REMARKS

Claims 1–20 were pending in this application, and claims 1, 11, and 16 were the independent claims. Claims 1, 11, 16, and 17 are amended herein.

STATEMENT OF SUBSTANCE OF INTERVIEW

Applicant's representatives John Kind (Reg. No. 70,670) and Bailey Meyer conducted a telephonic interview with Examiner Rada on May 7, 2019. During the interview, pending claim 1 and the rejections to those claims under 35 U.S.C. § 102 in light of references Mahajan were discussed. No formal agreement was reached, but the examiner indicated that the discussed amendments would require further search and consideration.

REJECTIONS UNDER 35 U.S.C. § 101

Claims 1–20 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. In view of the following, these rejections should be withdrawn.

Under the new guidance released by the United States Patent and Trademark Office on January 7, 2019, the claims must be examined using a two-pronged analysis under Step 2A. *See* "2019 Revised Patent Subject Matter Eligibility Guidance" (henceforth "January Guidance"). The examiner alleges that the claimed subject matter is directed to "following rules or instructions under Certain Methods of Organizing Human Activity but for recitation of generic computer components." OA, p. 2. However, the claimed subject matter is non-abstract as it does not merely recite an abstract idea a method of organizing human activity.

Step 2A, Prong One

Under Prong One, "examiners should evaluate whether the claim recites a judicial exception, *i.e.,* an abstract idea, a law of nature, or a natural phenomenon." *See* January

Guidance, p. 54. Claim 1 does not recite an abstract idea. Rather, claim 1 recites a method for using location data and real world condition data to determine "a location for a virtual element in the virtual world," "add... the location for the virtual element to a game database," and "transmit[], by the server to other mobile devices associated with other players, information for displaying the virtual element at the location in the virtual world." Through these steps, the method of claim 1 incorporates the real world further into the virtual world of the parallel reality game. This could not be done in the human mind, nor does it describe a mathematical formula or organization of human activity.

The Office Action asserts that claim 1 pertains to certain methods of organizing human activity. OA, p. 2. However, claim 1 does not recite a method of organizing of human activity. The steps of claim 1 describe, among other things, "determining... a location for a virtual element in the virtual world" and "transmitting... information for displaying the virtual element at the determined location in the virtual world." While the method may be implemented in the context of a parallel-reality game, nothing in claim 1 creates a legal obligation nor directs humans to behave in any particular way. Rather, the claim describes how to add virtual elements to a virtual world based on location data and real world condition data. Is other words, the focus of the claim is the virtual world itself, not the players who ultimately interact with it

In sum, claim 1 does not recite an abstract idea. Therefore, claim 1, and claims 11 and 16, which recite similar subject matter, are directed to patent eligible subject matter. The dependent claims are also eligible by virtue of their dependency.

Step 2A, Prong Two

Under Prong Two, "[a] claim is not 'directed to' a judicial exception, and thus is patent eligible, if the claim as a whole integrates the recited judicial exception into a practical

application of that exception." *See* January Guidance, p. 53. Even if claim 1 did recite an abstract idea, which applicant does not concede, it includes additional elements that integrate any underlying abstract ideas into a practical application. For example, claim 1 recites, *inter alia*, "updating the game database to include the virtual element at the determined location" and "transmitting, by the server to other mobile devices associated with other players, information for displaying the virtual element at the determined location in the virtual world." In this way, the method of claim 1 updates the virtual world of the parallel reality game through "updating the game database to include the virtual element at the determined location" and "transmitting... information for displaying the virtual element at the determined location." Therefore, claim 1, and claims 11 and 16, which recite similar subject matter, are not "directed to" the judicial exception. The dependent claims are also eligible by virtue of their dependency.

Therefore, in view of these amendments, the Applicant respectfully requests withdrawal of the rejection.

REJECTIONS UNDER 35 U.S.C. § 102 and/or 35 U.S.C. § 103

Claims 1–6, 11–14, and 16–19 were rejected under 35 U.S.C. § 102(b) as anticipated by Mahajan et al. (US Pub. No. 2013/0005466). Claim 7 was rejected under 35 U.S.C. § 103(a) as unpatentable over Mahajan et al. (US Pub. No. 2013/005466) in view of Gahlmgs (US Pub. No. 2013/0227017). Claims 8–9 were rejected under 35 U.S.C. § 103(a) as unpatentable over Mahajan et al. (US Pub. No. 2013/005466) in view of Bokor et al. (US Pub. No. 2010/0050237). Claims 10, 15, and 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Mahajan et al. (US Pub. No. 2013/005466) in view of Kolo et al. (US Pub. No. 2012/0244945). These rejections are respectfully traversed.

Claim 1 has been amended for clarity to recite:

hosting, at a server, the parallel reality game, the parallel reality game
including interactions with virtual elements in the virtual world
stored in a game database, the virtual world having a geography
that parallels at least a portion of the geography of the real world
such that a player can navigate the virtual world by moving to
different geographic locations in the real world;

receiving, at the server, location data indicating a geographic location of a
mobile device associated with a player;

retrieving, by the server, real world condition data associated with one or
more real world conditions;

determining, based on the location data and the real world condition data,
a location for a virtual element in the virtual world;

updating the game database to include the virtual element at the
determined location; and

transmitting, by the server to other mobile devices associated with other
players, information for displaying the virtual element at the
determined location in the virtual world.

Mahajan generally discloses a method of updating virtual worlds based on interactions

between real-world items. *See* Mahajan, Abstract. The Office Action asserts that Mahajan at

[0066] and [0068]-[0070] describes the claim element "determining a location for a virtual

element in the virtual world based on the location data and the real world condition." However,

Mahajan merely describes locations, which are "specific physical place[s] in the real world."

Mahajan, [0066].

This differs from the subject matter of claim 1. In particular, claim 1 recites that a

"location for a virtual element in the virtual world" is determined "based on **the location data**

and the real world condition data." The location data indicates "a geographic location of a

mobile device associated with a player." Thus, claim 1 includes selecting the location of a

virtual element based on the geographic location of a player's mobile device. In contrast,

Mahajan makes no mention of considering a player's location when determining the location of

virtual elements. Rather, the virtual elements are at pre-determined locations that are "specific physical place[s] in the real world." Mahajan, [0066].

In view of these arguments, claim 1, and claims 11 and 16, which recite similar subject matter, are patentable over Mahajan. The dependent claims are also patentable by virtue of their dependency. The other cited references do not remedy these deficiencies of Mahajan. Therefore, these rejections should be withdrawn.

DOUBLE PATENTING REJECTION

Claims 1-20 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 9,782,668. Applicant will file a terminal disclaimer.

CONCLUSION

Based on the foregoing, the application is in condition for allowance of all claims, and a Notice of Allowance is respectfully requested. If the examiner believes for any reason direct contact would help advance the prosecution of this case to allowance, the examiner is encouraged to telephone the undersigned at the number given below.

If extensions of time are necessary to prevent abandonment of this application, then such extension of time are hereby petitioned under 37 CFR 1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account 19-2555.

Respectfully submitted,

Dated: May 20, 2019   /John E. Kind/
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