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Table with columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO., EXAMINER, ART UNIT, PAPER NUMBER, NOTIFICATION DATE, DELIVERY MODE. Includes application details for Carlos A. Perez Lafuente and examiner Jean Chang.

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):

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DETAILED ACTION

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

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Preliminary Amendment

3. The preliminary amendment filed on 6/26/2014 is acknowledged. Claims 1-12 are cancelled. Claims 13-27 are pending for examination.

Claim Objections

4. Claims 14-16, 18-19, 21, 23-24 and 26-27 are objected to because of the following informalities:
 - Claims 14-16, 18-19, 21, 23-24 and 26-27 recites the limitation "A ..." which should be "The ...".Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. Claims 13, 17 and 20 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the

application was filed, had possession of the claimed invention. Claims 13, 17 and 20 contain subject matter "... (iv) when the mobile station remains outside the special area" which was not described in the specification.

6. Claims 22 and 25 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 22 and 25 contain subject matter "... (iv) when the mobile station remains outside the ... special area" and "... the second updating signal being sent from the mobile station while the mobile station is determined to be in both the first special area and the second special area" which was not described in the specification.

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

7. Claims 13 and 14 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of prior U.S. Patent No. 8,738,040. Claim limitations recited in the claims 13 and 14 of the instant application are drawn to identical subject matter as recited in the claim 1 of prior U.S. Patent No. 8,738,040. This is a statutory double patenting rejection.
8. Claim 15 is rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 4 of prior U.S. Patent No. 8,738,040. Claim limitations recited in the claim 15 of the instant application are drawn to identical subject matter as recited in the claim 4 of prior U.S. Patent No. 8,738,040. This is a statutory double patenting rejection.
9. Claim 16 is rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 9 of prior U.S. Patent No. 8,738,040. Claim limitations recited in the claim 16 of the instant application are drawn to identical subject matter as recited in the claim 9 of prior U.S. Patent No. 8,738,040. This is a statutory double patenting rejection.

10. Claims 17 and 18 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 14 of prior U.S. Patent No. 8,738,040. Claim limitations recited in the claims 17 and 18 of the instant application are drawn to identical subject matter as recited in the claim 14 of prior U.S. Patent No. 8,738,040. This is a statutory double patenting rejection.
11. Claim 19, pertaining to the subject matter of Claim 16, therefore, is rejected with the same rationale as analyzed in claim 16.
12. Claim 20 is rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 13 of prior U.S. Patent No. 8,738,040. Claim limitations recited in the claim 20 of the instant application are drawn to identical subject matter as recited in the claim 13 of prior U.S. Patent No. 8,738,040. This is a statutory double patenting rejection.
13. Claim 21 pertaining to the subject matter of Claim 16, therefore, is rejected with the same rationale as analyzed in claim 16.

As summarized in the Table below, the conflicting claims between the instant application of Patent No. 8,738,040 are substantially identical. They are not patentably distinct from each other.

Instant Application No. 14/250,517		Patent No. 8,738,040	
Claims		Claims	
13	A method associated with the use of a mobile station and at least one radio communication defining device that	1	A method for monitoring the presence of a mobile station in one or more special areas associated with the use of the mobile station, the method comprising: (a) repeatedly transmitting from at least one radio communication defining device a radio

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<p>14</p>	<p>transmits a distinctive defining signal that at least partly defines a special area by its coverage, the distinctive defining signal including data, the method comprising:</p> <p>receiving and processing one or more defining signals in the mobile station to determine, based on a previously obtained at least portion of the data, whether the one or more defining signals are one or more distinctive defining signals and to determine whether or not the mobile station is present in the special area; and</p> <p>sending from the mobile station via a mobile telephone network an updating signal to one or more servers of a provider of presence related services about the mobile station's presence in the special area,</p> <p>the sending of the updating signal being uncorrelated to any mobile station phone call establishment,</p> <p>the updating signal being sent at least one of</p> <ul style="list-style-type: none"> (i) periodically, (ii) at times recent to when the mobile station enters into or exists from the special area, (iii) when the mobile station remains in the special area and (iv) when the mobile station remains outside the special area. <p>A method according to claim 13, wherein the updating signal comprises the result of a previous determination performed by the mobile station about the mobile station's presence in the special area.</p>	<p>distinctive defining signal in at least one channel that at least partially defines one of the special areas by its coverage,</p> <p>(b) observing the channel and processing any received signal by the mobile station in order to determine whether or not it is receiving a defining signal,</p> <p>(c) processing any received defining signal by the mobile station and the mobile station determines whether or not the defining signal received is a distinctive defining signal that at least partially defines one of the special areas, and determines whether or not the mobile station is present in one or more of the special areas,</p> <p>(d) sending an updating signal from the mobile station to a mobile telephone network</p> <p>about the mobile station presence in one or more of the special areas,</p> <p>where the updating signal sending is uncorrelated to any mobile station phone call establishment and is based on the last determination performed by the mobile station about its presence in each of the special areas, and</p> <p>said updating signal being sent at least one of</p> <ul style="list-style-type: none"> (i) periodically, (ii) when the mobile station enters into or exits from one of the special areas, and (iii) when the mobile station remains into a special area, <p>(e) routing the updating signal from the mobile telephone network to special operating means that adapt the value of at least one operating parameter taking into account the presence of the mobile station in each of the special areas,</p> <p>(f) associating the special areas with the mobile station by transmitting a checking data to the mobile station, this checking data being sent to any mobile station whose presence in the special areas is monitored and being used by the mobile station for determining whether or not the defining signal received is a distinctive defining signal that defines, alone or with other distinctive defining signals, one or more of the special areas associated with the mobile station.</p>
<p>15</p>	<p>A method according to claim 13, wherein the frequency of the updating signal is different from the frequency of the distinctive defining signal.</p>	<p>4</p> <p>The method according to claim 1, wherein at least one radio communication defining device is a wireless device whose radio distinctive defining signal is a distinctive wireless signal transmitted by the wireless device in a frequency range outside the frequency range allocated for the mobile telephone network...</p>
<p>16</p>	<p>A method according to claim 13, wherein the mobile station enables or disables one or more functions related to a presence related service upon receiving enabling or disabling instructions from the provider of presence related services.</p>	<p>9</p> <p>The method according to claim 1, wherein the operating signal includes a request to access a service or multimedia content and the mobile telephone network routes this request to a part of the special operating means that allow or forbid the provision of this service or multimedia content depending on whether or not the mobile station is into the special area.</p>

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<p>20 A mobile station capable of receiving a distinctive defining signal from a radio communication defining device that at least partly defines a special area by its coverage, the distinctive defining signal including data, the mobile station comprising: an electronic storage medium that stores at least a portion of the data; and a processor adapted to process one or more defining signals to determine, based on the at least portion of the data,</p> <p>whether the one or more defining signals are one or more distinctive defining signals and to determine whether or not the mobile station is present in the special area,</p> <p>the processor further adapted to send from the mobile station via a mobile telephone network an updating signal to one or more servers of a provider of presence related services about the mobile station's presence in the special area, the sending of the updating signal being uncorrelated to any mobile station phone call establishment, the updating signal being sent at least one of</p> <ul style="list-style-type: none"> (i) periodically, (ii) at times recent to when the mobile station enters into or exists from the special area, (iii) when the mobile station remains in the special area and <p>(iv) when the mobile station remains outside the special area.</p>	<p>13 A mobile station, comprising:</p> <p>observing means to observe a channel and process any received signal in order to determine whether or not it is receiving a defining signal, a processor to process any received defining signal and to determine, based on a previously obtained checking data, whether or not the defining signal received is a distinctive defining signal that at least partially defines a special area, to determine whether or not it is present in one or more special areas, and</p> <p>to send an updating signal at least one of</p> <ul style="list-style-type: none"> (i) periodically, (ii) when the mobile station enters into or exits from one of the special areas, and (iii) when the mobile station remains into a special area to a mobile telephone network about its presence in one or more of the special areas, <p>where said updating signal sending is uncorrelated to any mobile station phone call establishment and is based on the last determination performed by the mobile station about its presence in the special areas.</p>
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14. Claims 22-24 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of prior U.S. Patent No. 8,738,040. Claim 1 of Patent No. 8,738,040 recites a method for monitoring the presence of a mobile station in one or more special areas associated with the mobile station, where at least one radio communication defining device repeatedly transmitting a radio distinctive defining signal in at least one channel that at least partially defines one of the special areas by its coverage. Claim 22 of the instant application recites a method associated with a mobile station for receiving first and second distinctive defining signals respectively from first and second radio communication defining

devices, the first and second distinctive defining signals at least partly define first and second special areas, respectively, by their coverage. The subject matter of the first and second radio communication defining devices recited in the instant application is obvious variants of the subject matter of at least one radio communication defining device recited in claim 22 and does not rise to the level of patentability distinction. “the second updating signal being sent from the mobile station while the mobile station is determined to be in both the first special area and the second special area” as recited in claim 22, does not rise to the level of patentability distinction either, as the mobile station processes any received defining signal and determines whether or not the defining signal received is a distinctive defining signal that at least partially defines one of the special areas and determines whether or not the mobile station is present in one or more of the special areas (step (c)) and the sending of an updating signal from the mobile station is based on the last determination performed by the mobile station about its presence in each of the special areas (step (d)) as recited in claim 1 of the Patent.

15. Claims 25-27, pertaining to subject matter of claims 22-24, therefore, are rejected with the same rationale as analyzed in claims 22-24 respectively.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Chang whose telephone number is (571) 270-7979. The examiner can normally be reached on Mon-Thursday from

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9:00-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Jinsong Hu can be reached on (571) 272-3965. 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 <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jean Chang/

Examiner, Art Unit 2643

/JINSONG HU/

Supervisory Patent Examiner,

Art Unit 2643



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DETAILED ACTION

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

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 112

3. Claim 10 is rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 10 contains subject matter "... (iv) when the mobile station remains outside the first special area" which is not described in the specification.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory double patenting rejection is appropriate where the claims at

issue are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the reference application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO internet Web site contains terminal disclaimer forms which may be used. Please visit <http://www.uspto.gov/forms/>. The filing date of the application will determine what form should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal

Disclaimers, refer to <http://www.uspto.gov/patents/process/file/efs/guidance/eTD-info-l.jsp>.

4. Claims 1-11 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1, 4, 5 and 9-16 of U.S. Patent No. 8,934,922. Although the claims at issue are not identical, as summarized in the Table below, the conflicting claims between the instant application and the claims of Patent No. 8,934,922 are substantially identical. They are not patentably distinct from each other.

Claim limitations recited in the claim 1 of the instant application is drawn to the subject matter as recited in the claim 1 and is anticipated by the claim 1 of prior U.S. Patent No. 8,934,922.

Claim limitations recited in the claim 2 of the instant application is drawn to the subject matter as recited in the claim 4 and is anticipated by the claim 4 of prior U.S. Patent No. 8,934,922.

Claim limitations recited in the claim 3 of the instant application is drawn to the subject matter as recited in the claim 5 and is anticipated by the claim 5 of prior U.S. Patent No. 8,934,922.

Claim limitations recited in the claims 4-11 of the instant application are drawn to the subject matter as recited in the claims 9-16 and are anticipated by the claims 9-16 of prior U.S. Patent No. 8,934,922 respectively.

Instant Application No. 14/561,426		Patent No. 8,934,922	
Claims		Claims	
1.	A method associated with a provider of presence related services in connection with the use of a mobile station and at least a first radio communication defining device that transmits a first distinctive defining signal.	1.	A method associated with one or more providers of presence related services in connection with the use of a mobile station and at least a first radio communication defining device that transmits a first distinctive defining signal

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<p>the first distinctive defining signal at least partly defines a first special area by its coverage,</p> <p>the method comprising: electronically storing in one or more memories data capable of linking the mobile station to the first special area, the data including a checking data of the first radio communication defining device and</p> <p>a first identifier related to the mobile station, transmitting via a mobile telephone network to the mobile station at least a portion of the checking data,</p> <p>receiving from the mobile station via the mobile telephone network an updating signal uncorrelated to any mobile station phone call establishment that identifies the mobile station's presence in at least the first special area,</p> <p>the updating signal including a second identifier related to the mobile station,</p> <p>deriving from the updating signal by one or more processing devices having access to at least a portion of the data whether or not the mobile station is present in the first special area; and</p> <p>enabling or disabling by use of the one or more processing devices a presence related service based upon the mobile station's presence or non-presence in the first special area.</p>	<p>and a second radio communication defining device that transmits a second distinctive defining signal, the first distinctive defining signal at least partly defines a first special area by its coverage, the second distinctive defining signal at least partly defining a second special area by its coverage,</p> <p>the method comprising: electronically storing in one or more memories data capable of linking the mobile station to the first and second special areas, the data including a first checking data of the first radio communication defining device, a second checking data of the second radio communication defining device, and a first identifier related to the mobile station, transmitting via a mobile telephone network to the mobile station at least a portion of the first checking data, and transmitting via the mobile telephone network to the mobile station at least a portion of the second checking data, receiving from the mobile station via the mobile telephone network a first updating signal uncorrelated to any mobile station phone call establishment that identifies the mobile station's presence in at least the first special area, and receiving from the mobile station via the mobile telephone network a second updating signal uncorrelated to any mobile station phone call establishment that identifies the mobile station's presence in at least the second special area, the first updating signal including a second identifier related to the mobile station, the second updating signal including a third identifier related to the mobile station, deriving from the first updating signal by one or more processing devices having access to at least a portion of the data whether or not the mobile station is present in the first special area, and deriving from the second updating signal by the one or more processing devices whether or not the mobile station is present in the second special area; and enabling or disabling by use of the one or more processing devices a presence related service based upon the mobile station's presence or non-presence in the first special area, and enabling or disabling by use of the one or more processing devices a presence related service based upon the mobile station's presence or non-presence in the second special area.</p>
	<p>2. The method according to claim 1, wherein the data stored in the one or more memories related to the first special area is stored in a first memory or set of memories of a first provider of presence related services and the data stored in the one or more memories related to the second special area is stored in a second memory or set of memories of a second provider of presence related services.</p>
	<p>3. The method according to claim 1, wherein the mobile telephone network transmits to the mobile station the at least portion of the first checking data and the at least portion of the second checking data at different times.</p>
<p>2. The method according to claim 1, wherein the one or more processing devices has access to at least a portion of the data and updates at least one operating parameter in a database of the provider of presence related services depending on the presence of the mobile station in the first special area.</p>	<p>4. The method according to claim 1, wherein the one or more processing devices has access to at least a portion of the data and updates at least one operating parameter in a database of the one or more providers of presence related services depending on the presence of the mobile station in the first special area and/or second special area.</p>

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3.	The method according to claim 2, wherein the operating parameter is a tariff flag or a service flag that enables or disables a special tariff or a service for the mobile station.	5.	The method according to claim 4, wherein the operating parameter is a tariff flag or a service flag that enables or disables a special tariff or a service for the mobile station.
		6.	The method according to claim 1, wherein the one or more processing devices include a first processing device associated with a first provider of presence related services and a second processing device associated with a second provider of presence related services.
		7.	The method according to claim 6, wherein the first processing device has access to at least a portion of the data and updates at least one operating parameter in a database of the first provider of presence related services depending on the presence of the mobile station in the first special area, and the second processing device has access to at least a portion of the data and updates at least one operating parameter in a database of the second provider of presence related services depending on the presence of the mobile station in the second special area.
		8.	The method according to claim 7, wherein the operating parameter is a tariff flag or a service flag that enables or disables a special tariff or a service for the mobile station.
4.	The method according to claim 1, wherein the first and second identifiers related to the mobile station are the same.	9.	The method according to claim 1, wherein the first, second and third identifiers related to the mobile station are the same.
5.	The method according to claim 1, wherein the enabling or disabling of the presence related service includes transmitting via the mobile telephone network a signal to the mobile station that is capable of being used to enable or disable one or more related functions in the mobile station.	10.	The method according to claim 1, wherein the enabling or disabling of the first and/or second presence related service includes transmitting via the mobile telephone network a signal to the mobile station that is capable of being used to enable or disable one or more related functions in the mobile station.
6.	The method according to claim 1, wherein the one or more memories and the one or more processing devices reside in one or more servers of the provider of presence related services and/or in one or more servers of the mobile telephone network.	11.	The method according to claim 1, wherein the one or more memories and the one or more processing devices reside in one or more servers of the one or more providers of presence related services and/or in one or more servers of the mobile telephone network.
7.	The method according to claim 1, wherein the storing of the checking data in the one or more memories comprises electronically receiving from the mobile station the checking data.	12.	The method according to claim 1, wherein the storing of the first and second checking data in the one or more memories comprises electronically receiving from the mobile station the first and second checking data.
8.	The method according to claim 1, wherein the mobile telephone network is cellular.	13.	The method according to claim 1, wherein the mobile telephone network is cellular.
9.	The method according to claim 1, wherein the updating signal comprises the result of a previous determination performed by the mobile station about the mobile station's presence in the first special area.	14.	The method according to claim 1, wherein at least one of the first and second updating signals comprises the result of a previous determination performed by the mobile station about the mobile station's presence in the first and second special areas, respectively.
10.	The method according to claim 1, wherein the updating signal is received via the mobile telephone network from the mobile station at least one of (i) periodically, (ii) at times recent to when the mobile station enters into or exists from the first special area, (iii) when the mobile station remains in the first special area, and (iv) when the mobile station remains outside the first special area.	15.	The method according to claim 1, wherein at least one of the first and second updating signals is received via the mobile telephone network from the mobile station at least one of (i) periodically, (ii) at times recent to when the mobile station respectively enters into or exists from the first special area and/or second special area, (iii) when the mobile station respectively remains in the first special area and/or the second special area, and (iv) when the mobile station respectively remains outside the first special area and/or second special area.
11.	The method according to claim 1, wherein the updating signal comprises a request to access to a service or to a multimedia content and the provider of presence related services enables or disables the provision of the service or multimedia content depending on the presence of the mobile station in the first special area.	16.	The method according to claim 1, wherein at least one of the first and second updating signals comprises a request to access to a service or to a multimedia content and the one or more providers of presence related services enable or disable the provision of the service or multimedia content depending on the presence of the mobile station into the first and second special area, respectively.

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Examiner, Art Unit 2643

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Supervisory Patent Examiner, Art Unit 2643