

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Nat G. Adkins JR.	§	Response to Office Action
	§	
Serial No.: 12/648,897	§	Group Art Unit: 3623
	§	
Filed: December 29, 2009	§	Examiner: Gills, Kurtis
	§	
Title: Expansion of Market Coverage	§	Atty. Docket No.: OCUS056
	§	

AMENDMENT UNDER 37 C.F.R. §1.111

RESPONSE TO OFFICE ACTION MAILED JANUARY 24, 2012

Mail Stop Amendment
Commissioner for Patents
P.O. BOX 1450
Alexandria, VA 22313-1450

Dear Examiner Gills:

This paper is filed in response to the office action mailed January 24, 2012. In the following response:

Amendments to the Claims begin on page 2.

Remarks/Arguments begin on page 7.

CLAIMS

1. (Currently Amended) A computer-implemented method for funding an expanded market coverage in a financing system for financing a sales force, the method comprising:

identifying, via said financing system having at least one computer-implemented interface, one or more sales territories for coverage;

assigning a pre-defined ranking to each of the sales territories;

establishing a capital contribution level for receipt of a corresponding pre-determined capital contribution, the capital contribution level associated with the sales territory ranking; and

directing the capital contribution toward financing one or more sales representatives placed in the sales territories.

2. (Original) The method of claim 1, further comprising receiving the capital contribution from one or more contributors.

3. (Original) The method of claim 1, wherein the sales representatives are financed continually until one or more pre-determined sales objectives are achieved in the sales territories.

4. (Currently Amended) The method of claim 1, wherein the identification of the sales territories further comprises:

determining one or more preliminary factors for the identification of the sales territories; and

retrieving and analysing data satisfying the one or more preliminary factors ~~sales-territory identification factors~~.

5. (Original) The method of claim 4, wherein the preliminary factors comprise one or more geographic locations, demographic indicators, quantitative values or qualitative values.

6. (Currently Amended) The method of claim 5, wherein the data satisfying the one or more preliminary factors ~~sales-territory identification factors~~ comprises information on current and/or historic sales of one or more products and/or services.

7. (Original) The method of claim 6, wherein the products are selected from the group consisting of prescription and over the counter pharmaceutical products and medical devices.

8. (Currently Amended) The method of claim 4, wherein the data satisfying the one or more preliminary factors ~~sales-territory identification factors~~ comprises information on prescriptions written in the sales territory.

9. (Original) The method of claim 2, comprising disbursing a fixed percentage of net profits generated from sales in the sales territory to the one or more contributors.

10. (Original) The method of claim 9, wherein the disbursement comprises a pre-determined interest accrued on the capital contributions.

11. (Original) The method of claim 10, wherein the interest is disbursed pro-rata in accordance with the capital contribution level.

12. (Currently Amended) The method of claim 11, further comprising distributing surplus revenues, after payment of the interest, to the one or more contributors until the capital contributions are completely repaid.

13. (Currently Amended) A method for funding an expanded market coverage in a financing system for financing a sales force, the method comprising:

setting up a new business entity, the business entity comprising a designated general partner and one or more limited partners;

determining, via said financing system having at least one computer-implemented interface, one or more preliminary factors for the identification of one or more sales territories;

retrieving and analysing data satisfying the one or more preliminary factors ~~sales-territory identification factors~~;

identifying the one or more sales territories for sales expansion;

assigning a pre-defined ranking to each of the identified sales territories;

establishing a capital contribution level for receipt of a corresponding pre-determined capital contribution from the one or more limited partners, the capital contribution level associated with the sales territory ranking; and

directing the capital contributions received toward financing one or more sales representatives placed in the sales territories.

14. (Original) The method of claim 13, wherein the sales territory ranking is based on future sales potential.

15. (Original) The method of claim 13, wherein each of the limited partners continually contributes their capital, for a pre-determined duration, to finance commercial activities of the one or more sales representatives placed in each of the sales territories.

16. (Original) The method of claim 13, wherein the business entity comprises a limited partnership, the limited partnership further comprising a general partner responsible for recruiting and managing the sales representatives.

17. (Original) The method of claim 15, wherein each of the limited partners acquires a percentage interest in the limited partnership commensurate to its capital contribution.

18. (Original) The method of claim 16, further comprising paying the limited partnership a fixed commission for sales in the sales territory.

19. (Original) The method of claim 18, further comprising paying, from the commission, each of the limited partners a pre-determined amount as interest accrued on their capital contribution, the amount corresponding to the capital contribution level.

20. (Original) The method of claim 19, further comprising paying off the capital contributions of each of the one or more limited partners from surplus revenues after payment of the accrued interest.

21. (Original) The method of claim 20, further comprising retiring each of the percentage interests in the limited partnership.

22. (Original) A computer-implemented system for funding an expanded market coverage, the system comprising:

a processor; and

a computer memory operatively coupled to the processor,

wherein the computer memory has disposed within it computer program instructions

for:

identifying one or more sales territories for coverage;

assigning a pre-defined ranking to each of the sales territories;

establishing a capital contribution level for receipt of a corresponding pre-determined capital contribution, the capital contribution level associated with the sales territory ranking;
and

directing the capital contribution toward financing one or more sales representatives placed in the sales territories.

23. (Currently Amended) The computer-implemented system of claim 22, further comprising computer program instructions for:

determining one or more preliminary factors for the identification of the sales territories; and

retrieving and analysing data satisfying the one or more preliminary factors ~~sales-territory identification factors~~.

24. (Currently Amended) The computer-implemented system of claim 23, wherein the one or more preliminary factors ~~sales-territory identification factors~~ comprises information on current and/or historic sales of one or more products and/or services.

25. (Original) The computer-implemented system of claim 24, wherein the products are selected from the group consisting of prescription and over the counter pharmaceutical products and medical devices.

REMARKS

I. Status of the Application

With this amendment, claims 1-25 are currently pending in this application. Claims 1-25 stand rejected based on prior art and other statutory grounds. Claims 1, 4, 6, 8, 12, 13, 23 and 24 have been amended. No claims have been added herein. In view of the foregoing discussion, the Examiner is respectfully requested to reconsider and withdraw the objections/rejections.

II. 35 U.S.C. §112 Rejections

Claims 1, 4, 6, 8, 13, and 22-24 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicant regards as the invention.

As per claims 1, 13, and 22 of point 7 of the Office Action, the Applicant respectfully submits that “assigning a pre-defined ranking”, in view of Paragraph [0013] of the specification, means assigning a ranking to one or more sales territories based on the potential for sales growth and return on investment on each respective sales territory.

As per claims 4, 13, and 23 of point 8 of the Office Action, the Applicant respectfully submits that Paragraph [0004] of the specification states that “*The identification of the sales territories may include determining one or more preliminary factors for the identification of the sales territories, and retrieving and analyzing data satisfying the sales-territory identification factors. The preliminary factors may comprise one or more geographic*”

locations, demographic indicators, quantitative values or qualitative values.” Therefore, the Applicant conforms to the understanding of the respected examiner, wherein “determining one or more of preliminary factors for the identification of the sales territories” means determining one or more preliminary factors from a group of establishes factors.

As per claims 4, 6, 8, 13, 23, and 24 of point 9 of the Office Action, the Applicant has accordingly amended the above mentioned claims from “sales-territory identification factors” to “one or more preliminary factors”.

In consideration of this rejection, claims 7, 10, and 18 have been amended. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejection to said claims.

III. 35 U.S.C. §101 Rejections

Claims 1-21 stand rejected under 35 U.S.C. §101 as directed to non-statutory subject matter. The Applicant has amended claims 1 and 13 accordingly to provide proper statutory subject matter under 35 U.S.C. §101 by including the “financing system for financing a sales force” as the machine limitation. The foregoing amendments were made in the interest of compacting prosecution and do not represent an acknowledgement on behalf of the Applicant regarding the legal sufficiency of the rejections under 35 U.S.C. §101 as presented in the outstanding Office Action. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw these rejections under 35 U.S.C. §101.

IV. 35 U.S.C. § 103 Rejections

The Office Action rejects claims 1-6 and 9-24 under 35 U.S.C. §103(a) as being unpatentable over Ubalde et al. (U.S. Patent Application Publication No. 2011/0161137),

(hereinafter “Ubalde”), in view of Treitler et al. (U.S. Patent Application Publication No. 2009/0198630), (hereinafter “Treitler”).

Additionally, the Office Action rejects claims 7-8 and 25 under 35 U.S.C. §103(a) as being unpatentable over Ubalde et al. (U.S. Patent Application Publication No. 2011/0161137), (hereinafter “Ubalde”), in view of Treitler et al. (U.S. Patent Application Publication No. 2009/0198630), (hereinafter “Treitler”), in further view of Nijjer et al. (U.S. Patent Application Publication No. 2009/0039640), (hereinafter “Nijjer”).

These rejections are respectfully traversed.

Regarding claims 1 and 13, the Office Action states that Ubalde discloses “identifying, via said financing system having at least one computer-implemented interface, one more sales territories for coverage.” The Applicant respectfully disagrees.

It is respectfully submitted that the cited portion Para [0020] and Fig. 8 of Ubalde merely discloses a GIS system, wherein the GIS system receives an input form and provides recommendations for best locations for a business based on the input form. Ubalde merely discloses recommendation for best location for the business based on the input information provided in the input form, but completely fails to teach or suggest identifying one or more sales territories for coverage. It is respectfully submitted that identifying more than one sales territories for selling product/services is completely distinct from identifying/recommending a place/location for conducting a business.

Further, the Office Action states that Ubalde discloses “assigning a pre-defined ranking to each of the sales territories.” The Applicant respectfully disagrees.

It is respectfully submitted that the cited portion Para [0069] of Ubalde merely discloses a multiple ranked list being created by a community rank builder engine for a specific industry considering multiple businesses and industry variables for all geographic locations. Ubalde merely discloses creating a ranking list for the specific industry spread

over all geographical locations, but completely fails to teach or suggest assigning ranking to sales territories. Applicant respectfully submits that assigning ranks to identified sales territories, based on which the total capital contribution is allocated, as claimed by the Applicant, is completely different, in structure and function from creating a ranking of an industry from across businesses.

Further, the Office Action states that Ubalde discloses “establishing a capital contribution level for receipt of a corresponding pre-determined capital contribution, the capital contribution level associated with the sales territory ranking.” The Applicant respectfully disagrees.

It is respectfully submitted that the cited portion Para [0039] of Ubalde merely discloses asking user whether he needs any capital for his business and if user indicates need for capital, the user information is sent to a financial institution. Further, Para [0130] of Ubalde merely discloses that relative position between performance of business of the user and performance of similar business in the industry at different geographical location are compared with the help of mathematical algorithms to find out all possible scenarios for the business and based on the scenarios, a system generates business recommendation for the company. Ubalde merely discloses providing capital to a user only when he/she is in need of capital and he/she asks for the same, but completely fails to teach or suggest capital contribution level for the sales territory based on the pre-determined capital contribution level, wherein the contribution level is based on the sales territory ranking. Applicant respectfully submits that both Ubalde and the Applicant relate to completely distinct subject matters as Ubalde relates to identifying location for setting up a business and then assessing whether the user needs any capital for the business, whereas the Applicant, in complete contrast, claims identifying sales territories for an existing business so that the sales force within the identified sales territories can sell the product/services and further claims

allocating capital to each sales territory based on its ranking/importance to the established business. Therefore, a person ordinarily skilled in the art would not be motivated to use the reference of Ubalde for implementation on a sales force implementation. The Applicant therefore clearly and distinctly claims that the contribution levels are identified and capital contribution level is established for receiving pre-determined capital contribution level, wherein the pre-determined capital contribution level is based on sales territory ranking, which is completely different from providing capital to the user only when he needs, as disclosed by Ubalde.

Further, the Office Action states that Treitler discloses “directing the capital contribution toward financing one or more sales representatives placed in the sales territories.” The Applicant respectfully disagrees.

It is respectfully submitted that the cited portions [0500], [0501] and [0502] of Treitler merely disclose about debt structure having LIBAC business system and/ or process, wherein LIBAC business process and/ or process has both secured loan transaction and unsecured loan transaction. Treitler merely discloses that the note holders (lenders) are investors, but completely fails to teach or suggest, in any manner whatsoever, financing one or more sales representatives in the sales territories. In fact, Treitler does not even relate to financing a sales force and therefore a person ordinarily skilled in the art would not be motivated to use Treitler and Ubalde, individually or collectively, to teach or suggest the subject matter claimed by the Applicant. On the other hand, the Applicant respectfully claims that capital contribution is provided as financing to one or more sales representatives in the sales territories.

With respect to independent claim 1, the Office Action acknowledges that Ubalde fails to disclose financing. The Office Action instead relies on Treitler for allegedly disclosing financing. The Office Action alleges a person of ordinary skill in the art would

have been motivated to combine the alleged disclosures of Ubalde and Treitler and that one of ordinary skill in the art would have had a reasonable expectation of success in such a combination.

The Applicant respectfully asserts that combining Treitler with Ubalde, the secondary reference that is applied in the rejections, would render Ubalde unsatisfactory for its intended purpose. It is to be appreciated that Ubalde discloses a GIP mapping mechanism for identifying a business location and if desired get funding for the same whereas Treitler, in complete contrast, discloses life insurance policies as a medium for investors to buy annuities. Further, Applicants respectfully assert that the various motivations alleged by the Office Action for combining the disclosure of the secondary reference with Ubalde is invalid because one who is ordinary skill in the art would have no reason or rationale to combine the disclosure of Treitler with Ubalde based on the alleged motivations.

It is again respectfully submitted that Ubalde merely discloses comparing a business with the similar businesses in industry at varying geographical locations and giving relative location to the business based on the comparison and providing capital to the user when he/she indicates a need for the same. On the other hand, Treitler merely discloses investing in a new, start-up and high potential business, which makes substantial return on investment. It is not obvious for a person who is ordinarily skilled in the art to combine teachings of Ubalde with teachings of Treitler and disclose teachings claimed by the Applicant, wherein the Applicant claims that capital contribution level being identified for pre-ranked sales territories and capital contribution being directed as financing to the sales representatives of the sales territories. Ubalde in combination with Treitler completely fails to teach about directing capital contribution as financing to the sales representatives of the sales territories.

Regarding claim 3, the Office Action states that Treitler discloses “wherein the sales representatives are financed continually until one or more pre-determined sales objectives are achieved in the sales territories.” The Applicant respectfully disagrees.

It is respectfully submitted that the cited portion Para [0415], [0416] and [0417] of Treitler merely discloses deploying of FUND in the business, wherein the FUND is either deployed in a full payout distribution business strategy (for example real estate income FUND, oil and gas FUND or life settlement FUND) or by investing in publicly traded equities, or some other traded or valued assets, wherein the FUND is tracked by objective standards. Treitler merely discloses strategies for investing in the business. As also argued in claim 1, it is respectfully submitted that Treitler completely fails to teach or suggest financing sales representatives in the sales territories. Further, Treitler completely fails to teach or suggest financing sales representatives continually until objectives are achieved in the sales territories, and instead, in complete contrast, merely discloses financing publicly traded equities, so that they are tracked by objective standards. It would be appreciated that “tacking funds by measurable standards” is completely different from having objective thresholds for evaluation of a sales force and funding the force till the time the thresholds are not met, as is clearly claimed by the Applicant. On the other hand, the Applicant clearly claims that sales representatives of the sales territories are financed until one or more pre-determined sales objectives are achieved. Further, it is respectfully submitted that motivation for combining Ubalde and Treitler is not obvious as argued in claim 1.

Regarding claims 4 and 5, all arguments made above for claim 1 are applicable. Applicant further submits that Ubalde merely discloses a rank builder engine that ranks multiple cities with respect to a particular industry and is completely different from the Applicant’s claims for identifying factors from a list of factors that can help identify sales territories. In other words, the Applicant, in claims 4 and 5, claims determining one or more

preliminary factors from a list of established factors, whereas Ubalde, in complete contrast, discloses ranking of cities for an industry based on an established set of variables and completely fails to disclose any determination of one or more factors/variables, which is completely different from the Applicants claimed subject matter.

Regarding claim 6, the Office Action states that Ubalde discloses “wherein the data satisfying one or more preliminary factors for identification of the sales territories comprises information on current and/or historic sales of one or more products and/or services.” The Applicant respectfully disagrees.

It is respectfully submitted in arguments made above for claim 1 that Ubalde merely discloses identifying a business and relative positioning of the business in comparison with other businesses in the industry, but completely fails to teach or suggest identifying sales territories. Further, in the cited portion Para [0054], Ubalde merely discloses historical data of buying and selling behavior of an industry being stored to understand the industry from which the business buys and to which industry the business sells. Ubalde completely fails to teach or suggest that the historic sales data satisfying one or more preliminary factors is for identification of the sales territories. On the other hand, the Applicant clearly claims that one or more preliminary factors for identifying sales territories are based on current and/ or historical sales of one or more products/ services.

Regarding claim 9, the Office Action states that “comprising disbursing a fixed percentage of net profits generated from sales in the sales territory to the one or more contributors.” The Applicant respectfully disagrees.

It is respectfully submitted that the cited portion Para [0150] of Treitler merely discloses potential return for an investment based on fixed annuity and variable annuity, wherein fixed annuity guarantee certain payment amount, while variable annuity does not. Treitler completely fails to teach or suggest disbursing a fixed amount of net profit, which is

obtained by the sales in a specific sales territory and rather merely discloses an annuity payment, which is purely related to payments to the holder of the annuity by the insurance company, and is therefore completely different from disbursing profits to one or more contributors. As also argued above, Treitler in fact completely fails to teach or suggest any subject matter relating to financing of a sales force and then disbursing the profits received from the sales force to one or more contributors. On the other hand, the Applicant clearly claims payment of fixed percentage of net profit obtained from the sales in the sales territory to one or more contributors. Further, it is respectfully submitted that motivation for combining Ubalde and Treitler is not obvious as argued in claim 1.

Regarding claims 10 and 11, all arguments made above for claim 1 and 9 are applicable. The Applicant respectfully submits that Ubalde completely fails to teach or suggest any subject matter relating to limited contributions being made from multiple contributors towards one or more sale territories and in complete contrast, relates to payment of annuity to the policy holder by the insurance company, which is completely different in subject matter in structure and functionality of financing and hence a person ordinarily skilled in the art would not be motivated to use the disclosure of Ubalde to come out with the Applicant's claimed subject matter.

Regarding claim 12, the Office Action states that Treitler discloses "further comprising distributing surplus revenues, after payment of the interest, to the one or more contributors until the capital contributions are completely repaid." The Applicant respectfully disagrees.

It is respectfully submitted that the cited portion Para [0269] of Treitler merely discloses a system and method for investing in a new start-up that generates high assets and revenues and help the new start-up to "go public", wherein the trade is made in public market securely. Treitler merely discloses secure trading in public market, but completely fails to

teach or suggest distribution of surplus revenues after payment of interest to investors or contributors. Treitler, as also argued above, relates to a completely different field and is completely different, in structure and function, from capital contribution for sales territories and use revenues generated by the sales force for compensating the contributors. On the other hand, the Applicant claims distribution of surplus revenues, after payment of interest to one or more contributors until the capital contributions are completely repaid. Further, it is respectfully submitted that motivation for combining Ubalde and Treitler is not obvious as argued in claim 1.

Regarding claim 13, the Office Action states that Ubalde discloses “setting up a new business entity, the business entity comprising a designated general partner and one or more limited partners.” The Applicant respectfully disagrees.

It is respectfully submitted that the cited portion Para [0026] of Ubalde merely discloses a business, wherein the business comprises of a large eco system of business partners. Ubalde merely discloses a business system having business partners, but completely fails to teach or suggest a business entity comprising general partner and one or more limited partners. On the other hand, the Applicant claims setting up a new business entity, wherein the business entity comprising a general partner and one or more limited partners. The eco system of partners in the business system disclosed by Ubalde is completely different from the eco system of business entity claimed by the Applicant, wherein Ubalde completely fails to teach or suggest a business entity/system comprising a general partner and one or more limited partner, as claimed by the Applicant.

Regarding claim 14, the Office Action states that Ubalde discloses “wherein the sales territory ranking is based on future sales potential.” The Applicant respectfully disagrees.

All the arguments made above for claim 1 and 13 are applicable herein. Ubalde merely discloses relative positioning of business comparing with other businesses in the

industry over various geographical locations. Further, Ubalde merely discloses ranking businesses of potential buyers and sellers that are geographically based. Further, Ubalde merely discloses ranking potential vendors and customers that a business can buy from and sell to, but completely fails to teach to suggest sales territory ranking based on future sales potential. On the other hand, the Applicant claims that the sales territory ranking is based on the future sales potential.

Regarding claim 15, the Office Action states that Treitler discloses “wherein each of the limited partners continually contributes their capital, for a pre-determined duration, to finance commercial activities of the one or more sales representatives placed in each of the sales territories.” The Applicant respectfully disagrees.

It is respectfully submitted that the cited portion of Treitler merely discloses types of an “entity”, wherein the term entity is used for a new or existing corporation, company, limited liability company, limited partnership, proprietorship, financial or other institution or organization or other forms of business, or non-profit, or other associated or unassociated group of people. Treitler merely discloses types of the entity, but completely fails to teach or suggest continuous contribution of capital from limited partners to finance activities of one or more sales representatives of the sales territories. The Applicant again respectfully submits that Treitler fails to disclose any subject matter relating to funding of sales force and that too for a pre-determined period by a set of defined contributors and hence it would not be obvious for a person ordinarily skilled in the art to use Treitler, individually or collectively with Ubalde. On the other, the Applicant claims that each of the limited partners of the business entity continually contributes capital, for a pre-determined period, to finance commercial activities of one or more sales representatives placed in the sales territories.

Regarding claim 16-19, all arguments made above are applicable and hence not reiterated for brevity.

Regarding claim 20 the Office Action states that Treitler discloses “further comprising paying off the capital contributions of each of the one or more limited partners from surplus revenues after payment of the accrued interest.” The Applicant respectfully disagrees.

All arguments made for above discussed claims are applicable herein. It is respectfully submitted that the cited portion Para [0269] of Treitler merely discloses a system and method for investing in a new start-up that generates high assets and revenues and helps the new start-up to “go public”, wherein the trade is made in public market securely. Treitler merely discloses secure trading in public market, but completely fails to teach or suggest any subject matter relating to revenues from sales territories and division of such revenue between each contributor after payment of the due interest. On the other hand, the Applicant claims distribution of surplus revenues, after payment of interest to one or more contributors. Further, it is respectfully submitted that motivation for combining Ubalde and Treitler is not obvious as argued in claim 1.

Regarding claim 22, all arguments made above for claim 1 are applicable herein.

Regarding claim 24, all arguments made above for claim 6 are applicable herein.

Regarding claim 8, the Office Action states that Nijjer discloses “wherein the data satisfying the one or more preliminary factors comprises information on prescriptions written in the sales territory.” The Applicant respectfully disagrees.

It is respectfully submitted that the cited portion of Nijjer merely discloses promotion or advertisement of drugs by pharmaceutical firms, wherein pharmaceutical representatives visit doctors, provide free samples and advertise in medical journals. Nijjer merely discloses advertisement strategies for drug promotion, but completely fails to teach or suggest that prescription information is one of the preliminary factors for identifying sales territory ranking. Nijjer, in fact, does not in any manner, relate to identification of sales territories and

consequently fails to teach or suggests factors that are to be used for identification of such sales territories. On the other hand, the Applicant claims that information on prescriptions in the sales territory is one of the preliminary factors to identify sales territory ranking.

With respect to claim 8, the Office Action acknowledges that Ubalde in view of Treitler fails to disclose advertising. The Office Action instead relies on Nijjer for allegedly disclosing advertising. The Office Action alleges a person of ordinary skill in the art would have been motivated to combine the alleged disclosures of Ubalde, Treitler and Nijjer and one would have had a reasonable expectation of success in such a combination.

The Applicant respectfully asserts that combining Nijjer with Ubalde and Treitler would render Ubalde and Treitler unsatisfactory for its intended purpose. Further, Applicants respectfully assert that the various motivations alleged by the Office Action for combining the disclosure of the secondary reference with Ubalde and Treitler are invalid because one who is ordinary skill in the art would have no reason or rationale to combine the disclosure of Nijjer with Ubalde and Treitler based on the alleged motivations.

It is again respectfully submitted that Ubalde merely discloses comparing a business with the similar businesses in industry at varying geographical locations and giving relative location to the business based on the comparison and providing capital to the user when he/she indicates a need for the same. Treitler merely discloses investing in a new, start-up and high potential business, which makes substantial return on investment. On the other hand, Nijjer merely discloses advertisement strategies for drug promotion. It is not obvious for a person who is ordinarily skilled in the art to combine teachings of Ubalde with teachings of Treitler with teachings of Nijjer and disclose teachings claimed by the Applicant, wherein the Applicant claims that capital contribution level being identified for pre-ranked sales territories and capital contribution being directed as financing to the sales representatives of the sales territories. Ubalde in combination with Treitler in combination with Nijjer

completely fails to teach about directing capital contribution as financing to the sales representatives of the sales territories, wherein prescription information is one of the preliminary factors for identifying sales territory ranking

“The inquiry into how a person of ordinary skill in the art understands a claim term provides an objective baseline from which to begin claim interpretation ... Importantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, **but in the context of the entire patent including the specification**” (emphasis added). *See Philips v. AWH Corp.*, 75 USPQ 2d 1321, 1326 (Fed. Cir. 2005).

“The claims, of course, do not stand alone. Rather they are part of ‘a fully integrated written instrument,’ consisting principally of a specification that concludes with the claims. **For that reason, claims ‘must be read in view of the specification, of which they are a part.’** As we [have] stated [], **the specification ‘is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term’**” (emphasis added). *Id* at 1327 (internal citation omitted).

“Claims must be given their broadest reasonable interpretation **consistent with the supporting description**” (emphasis added). *See In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ 2d 1664, 1667 (Fed. Cir. 2000).

The Federal Circuit has held that if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *See* MPEP §2143.01(V); *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984). Further, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *See* MPEP §2143.01(VI); *In re Ratti*, 270 F.2d 810 (CCPA 1959).

In the present case, the Office Action fails to follow the law with respect to claim interpretation. The Office Action interprets “directing capital contribution towards financing sales territories” of claim 1 and claim 13 as notes (lending) of LIBAC debt financing structure, disclosed by Treitler, and therefore fails to interpret this claim term in a manner consistent with Applicants’ specification. More particularly, Applicants’ specification clearly distinguishes providing capital contribution for providing financing sales representatives of the sales territory, wherein the capital contribution is directly associated with sales territory ranking for identified sales territories, which is completely different from the structure and function of Treitler’s debt structure using LIBAC business system and/ or process using notes (lending), wherein the note holders are investors.

Therefore, for the reasons presented above, Ubalde in view of Treitler fails to disclose feature cited in independent claims 1 and 13 and as such, fails to anticipate these claims. Further, Ubalde in view of Treitler necessarily fails to anticipate claims 2-6 and 9-24 by virtue of the dependence of these claims from one of independent claims 1 and 13.

Accordingly, withdrawal of the rejection is respectfully requested.

V. Conclusion

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

Date

Usha Menon
Registration No. 56,570
D’Ambrosio & Menon, LLP
10260 Westheimer, Ste. 465

Application No. 12/648,897

Houston, Texas 77042

Phone: (713) 975-0800

Fax: (713) 975-0995