

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR: WAYNE LIN

EXAMINER: MICHAEL MISIASZEK

APPLICATION NO.: 11/262,527

GROUP ART UNIT: 3625

FILED: OCTOBER 28, 2005

CONFIRMATION No.: 9107

TITLE: SYSTEMS AND METHODS FOR TRANSACTING BUSINESS OVER A
GLOBAL COMMUNICATIONS NETWORK SUCH AS THE INTERNET

ATTORNEY NO: PP 1020

Mail Stop **AMENDMENT**
Commissioner For Patents
P.O.Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NON-FINAL OFFICE ACTION

In response to the non-final Office Action, mailed May 25, 2010 ("Office Action") setting a shortened statutory period for response due to expire on August 25, 2010, please reconsider the above-identified application in light of the following amendments and remarks. This Response is being filed on August 25, 2010 via EFS-Web.

Exhibit 2001
Google/LinkedIn v.
Priceplay.com
CBM2015-00024

CERTIFICATE OF ELECTRONIC (EFS-WEB) TRANSMISSION

I hereby certify that this correspondence is being transmitted via the U.S. Patent Office's electronic filing system (EFS-Web) in accordance with 37 C.F.R. § 1.8(a)(1) from the **Pacific Time Zone** of the United States on the local date shown below.

Dated: August 25, 2010

By: Clay McGurk
Clay McGurk

ABSTRACT

Please replace the Abstract with the following:

A business process is described for conducting business transactions over the Internet, allowing buyers an opportunity to reduce the price of a product/service based on the buyer's performance during a Price-Determining-Activity (PDA). Sellers offer the product/service within a specified price range, and buyers agree to a binding agreement, in exchange for the opportunity to close the transaction at the lowest price by achieving a high score or performance during the PDA. The price may change during the PDA, and the available price at any given time may be displayed or otherwise made available to the buyer. The price change may be continuous, at intervals, in response to certain events. The PDA may be a video game, electronic board game, sports bet, card game, or any other activity, or against the seller, a software opponent, or a computer opponent. The PDA may involve another buyer competing for the same product/service.

CLAIMS

This listing of claims will replace all prior versions and listings of the claims in the application:

1-20. (Canceled).

21. (Currently Amended) A system comprising multiple programmable databases accessible by at least one computer server, ~~computer-readable storage medium~~ comprising[:] computer executable program code programmed to perform a method of:

communicating via a global communication network to a buyer, ~~a description of a service;~~

receiving data representing a binding commitment from the buyer ~~request~~ via the global communication network to buy the service purchase a product for a price that will be partially based upon participation in [Price-Determining-Activity (PDA)] a competitive activity that is collateral to the price and associated with the product being purchased during an ecommerce transaction, the competitive activity is required as part of the ecommerce transaction;

receiving data over the global communication network, said data representing the participation in the PDA competitive activity; and

determining the price of the product ~~service~~ based at least partially upon the data received and at least partially on a bid in an auction.

22. (Canceled).

23. (Currently Amended) The ~~computer-readable storage medium~~ system of claim 21, further comprising computer executable program code programmed to perform the step of presenting over the global communication network, a plurality of competitive activities [PDAs] to choose from.

24. (Currently Amended) The ~~computer-readable storage medium~~ system of claim 23, further comprising computer executable program code programmed to perform the step of presenting price determination rules over the global communication network, said price determination rules being associated with the plurality of [PDAs] competitive activities.

25. (Currently Amended) The ~~computer-readable storage medium~~ system of claim 21, wherein the competitive activity [PDA] requires participation of at least two participants.

26. (Currently Amended) The ~~computer-readable storage medium~~ system of claim 25, further comprising computer executable program code programmed to perform the step of determining the price based at least partially upon a competition between the at least two participants participating in the [PDA] competitive activity.

27. (Currently Amended) The ~~computer-readable storage medium~~ system of claim 26, wherein the at least two participants comprise a first buyer and second buyer, the binding commitment request is from the first buyer, and further comprising receiving a second ~~request~~ binding commitment from the second buyer to buy purchase the product service for a second price to be determined within the a price range, and determining the second price based at least partially upon the competition.

28. (Currently Amended) The ~~computer-readable storage medium~~ system of claim 21, wherein the competitive activity ~~PDA~~ is selected by a buyer that provides the binding commitment request to purchase buy the ~~service~~ product.

29-79. (Canceled).

80. (Currently Amended) The ~~computer-readable storage medium~~ system of claim 21, further comprising computer executable program code programmed to perform the step of presenting price determination rules over the global communication network.

81. (Currently Amended) A system comprising multiple databases accessible by at least one computer server, and the system being programmed to perform the steps of a sales transaction device comprising:

~~a server having programmable logic wherein said programmable logic is programmed to perform the steps of:~~

~~communicating via the global communication network to a buyer, a description of a service;~~

~~receiving data representing a binding commitment request via the global communication network to buy the service purchase a product for a price that will be partially based upon participation in an auction and participation in a [Price-Determining-Activity (PDA)] competitive activity that is collateral to the price and associated with the product being purchased, the competitive activity is required as part of the sales transaction;~~

~~determining a score based at least partially on participation in the [PDA] competitive activity; and~~

~~setting the price of the product service based at least partially upon the score.~~

82. (Currently Amended) A system comprising multiple databases accessible by at least one computer server and is programmed ~~having programmable logic wherein said programmable logic is programmed~~ to perform the steps of:

~~communicating via the global communication network to a buyer, a description of a service;~~

~~receiving data representing a binding commitment request via the global communication network to buy the service purchase a product for a price that will be partially based upon participation in an auction and participation in a [Price-Determining-Activity (PDA)] competitive activity that is collateral to the price and associated with the product being purchased;~~

~~[determining a score based on participation in the PDA;] and~~

~~using an algorithm to determine setting the price of the product service based at least partially upon the score results of the competitive activity and at least partially based on results of the auction.~~

Status of the Claims

Claims 21, 23-28 and 80-82 are pending in this application. Claims 1-20, 22 and 29-79 had been previously canceled. Claims 21, 23-28 and 80-82 are amended herein. It is respectfully submitted that no new matter has been added. The amendments to claims 21, 81 and 82 are fully supported by the specification. Support for the amendments can be found, for example, in the Abstract; Figure 1; paragraphs 8, 22 and 24-25.

Abstract

On page 2 of the Office Action, the Abstract was objected to. The Abstract has been amended herein. It is respectfully requested that the objection to the Abstract be withdrawn.

Rejection under 35 U.S.C. §112

On page 3 of the Office Action, claim 27 was rejected under 35 U.S.C. §112, second paragraph. Appropriate correction has been made to claim 27. It is respectfully requested that the rejection to claim 27 be withdrawn.

Rejection under 35 U.S.C. §102

On pages 3-6 of the Office Action, claims 21, 23-28 and 80-82 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,078,906 ("Huberman"). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (other citations omitted); see also M.P.E.P. §2131.

Huberman does not disclose or suggest the specific combination of claims 21, 81 and 82. For example, Huberman fails to disclose or suggest receiving data representing a binding commitment from the buyer to purchase a product for a price that will be partially based upon participation in a competitive price that is collateral and associated with the product being purchased as in claim 1; or, receiving data representing a binding commitment to purchase a product for a price that will be partially based upon participation in an auction and participation in a competitive activity as in claims 81 and 82. The binding commitment in the claims require a

buyer to buy the product regardless of the results of the auction and/or the price, if the seller accepts and/or approves it.

In contrast to claims 21, 81 and 82, Huberman describes a brokered auction in which a customer who needs a document service can provide a request for those services to a broker. (Huberman, col. 3, lines 54 to col. 4, lines 20). Suppliers then bid competitively on the request by submitting bids to the broker, who auctions the job off to the lowest bidder. *Id.* The customer is afforded one or more fail-safe mechanisms and has the *option* to decline or cancel the service. *Id.* The customer is *not committed* to accept the auction results before the auction begins or even after the auction ends. *Id.* Therefore, Huberman clearly teaches away from the claimed inventions. Hence, claims 21, 81 and 82 are not anticipated by Huberman, thus making claims 21, 81 and 82 allowable over Huberman. Claims 23-28 and 80 also are allowable, at least by virtue of their dependence from claim 21.

Claims 21, 81 and 82, also require at least one buyer's participation in a competitive activity that is collateral to the price and associated with the product being purchased, and where the purchase price is partially dependent on the competitive activity. Huberman does not disclose a competitive activity that is collateral to the price and associated with the product being purchased. In Huberman, a bid is an *offer price* in an auction. Therefore, as the competitive activity is collateral to the price, the competitive activity is an activity that is other than offering or accepting a price. A bid in Huberman is not a competitive activity as claimed. The claims further require that the competitive activity be associated with the product being purchased. Therefore, the competitive activity is closely tied to or an integral part of the product. For example, writing and editing ad text is a competitive activity that is associated with the ad space being purchased. Huberman does not disclose a competitive activity that is collateral to the price and associated with the product being purchased.

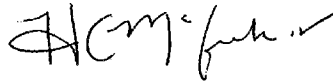
In Huberman, a buyer who has the highest bid against other bidders wins the auction and gets the opportunity to buy the service. (Huberman, col. 3, lines 54 to col. 4, lines 20). With claims 21, 81, and 82, a buyer with the highest bid may not win the auction, as results of the auction and the price are at least partially based on the participation in the competitive activity. For example, a buyer may have the 2nd or 3rd highest bid, or any lower bid than the highest bid, but will still win the auction after his participation in the competitive activity is taken into account. Furthermore, in the claims, the highest bid from a buyer may win the auction, but will

pay less than his and/or one or more bidders' bids when the buyer's participation in the competitive activity is taken into account. For example, an additional discount based on the participation in a competitive activity may be given to the highest bidder after he wins the auction with the highest bid.

Conclusion

It is respectfully requested that the Office reconsider and withdraw each of the objections and rejections, and thereafter indicate the allowability of each of the pending claims. The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

Best Regards,



Date: August 25, 2010

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Electronic Acknowledgement Receipt

EFS ID:	8293254
Application Number:	11262527
International Application Number:	
Confirmation Number:	9107
Title of Invention:	Systems and methods for transacting business over a global communications network such as the internet
First Named Inventor/Applicant Name:	Wayne W. Lin
Customer Number:	64828
Filer:	Harold C. McGurk
Filer Authorized By:	
Attorney Docket Number:	PP 1020
Receipt Date:	25-AUG-2010
Filing Date:	28-OCT-2005
Time Stamp:	18:35:11
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Amendment/Req. Reconsideration-After Non-Final Reject	11262527_Amendment_8-25-10.pdf	104679 c946f115bc78eafa2aaf336588285bdba9d586d0	no	8

Warnings:

Information:

Exhibit 2001-9

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 11/262,527		Filing Date 10/28/2005		<input type="checkbox"/> To be Mailed		
APPLICATION AS FILED – PART I											
(Column 1)			(Column 2)			SMALL ENTITY <input checked="" type="checkbox"/>		OR		OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	RATE (\$)	FEE (\$)	RATE (\$)	FEE (\$)	RATE (\$)	FEE (\$)	
<input type="checkbox"/> BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A		N/A		N/A		N/A		
<input type="checkbox"/> SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A	N/A		N/A		N/A		N/A		
<input type="checkbox"/> EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A		N/A		N/A		N/A		
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X \$	=	X \$	=	X \$	=	X \$	=	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X \$	=	X \$	=	X \$	=	X \$	=	
<input type="checkbox"/> APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).										
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))											
* If the difference in column 1 is less than zero, enter "0" in column 2.											
APPLICATION AS AMENDED – PART II											
(Column 1)			(Column 2)			SMALL ENTITY		OR		OTHER THAN SMALL ENTITY	
AMENDMENT	08/25/2010	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	RATE (\$)	ADDITIONAL FEE (\$)	RATE (\$)	ADDITIONAL FEE (\$)	
Total (37 CFR 1.16(i))	* 10	Minus	** 59	= 0	X \$26 =	0	OR	X \$ =	X \$ =	X \$ =	
Independent (37 CFR 1.16(h))	* 3	Minus	*** 11	= 0	X \$110 =	0	OR	X \$ =	X \$ =	X \$ =	
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))											
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))											
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE			
(Column 1)			(Column 2)			SMALL ENTITY		OR		OTHER THAN SMALL ENTITY	
AMENDMENT	Total (37 CFR 1.16(i))	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	RATE (\$)	ADDITIONAL FEE (\$)	RATE (\$)	ADDITIONAL FEE (\$)	
	*	Minus	**	=	X \$ =		OR	X \$ =	X \$ =	X \$ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	X \$ =		OR	X \$ =	X \$ =	X \$ =	
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))											
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))											
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE			
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.											

Legal Instrument Examiner:
/DANTE r. SMITH/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.