

**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks.

*Interview Summary*

Applicants' representative respectfully thanks Examiner Frunzi for the courtesies extended during the August 17, 2020 interview.

Per the discussions during the August 17, 2020 interview, Applicants' representative appreciates Examiner Frunzi's confirmation that the 35 USC § 112(a) and 35 USC § 101 rejections of claims 21-39 and 41 will be withdrawn based on the support for features such as "modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify the at least one of the web pages to increase or decrease the number of the identified online ads" presented in paragraphs [0005], [0016], [0017], and [0019] of the specification.

Further, with respect to the 35 USC § 103 rejection, Applicants' representative appreciates Examiner Frunzi's confirmation that independent claims 21 and 30 as amended to recite "perform a cost analysis for the identified online ads, by analyzing, from the KPIs, actual placement that includes an actual vertical and horizontal placement location of the identified online ads on a web page and relative to the web page, versus planned placement that includes a planned vertical and horizontal placement location of the identified online ads on the web page and relative to the web page" appear to overcome the 35 USC § 103 rejection, subject to further search and consideration. Further, Applicants' representative appreciates Examiner Frunzi's confirmation that the features

of “modify, based on the determined delivery quality of the identified online ads and the KPIs, a number of the identified online ads for at least one of the web pages by modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify the at least one of the web pages to increase or decrease the number of the identified online ads” as recited in claim 21, and similarly recited in claims 30 and 34 do not appear to be taught or suggested by the cited art. For example, in a similar manner as claim 21, claim 30 recites “modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify the at least one of the web pages to increase or decrease the number of the identified online ads”, and claim 34 recites “modify, based on the KPIs, at least one of the web sites to increase or decrease a number of the identified online ads by modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify at least one web page to increase or decrease the number of the identified online ads”.

In view of the remarks presented herein, Applicants respectfully request withdrawal of the outstanding rejections, and allowance of this case.

#### Status of Claims

Claims 21 and 30 are amended. Support for the amendments to claims 21 and 30 is provided, for example, in Figures 1 and 2, and paragraph [0018] of the specification.

Claims 1-20 and 40 were previously canceled without prejudice or disclaimer of the subject matter contained therein.

Claims 21-39 and 41 are pending in the application of which claims 21, 30, and 34 are independent.

Claims 21-39 and 41 are rejected.

No new matter has been introduced by way of the amendments above. Entry thereof is therefore respectfully requested.

Summary of the Office Action

Claims 21-39 and 41 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

Claims 21-39 and 41 are rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

Claims 21-23, 25-27, and 29 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2011/0125587 to Netzer (hereinafter “Netzer”) in view of U.S. Patent Application Publication No. 2005/0137939 to Calabria (hereinafter “Calabria”), U.S. Patent Ndemio. 7,308,643 to Zhu (hereinafter “Zhu”), U.S. Patent Application Publication No. 2009/0240677 to Parkeh (hereinafter “Parekh”), and further in view of U.S. Patent Application Publication No. 2006/0224965 to Bodin (hereinafter “Bodin”).

Claims 30-32 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Netzer in view of U.S. Patent Application Publication No. 2009/0132340 to Demir (hereinafter “Demir”).

Claims 34-39 and 41 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Netzer in view of Parekh and Bodin.

Claims 24 and 28 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Netzer in view of Calabria, Zhu, Parekh, Bodin, and further in view of U.S. Patent Application Publication No. 2004/0133471 to Pizaris-Henderson, et al. (hereinafter "Pizaris-Henderson").

Claim 33 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Netzer in view of Demir and further in view of U.S. Patent Application Publication No. 2007/0239532 to Benson (hereinafter "Benson").

The rejections above are respectfully traversed for at least the reasons set forth below.

*Claim Rejection Under 35 U.S.C. § 112, 1<sup>st</sup> Paragraph*

Claims 21-39 and 41 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

Specifically, the Office Action indicates that "Claims 21, 30, and 34 recite "modify, based on the determined delivery quality of the identified online ads and the KPIs, a number of the identified online ads for at least one of the web pages by modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify the at least one of the web pages to increase or decrease the number of the identified online ads", however the Examiner does not find support for these limitations in the specification. The review of the cited paragraphs in the remarks (5/1/2020) for the alleged support, make no mention of modification or

modifying the website or number of online ads. The cited paragraphs only discuss the evaluation of the KPIs for generating reports.”

In this regard, Applicant respectfully directs the Examiner’s attention, for example, to paragraphs [0004], [0005], [0016], [0017]-[0019], [0020], [0022], [0024], [0026], [0033], [0035]-[0038], [0040], [0043], [0044], and [0050] of the specification.

For example, paragraph [0005] indicates that “It is difficult to track the web sites to determine whether the web sites are posting their ads, and whether the ads include the proper content and are provided in the proper web page and in the proper location on the web page”.

Paragraph [0016] indicates that “ABBA is able to determine metrics for online ads from the scanning. These metrics may also be key performance indicators (KPIs) or can be used to derive KPIs for auditing and competitor analysis. Categories of metrics and KPIs for online ads include but are not limited ad coverage, targeting, delivery quality, and cost. Coverage is associated with locations of a client’s online ads and may be compared with a competitor’s online ad coverage. Targeting is associated with whether the online ads are posted in locations lucrative to the ad or posted in predetermined locations.”

Paragraph [0017] indicates that “The metrics captured by ABBA may be used by a client, such as an ad buyer, to audit information about their ads posted on web sites” and “Examples of these metrics include: when the ad was presented (e.g., date and time); ad image (e.g., the actual image presented in the ad); frequency of the occurrence of an ad image in the scan (e.g., two occurrences in 3 scans) based on scan scheduling; hourly/daily detection of the image; where a page including the ad was presented (e.g., URL and page title); a site level hierarchy identifying

where the page including the ad is located in the web site; ad location in the web page (e.g., function of the tile parameter being set by DOUBLECLICK).”

Paragraph [0019] indicates that “The ad campaign analysis identifies metrics for competitor’s ads to determine who is advertising where and how often they are advertising. This information may be compared to the ad information for the client to determine where the client may additionally need to advertise or where the client may have too much advertising coverage.”

Thus, as confirmed during the August 17, 2020 interview, the aspects described in paragraphs [0016], [0017], and [0019] clearly include modification of a web page based on information related to “where the client may additionally need to advertise”, and “where the client may have too much advertising coverage”.

Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 112, first paragraph, rejection of claims 21-39 and 41.

*Claim Rejection Under 35 U.S.C. § 101*

Claims 21-39 and 41 are rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

With respect to independent claims 21, 30, and 34, the Office Action alleges that under Step 2A:Prong 1, the “claims recite determining key performance metrics of advertisements parsed from a plurality of websites to determine the effectiveness of the advertisements. The limitation falls within “Certain Methods Of Organizing Human Activity””. Further, the Office Action alleges that under Step 2A:Prong 2, “This judicial exception is not integrated into a practical

application because the only additional elements are a processor, a memory storing machine readable instructions executed by the processor and a network interface for scanning a plurality of websites by a plurality of servers located in different locations, detecting web pages, parse web pages, identify ad beacons, determine metrics, perform cost analysis, modify the number of advertisements on a webpage, modify the at least one web page to increase or decrease the number of identified online ads, and communicate with web servers hosting web sites.” *Office Action*, pages 3 and 4.

In this regard, claim 21 recites “scan, by a plurality of scan servers located at different geographical locations, a plurality of web sites based on a competitor analysis of a set of competitors of a client”. Claim 21 further recites “modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify the at least one of the web pages to increase or decrease the number of the identified online ads”. Support for these amendments, is provided, for example, in paragraphs [0004], [0005], [0016], [0017]-[0019], [0020], [0022], [0024], [0026], [0033], [0035]-[0038], [0040], [0043], [0044], and [0050] of the specification.

For example, paragraph [0005] indicates that “It is difficult to track the web sites to determine whether the web sites are posting their ads, and whether the ads include the proper content and are provided in the proper web page and in the proper location on the web page”.

Paragraph [0016] indicates that “ABBA is able to determine metrics for online ads from the scanning. These metrics may also be key performance indicators (KPIs) or can be used to derive KPIs for auditing and competitor analysis. Categories of metrics and KPIs for online ads

include but are not limited ad coverage, targeting, delivery quality, and cost. Coverage is associated with locations of a client's online ads and may be compared with a competitor's online ad coverage. Targeting is associated with whether the online ads are posted in locations lucrative to the ad or posted in predetermined locations."

Paragraph [0017] indicates that "The metrics captured by ABBA may be used by a client, such as an ad buyer, to audit information about their ads posted on web sites" and "Examples of these metrics include: when the ad was presented (e.g., date and time); ad image (e.g., the actual image presented in the ad); frequency of the occurrence of an ad image in the scan (e.g., two occurrences in 3 scans) based on scan scheduling; hourly/daily detection of the image; where a page including the ad was presented (e.g., URL and page title); a site level hierarchy identifying where the page including the ad is located in the web site; ad location in the web page (e.g., function of the tile parameter being set by DOUBLECLICK)."

Paragraph [0019] indicates that "The ad campaign analysis identifies metrics for competitor's ads to determine who is advertising where and how often they are advertising. This information may be compared to the ad information for the client to determine where the client may additionally need to advertise or where the client may have too much advertising coverage."

Thus, as confirmed during the August 17, 2020 interview, the aspects described in paragraphs [0005], [0016], [0017], and [0019] clearly include modification of a web page based on information related to "where the client may additionally need to advertise", and "where the client may have too much advertising coverage".



Thus, as confirmed during the August 17, 2020 interview, these features recited in claim 21 clearly integrate any judicial exception into a practical application, namely, scanning, by a plurality of scan servers located at different geographical locations, a plurality of web sites based on a competitor analysis of a set of competitors of a client, and further, modifying, by at least one scan server of the plurality of scan servers, the number of identified online ads to modify at least one of the web pages to increase or decrease the number of the identified online ads.

Claims 30 and 34 recite similar features.

Based on the foregoing, Applicant respectfully requests withdrawal of the 35 U.S.C. § 101 rejection of claims 21-39 and 41.

*Claim Rejections Under 35 U.S.C. § 103(a)*

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007):

“Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

As set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, “[a]ll claim limitations must be considered” because “all words in a claim must be

considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385. According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claims would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

(A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006), “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness.”

Therefore, if the above-identified criteria and rationales are not met, then the cited reference(s) fails to render the claims obvious and, thus, the claims are distinguishable over the cited reference(s).

- **Claims 21-23, 25-27, and 29**

Claims 21-23, 25-27, and 29 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Netzer in view of Clalabria, Zhu, Parekh, and further in view of Bodin.

- Independent Claim 21

Independent claim 21, as amended, recites:

A system comprising:

- a processor;

- a memory storing machine readable instructions that when executed by the processor cause the processor to:

- scan, by a plurality of scan servers located at different geographical locations, a plurality of web sites based on a competitor analysis of a set of competitors of a client;

- detect web pages based on the scanning of the plurality of web sites;

- parse the web pages of the plurality of web sites;

- identify ad beacons from the parsed web pages;

- determine, based on an analysis of information that describes online ads for the client and an analysis of the ad beacons, whether the ad beacons identify the online ads for the client;

- determine metrics for the online ads for the client identified by the ad beacons;

- determine delivery quality of the identified online ads from a set of the metrics by analyzing, from the set of the metrics, frequency of an occurrence of specified content in the identified online ads based on a specified scan frequency that corresponds to the specified content;

- determine key performance indicators (KPIs) from the metrics, wherein the KPIs are configured to determine effectiveness of ads relative to content and web sites;

- perform a cost analysis for the identified online ads, by analyzing, from the KPIs, actual placement that includes an actual vertical and horizontal placement location of the identified online ads on a web page and relative to the web page, versus planned placement that includes a planned vertical and horizontal placement location of the identified online ads on the web page and relative to the web page;

modify, based on the determined delivery quality of the identified online ads and the KPIs, a number of the identified online ads for at least one of the web pages by

modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify the at least one of the web pages to increase or decrease the number of the identified online ads; and

a network interface to communicate with web servers hosting the plurality of web sites operable to include the online ads for the client. (*Emphasis Added*)

- Netzer in view of Clalabria, Zhu, Parekh, and further in view of Bodin does not teach or suggest “perform a cost analysis for the identified online ads, by analyzing, from the KPIs, actual placement that includes an actual vertical and horizontal placement location of the identified online ads on a web page and relative to the web page, versus planned placement that includes a planned vertical and horizontal placement location of the identified online ads on the web page and relative to the web page,” as recited in claim 21, as amended.

In setting forth the rejection of the aforementioned emphasized features of independent claim 21, the Office Action cites to Figure 21 of Bodin for allegedly disclosing these features.

*Office Action*, page 14.

Referring to Figure 21 and paragraph [0123] of Bodin, Bodin indicates that “In aid of such a comparison, presentation server (102) may be programmed to generate automatically a data structure similar to the one illustrated in FIG. 21. The structure of FIG. 21 contains not only the structural element identifications (956), sequence (960), and durations (958) of the actual presentation, but also the planned sequence (752) and durations (754) from the planned agenda for the presentation.”

Paragraph [0124] of Bodin indicates that “Comparing the planned agenda shows that only the first four presented structural elements are identical as planned and presented in sequence and

also similar as planned and presented in duration. The first four presented structural elements were presented in the sequence as planned. The first four presented structural elements were presented with durations within a few tenths of a minute as planned. The planned durations for each were 3.0 minutes and the actual durations for each ranged between 2.5 minutes and 3.5 minutes.”

Further, paragraph [0125] of Bodin indicates that “Beginning with the fifth structural element presented, however, the element identified as ‘P5-S2,’ the actual presentation differs substantially from the planned agenda. Because actual presentations may vary so substantially from planned agendas, methods of dynamic differential content delivery that use a planned agenda according to embodiments of the present invention also may advantageously include analyzing a comparison of a planned agenda with recorded identities, durations, and sequence of an actual presentation. In such methods, analyzing the comparison of the planned agenda with the recorded identities, durations, and sequence may be carried out by contrasting the durations and sequence of presented structural elements according to the planned agenda with the durations and sequence as recorded.

Thus, at most, Figure 21 and paragraphs [0123]-[0125] of Bodin appear to describe analysis related to presentation of a planned sequence of structural elements versus an actual sequence of structural elements.

However, Bodin clearly does not teach or suggest any type of analysis related to variations in locations of the structural elements, much less variations in horizontal and vertical locations of the structural elements.

Thus, as confirmed during the August 17, 2020 interview, Bodin fails to teach or suggest “perform a cost analysis for the identified online ads, by analyzing, from the KPIs, actual placement that includes an actual vertical and horizontal placement location of the identified online ads on a web page and relative to the web page, versus planned placement that includes a planned vertical and horizontal placement location of the identified online ads on the web page and relative to the web page”, as recited in claim 21, as amended.

- Netzer in view of Clalabria, Zhu, Parekh, and further in view of Bodin does not teach or suggest “modify, based on the determined delivery quality of the identified online ads and the KPIs, a number of the identified online ads for at least one of the web pages by modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify the at least one of the web pages to increase or decrease the number of the identified online ads,” as recited in claim 21, as amended.

In setting forth the rejection of the aforementioned emphasized features of independent claim 21, the Office Action cites to paragraphs [0035] and [0054] of Parekh for allegedly disclosing these features. *Office Action*, pages 12 and 13.

Cited paragraph [0035] of Parekh indicates that “some embodiments focusing on the North region maintain a number of ads on the SRP while decreasing the number of ads shown in the North region, while some increase the number of ads shown in the North region”.

Cited paragraph [0054] of Parekh indicates that “some embodiments decrease the total number of advertisements shown on the page if the user has a low probability of clicking on sponsored listings”.

Thus, at most, cited paragraphs [0035] and [0054] of Parekh appear to describe increasing or decreasing a number of advertisements on a page.

However, Parekh clearly does not teach or suggest that the advertisements are increased or decreased “based on the determined delivery quality of the identified online ads and the KPIs”, as recited in claim 21, as amended.

Therefore, Netzer in view of Clalabria, Zhu, Parekh, and further in view of Bodin does not teach or suggest “modify, based on the determined delivery quality of the identified online ads and the KPIs, a number of the identified online ads for at least one of the web pages by modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify the at least one of the web pages to increase or decrease the number of the identified online ads,” as recited in claim 21, as amended.

For at least the foregoing reasons, the Office Action has failed to establish that claim 21 is *prima facie* obvious over Netzer in view of Clalabria, Zhu, Parekh, and further in view of Bodin as proposed by the Examiner. Therefore, withdrawal of the rejection of claim 21, and allowance of this claim is respectfully requested.

- **Claims 30-32**

Claims 30-32 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Netzer in view of Demir.

- Independent Claim 30

Independent claim 30, as amended, recites:

A computer implemented method comprising:  
scanning, by a plurality of scan servers located at different geographical locations, a plurality of web sites;  
detecting web pages based on the scanning of the plurality of web sites;  
parsing the web pages of the plurality of web sites;  
identifying ad beacons from the parsed web pages;  
determining, based on an analysis of information that describes online ads for a client, whether the ad beacons identify the online ads for the client;  
determining, by a processor, metrics for the identified online ads for the client;  
determining key performance indicators (KPIs) which identify effectiveness of ads relative to content and web sites;  
performing a cost analysis for the identified online ads, by analyzing, from the KPIs, actual placement that includes an actual vertical and horizontal placement location of the identified online ads on a web page and relative to the web page, versus planned placement that includes a planned vertical and horizontal placement location of the identified online ads on the web page and relative to the web page; and  
determining, based on the KPIs and an analysis of locations of the web pages in their web site hierarchies for websites of the plurality of web sites that include at least three web pages, and the web pages according to their locations in their web site hierarchies, a location on the at least one of the plurality of web sites to increase or decrease, for at least one of the web pages, a number of the identified online ads for the client by  
modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify the at least one of the web pages to increase or decrease the number of the identified online ads. (Emphasis Added)

Independent claim 30 is allowable for at least the reasons presented above for the allowance of independent claim 21, and for the additional features recited therein.

- **Claims 34-39 and 41**

Claims 34-39 and 41 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Netzer in view of Parekh and Bodin.

- Independent Claim 34

Independent claim 34 recites:



A non-transitory computer readable medium having stored thereon machine readable instructions, the machine readable instructions, when executed, cause a processor to:

- retrieve information describing online ads from data storage;
- scan, by a plurality of scan servers located at different geographical locations, web sites hosted on web servers based on a region-based scan for the online ads using the information;
- identify the online ads based on the scanning of the web sites;
- determine metrics for the identified online ads;
- determine key performance indicators (KPIs) from the metrics, wherein the KPIs are configured to determine effectiveness of ads relative to content and web sites;
- perform a cost analysis for the identified online ads, by analyzing, from the KPIs, actual placement of the identified online ads versus planned placement of the identified online ads; and

modify, based on the KPIs, at least one of the web sites to increase or decrease a number of the identified online ads by  
modifying, by at least one scan server of the plurality of scan servers, the number of the identified online ads to modify at least one web page to increase or decrease the number of the identified online ads. (Emphasis Added)

Independent claim 34 is allowable for at least the reasons presented above for the allowance of independent claim 21, and for the additional features recited therein.

**PATENT**

Atty Docket No.: D08-127-02049-52-US  
App. Ser. No.: 15/806,091

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited. Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to Deposit Account No. 50-3290.

Respectfully submitted,

Dated: August 24, 2020

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