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16/704,493	12/05/2019	Patrick J. Rooney	091212US06	5472
39310	7590	03/02/2020	EXAMINER	
TRADING TECHNOLOGIES INTERNATIONAL, INC. Monika A. Dudek 222 South Riverside Plaza SUITE 1100 CHICAGO, IL 60606			NORMAN, SAMICA L	
			ART UNIT	PAPER NUMBER
			3697	
			NOTIFICATION DATE	DELIVERY MODE
			03/02/2020	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docteting@mbhb.com
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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.

Claims 2-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim must be rejected under 35 U.S.C. 101 as covering non-statutory subject matter. A claim drawn to a computer readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to cover only statutory embodiments to avoid a rejection under 35 U.S.C. 101 by adding the limitation “non-transitory” to the claim. Its not acceptable to just add “physical” or “tangible” - *Nuijten*’s ineligible signals were physical and tangible.

Double Patenting

A rejection based on double patenting of the “same invention” type finds its support in the language of 35 U.S.C. 101 which states that “whoever invents or discovers any new and useful process... may obtain a patent therefor...” (Emphasis added). Thus, the term “same invention,” in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the claims that are directed to the same invention so they are no longer

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coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 2-12 is/are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 2-12 of prior U.S. Patent No. 10,540,718. This is a statutory double patenting rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMICA L NORMAN whose telephone number is (571)270-1371. The examiner can normally be reached on Mon-Thur 9:30am-8p EST, with Fri off.

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

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <https://ppair-my.uspto.gov/pair/PrivatePair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

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free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SAMICA L. NORMAN
Primary Examiner
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