as track name, album name, artist name, lyrics, etc., image data, graphics, etc., see at least col. 3, lines 14-19.

- and a monitoring server operably coupled to the wireless network and configured to record data about every media file downloaded from the content server to the electronic device.

Server records a complete list of time, date, product name, amount, pricing and sales of a rights holder product distributed through a web site vendor, see at least col. 7, lines 15-27.

- Regarding claims 2 and 4: The stored data represents digitized songs, text associated with each song such as track name, album name, artist name, lyrics, etc., image data, graphics, etc., see at least col. 3, lines 10-18.
Also: MP3 files, books.
- Regarding claim 3: count every media file downloaded from the content server to the electronic device.

Sales sub-system maintains a record on a computer database of all the purchased, i.e. downloads, ever made by the user, see at least col. 7, lines 27-29. Rights-holders for a particular song can access the web site and determine that a particular song was purchased, how many times the song was purchased, what the cost of the song was and what royalties are due to the rights holder, see at least col. 7, lines 39-43.

- Regarding claim 5: aggregate the recorded data and transmit the aggregated data to a third party device.

For example, royalty collection societies get access 24 hours/day, 7 days/week to the digital distribution platform where they can access the digitally distributed NETrax sales and then can collect money from the relevant parties, see at least col. 7, lines 22-26.

- Regarding claim 7: provide an interface for the selection of one of the plurality of media files to be downloaded to the electronic device.

If the PC user then wishes to purchase the song, she can submit her order by clicking on the icons located next to each song/album, as also shown in FIG. 1C. The order will be reflected in the shopping basket, always visible on the screen. As the PC user selects more items, each and every item is displayed in the shopping basket (to the extent that space permits--a scroll bar may be necessary should the PC user select a large number of items). At any point in time, the PC user can review her selections, deleting items she no longer desires, see at least Fig. 1C; col. 5, line 1-10.

- Regarding claim 8: media files organized on the interface by at least one of:

The stored data represents digitized songs, text associated with each song such as track name, album name, artist name, lyrics, etc., image

data, graphics, etc. see at least col. 3, lines 14-18; Interface: see at least Fig. 1C (artist, song, album & genre).

- Regarding claim 9: electronic device is at least one of: a cellular phone, col. 2, line 64-col. 3, line 9.
- Regarding claim 10: Rejection is based on the disclosures noted above applied to claim 18 and as further disclosed by Fritsch.
- Regarding claims 11 and 19: debiting by the computer system, an account of the user corresponding to a price of the transmitted data file;

After the list in the shopping basket 22 is finalized, the on-line consumer is requested to pay for the purchase. A charge may be made directly to the on-line consumer's credit card 24, or the payment may be tendered in other ways as customary in the trade. After confirming the receipt of payment, the product is delivered to the consumer, see col. 6, lines 19-26.

and crediting, by the computer system, an account of the copyright owner an amount associated with the price of the transmitted data file.

The sales sub-system of the present invention maintains a record on a computer database (or the like) of all the purchases ever made by the user. Certain products and services will generate revenue for third party rights holders. For example, songwriters and royalty societies will obtain revenue based on the sales of records and songs. The sub-system permits the rights holders to access the web page of the computer system

and determine what royalties they have generated. This royalty information can be maintained as a historical record (showing all the royalties earned to date) or as an incremental record (showing all the royalties currently outstanding), as illustrated in FIG. 3B, see col. 7, lines 27-39.

- Regarding claims 12 and 20: tracking the user of the electronic device receiving the data file to determine data about the user and reporting the data about the user to the copyright owner.

In another aspect of the present invention, the inventive network-based system allows authors, composers, publishers and all related artists of a music product (collectively referred to as rights-holders) to have 24-hour, 7-day a week access to the worldwide sales of their product. FIG. 3A shows an illustration of the monitor screen 10 displaying the user interface for accessing the information on royalties, see at least col. 7, lines 8-14.

A rights-holder accesses a web page for entering the proper identification information. As shown in the figure, login name and password are required for gaining access to the sales information. After entering the identifier, including the login name or username and password, the rights-holder is presented with a complete list of time, date and product name, amount, pricing and sales of the product distributed through the web site vendor. For example, royalty collection societies get access 24 hours/day, 7 days/week to the digital distribution platform where

they can access the digitally distributed NETrax sales and then can collect money from the relevant parties, see col. 7, lines 15-26.

The sales sub-system of the present invention maintains a record on a computer database (or the like) of all the purchases ever made by the user. Certain products and services will generate revenue for third party rights holders. For example, songwriters and royalty societies will obtain revenue based on the sales of records and songs. The sub-system permits the rights holders to access the web page of the computer system and determine what royalties they have generated. This royalty information can be maintained as a historical record (showing all the royalties earned to date) or as an incremental record (showing all the royalties currently outstanding), as illustrated in FIG. 3B, see col. 7, lines 27-39.

The rights-holders for a particular song can access the web site and determine that a particular song was purchased, how many times the song was purchased, what the cost of the song was and what royalties are due to the rights holder. Of course, other information about the sale can be presented to the rights-holder, as desired by the designer of the particular system, see col. 7, lines 40-46.

FIG. 3C is a block diagram of the sales sub-system for determining sales and royalties for the rights-holders in accordance with the present invention. After a customer 30 buys a track or album via the web site as

described above, the sales information is stored to a database 32 at MCY Music web site. A rights-holder may access the stored information via the Internet to check for royalties due, see col. 7, lines 47-53.

After the login, the rights-holder may decide, for example, to check the sales for a particular album for the last 6 months. The sales tracking module accesses the sales information stored to the database after each customer's purchase transaction and then selects only the sales information pertaining to the desired album for the last 6 months. The selected information is then transferred to the display module for display, see col. 7, line 54-61.

- Regarding claim 13: tracking, by the computer system, the user of the electronic device receiving the portion of the data file to determine data about the user.

Further, the vendor can provide suggestions on the web site, directing the PC user to songs that might be desirable, based on that PC user's previous purchases, her indicated preferences, popularity of the songs, paid advertising and the like. If interested in a song, the PC user has the option of clicking on a song to "pre-listen" to it--hearing a 20-second clip, for example--as illustrated in FIG. 1C. If the PC user then wishes to purchase the song, she can submit her order by clicking on the icons located next to each song/album, as also shown in FIG. 1C, see at least col. 4, line 57-col. 5, line 4. Examiner's note: Data determined about the

user is based on receiving the portion of the data file given that the data file containing the portion, i.e. preview clip, is information used to determine preferences of the user.

- Regarding claim 14: providing an interface, by the computer system, for the selection of one of the electronically-accessible files.

If the PC user then wishes to purchase the song, she can submit her order by clicking on the icons located next to each song/album, as also shown in FIG. 1C. The order will be reflected in the shopping basket, always visible on the screen. As the PC user selects more items, each and every item is displayed in the shopping basket (to the extent that space permits--a scroll bar may be necessary should the PC user select a large number of items). At any point in time, the PC user can review her selections, deleting items she no longer desires, see at least Fig. 1C; col. 5, line 1-10.

- Regarding claim 15: data files are organized on the interface by at least one of: The stored data represents digitized songs, text associated with each song such as track name, album name, artist name, lyrics, etc., image data, graphics, etc. see at least col. 3, lines 14-18. Interface: see at least Fig. 1C (artist, song, album & genre).
- Regarding claim 16: Inherent in Fritsch are the computing structures necessary that permit: each of the data files comprises an identifier associated with the copyright owner. For example, each rights-holder has

an identifier, including a login name and password required for gaining access to the system, that permits the rights-holder to view his/her listing of products sold/distributed by the systems, see at least col. 7, lines 15-45.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 6 and 17 are rejected under 35 USC 103(a) as being unpatentable over Fritsch, US 6,247,130 previously applied, in view of Kontio et al., US 2005/0004875 “Kontio” previously applied.

Fritsch teaches all the above as noted under the 102(e) rejection as it pertains to i) using a wireless communications device, e.g. cellular telephone, to access electronic content owned by rights-holders, ii) wired or wireless Internet, and iii) distributing the electronic content via a content server to the wireless device. Likewise in Kontio, techniques are used in a system to enable a wireless device in mobile communications environment to obtain rights to protected content of a digital asset. The digital asset is downloaded to the wireless device from any one of content servers or other wireless devices. The totality of information constituting a digital asset is its primary content, which contains all of the expression of its author for that particular asset. The expression may be in the form of text, graphics, sound, video, or other multimedia forms. Portions of the information in the primary content can be distilled out as a preview, such as a text abstract, a thumbnail view, a sound

bite, a video clip, executable code fragment, or the like, which are generically referred to as secondary content. The presentation of the information in the primary content can be limited to a specified duration or a specific number of viewings, see at least abstract; 0030.

The author, owner, or possessor of the digital asset can specify the terms and conditions for distribution of the primary content and the secondary content. The principal methods of distribution are by sharing access to the content, by duplicating a copy of the content and transferring possession of the copy, and by giving or transferring possession of the content, itself, see 0031.

The IEEE 802.11 Wireless LAN Standard defines at least two different physical (PHY) specifications and one common medium access control (MAC) specification. The IEEE 802.11(a) Standard is designed for either the 2.4 GHz ISM band or the 5 GHz U-NII band, and uses orthogonal frequency division multiplexing (OFDM) to deliver up to 54 Mbps data rates. The IEEE 802.11(b) Standard is designed for the 2.4 GHz ISM band and uses direct sequence spread spectrum (DSSS) to deliver up to 11 Mbps data rates. The IEEE 802.11 Wireless LAN Standard describes two major components, the mobile station and the fixed access point (AP). IEEE 802.11 ad hoc networks have an independent configuration where the mobile stations communicate directly with one another, without support from a fixed access point. The IEEE 802.11 standard provides wireless devices with service inquiry features similar to the Bluetooth inquiry and scanning features. IEEE 802.11 ad hoc

networks support distributed activities similar those of a Bluetooth piconet, except that they have ten times the communications range, see 0022.

The HIPERLAN standard provides a wireless LAN with a high data rate of up to 54 Mbps and a medium-range of 50 meters. HIPERLAN wireless LANs provide multimedia distribution with video quality of service (QoS), reserved spectrum, and good in-building propagation. There are two HIPERLAN standards. HIPERLAN Type 1 is a dynamic, priority driven channel access protocol similar to wireless Ethernet. HIPERLAN Type 2 is a reserved channel access protocol similar to a wireless version of asynchronous transfer mode (ATM). Both HIPERLAN Type 1 and HIPERLAN Type 2 use dedicated spectrum at 5 GHz. HIPERLAN Type 1 uses an advanced channel equalizer to deal with intersymbol interference and signal multipath. HIPERLAN Type 2 avoids these interference problems by using orthogonal frequency division multiplex (OFDM) and a frequency transform function. The HIPERLAN Type 2 specification offers options for bit rates of 6, 16, 36, and 54 Mbps. The physical layer adopts an OFDM multiple carrier scheme using 48 carrier frequencies per OFDM symbol. Each carrier may then be modulated using binary phase shift keying (BPSK), quadrature phase shift keying (QPSK), or quadrature amplitude modulation (QAM) formats of 16-QAM or 64-QAM to provide different data rates. The modulation schemes chosen for the higher bit rates achieve throughput in the range 30-50 Mbps, see 0022. One of ordinary skill in the art at time the invention was made would have recognized that applying the known techniques of using OFDM in a wireless network to avoid intersymbol interference and signal

multipath problems as taught by Kontio would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the techniques of Kontio to the teachings of Fritsch would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such data processing features into similar systems. Obviousness under 35 USC 103 in view of the Supreme Court decision *KSR International Co. vs. Teleflex Inc.* The Fritsch system and methods using Kontio's techniques would provide a wireless network using OFDM to avoid known intersymbol interference and signal multipath problems.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT POND whose telephone number is (571)272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jason Dunham can be reached on 571-272-8109. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/ROBERT POND/
Primary Examiner, Art Unit 3684
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