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12/618,950	11/16/2009	Mark D. Klein	20271/ARB264US01	7713
81905	7590	02/21/2019	EXAMINER	
Hanley, Flight & Zimmerman, LLC (Nielsen) 150 S. Wacker Dr. Suite 2200 Chicago, IL 60606			FRUNZI, VICTORIA E.	
			ART UNIT	PAPER NUMBER
			3688	
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			02/21/2019	ELECTRONIC

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):

docketing@hfzlaw.com
jflight@hfzlaw.com
mhanley@hfzlaw.com

Office Action Summary

Application No. 12/618,950	Applicant(s) Klein et al.	
Examiner VICTORIA E FRUNZI	Art Unit 3688	AIA Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 8/20/2018.
 A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

- 5) Claim(s) 1,3-6,8-10,12-15,17-28,30-31,33,35-36 and 38-40 is/are pending in the application.
 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) Claim(s) ____ is/are allowed.
- 7) Claim(s) 1,3-6,8-10,12-15,17-28,30-31,33,35-36 and 38-40 is/are rejected.
- 8) Claim(s) ____ is/are objected to.
- 9) Claim(s) ____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) The specification is objected to by the Examiner.
- 11) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) All b) Some** c) None of the:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
 Paper No(s)/Mail Date _____
- 3) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 4) Other: _____

DETAILED CORRESPONDENCE

Notice of Pre-AIA or AIA Status

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

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/20/2018 has been entered.

3. Claims 1, 4, 21, 22, 28, 31,33, and 36 have been amended, claims 2, 7, 11, 16, 29, 32, 34 and 37 have been canceled and claims 39 and 40 have been added. Claims 1, 3-6, 8-10, 12-15, 17-28, 30-31, 33, 35-36, and 38-40 are pending and have been rejected as follows.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1, 3-6, 8-10, 12-15, 17-28, 30-31, 33, 35-36, and 38-40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to an abstract idea without significantly more.

6. **Step 1:** The claims recite a method (claim 1) and a system (claim 33) which are statutory category of an invention. *(see further rejection below for claim 28)*

7. **Step 2A:**

8. **Prong 1:** The claims recite correlating effectiveness score of advertisements in order to optimize the presentation of advertisements. The limitations falls within “Certain Methods Of Organizing Human Activity” for managing personal behavior or relationships or interactions between people (including social activities, teaching, and following rules or instructions) as well as commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations).

9. **Prong 2:** The judicial exception is not integrated into a practical application because the only additional elements of a computing device and the actions being related to those on the internet for identifying media exposure, accessing internet actions performed, determining the effectiveness of a plurality of media contents, comparing the effectiveness measures and then optimizing the presentation of the media based on the comparison. The computing device is recited at a high-level of generality (i.e., as a generic processor performing a generic computer function of processing data) such that it amounts no more than mere instructions to apply the exception using a generic computer component – MPEP 2106.05(f). The computing device is merely adding insignificant extra-solution activity to the judicial exception by collecting interaction data, analyzing the data, and make a determination based on the analysis (i.e. data gathering) - see MPEP 2106.05(g). The claimed machines are not

particular, and the claim as a whole monopolizes the abstract idea of optimizing media presentation.

10. **Step 2B:** The claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception. As discussed above with respect to integration of the abstract idea into a practical application, the additional element of the computing device is merely adding insignificant extra-solution activity to the judicial exception by collecting interaction data, analyzing the data, and make a determination based on the analysis amount to insignificant extra-solution activity. Mere instructions to apply an exception using a generic computer component, and adding insignificant extra-solution activity to the judicial exception cannot provide an inventive concept. The claims are not patent eligible.

11. The dependent claims 3-6, 8-10, 12-15, 17-28, 30-31, 35-36, and 38-40 are also rejected for these reasons.

12. Claims 28 and 30-31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 28 sets forth a computer readable medium comprising computer code encoded on the storage medium. However, the specification is silent to whether the medium is transitory or non-transitory. The United States Patent and Trademark Office (USPTO) is obliged to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. See *In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a machine readable storage media (also called machine readable medium and other such

variations) typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary meaning of computer readable media, particularly when the specification is absent an explicit definition or is silent. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal perse, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101.

13. Claims 30-31 are also rejected under 35 U.S.C. 101 because they are dependent on claim 28 and they fail to remedy the deficiency of claim 28.

Related Prior Art Not Cited

14. The Examiner's updated search has found the reference Latona (US 20050028188) which is relevant by teaches the comparison of effectiveness measures for two advertisements (see Figure 7), however does not teach the combination of claimed limitations of the instant invention.

Response to Arguments

15. Applicant's arguments filed 8/20/2018 have been fully considered but they are not persuasive for the reasons set forth below.

16. Applicant's Remarks (pages 16-22): Rejection under 35 USC 101
The remarks directed to the claims as rejected under 35 USC 101 have been considered, but not found persuasive. The Examiner has updated the rejection above in view of the claim amendments and in view of the Updated Subject Matter Eligibility

Guidance from 2019. The updated review concluded that the claims remain rejected under 35 USC 101 based on the following analysis:

Step 1: The claims recite a method (claim 1) and a system (claim 33) which are statutory category of an invention. *(see further rejection below for claim 28)*

Step 2A:

Prong 1: The claims recite correlating effectiveness score of advertisements in order to optimize the presentation of advertisements. The limitations falls within “Certain Methods Of Organizing Human Activity” for managing personal behavior or relationships or interactions between people (including social activities, teaching, and following rules or instructions) as well as commercial or legal interactions (including agreements in the form of contracts; legal obligations; advertising, marketing or sales activities or behaviors; business relations).

Prong 2: The judicial exception is not integrated into a practical application because the only additional elements of a computing device and the actions being related to those on the internet for identifying media exposure, accessing internet actions performed, determining the effectiveness of a plurality of media contents, comparing the effectiveness measures and then optimizing the presentation of the media based on the comparison. The computing device is recited at a high-level of generality (i.e., as a generic processor performing a generic computer function of processing data) such that it amounts no more than mere instructions to apply the exception using a generic computer component – MPEP 2106.05(f). The computing device is merely adding insignificant extra-solution activity to the judicial exception by collecting interaction data, analyzing the data, and make a determination based on the analysis (i.e. data

gathering) - see MPEP 2106.05(g). The claimed machines are not particular, and the claim as a whole monopolizes the abstract idea of optimizing media presentation.

Step 2B: The claim does not include additional elements that are sufficient to amount to significantly more than the judicial exception. As discussed above with respect to integration of the abstract idea into a practical application, the additional element of the computing device is merely adding insignificant extra-solution activity to the judicial exception by collecting interaction data, analyzing the data, and make a determination based on the analysis amount to insignificant extra-solution activity. Mere instructions to apply an exception using a generic computer component, and adding insignificant extra-solution activity to the judicial exception cannot provide an inventive concept.

Therefore the claims are not patent eligible.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA E. FRUNZI whose telephone number is (571)270-1031. The examiner can normally be reached on Monday- Friday 7-4 (EST).

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on 5712726702. 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). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VICTORIA E FRUNZI/
Examiner, Art Unit 3688
2/15/2019

REMARKS

The Applicants have carefully considered the Office Action dated February 21, 2019, and the references cited therein. By way of this response, claims 1, 26, and 31 have been amended. All pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

Examiner Interview Summary

The Applicant's representative, Michael W. Zimmerman (Reg. No. 57,993), thanks Examiner Frunzi for the courtesies extended during the telephonic interview conducted on May 15, 2019. During the interview, Examiner Frunzi gave helpful suggestions for amendments to the claims that would help in overcoming the § 101 rejections. Examiner Frunzi also stated that Example 40 of the USPTO's Subject Matter Eligibility Examples would be helpful in advancing prosecution. The Applicant's representative has amended the claims in the instant response based on the examiner's suggestions.

35 U.S.C. § 101 Rejections

The Office Action rejected claims 1, 3-6, 8-10, 12-15, 17-28, 30, 31, 33, 35, 36, and 38-40 under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. *See* Office Action, p. 2. In particular, the Office Action alleges that the claims fall within "Certain Methods Of Organizing Human Activity" and do not integrate the alleged judicial exception into a practical application. *Id.* at 3. The Applicants traverse these rejections.

Claim 1

Claim 1 sets forth a method comprising, *inter alia*, sampling ambient audio collected by a mobile computing device to generate sampled audio, generating first signatures or collecting first human-inaudible codes from the sampled audio to identify first media having audio included in the ambient audio and exposed to a first panelist of the plurality of panelists, the media identified by comparing the generated first signatures or collected first human-inaudible codes to reference signatures or reference human-inaudible codes associated with reference media, and correlating, with the computing device, the first Internet action with exposure to the first media identified based on the first signatures or human-inaudible codes, the correlating of the first Internet action performed substantially instantaneously as the first Internet action occurs in response to the notification of the first Internet action. The method further includes generating second signatures or collecting second human-inaudible codes to identify second media exposed to the first panelist or to a second panelist of the plurality of panelists by comparing the generated second signatures or collected second human-inaudible codes to signatures or human-inaudible codes associated with reference media, the second panelist and the first panelist belonging to a same one of the groups, accessing, with the computing device, a notification of a second Internet action performed by the first panelist or the second panelist, and correlating, with the computing device, the second Internet action with exposure to the second media identified based on the second signatures or second human-inaudible codes, the correlating of the second Internet action performed substantially instantaneously as the second Internet action occurs in response

to the notification of the second Internet action. Independent claim 1 sets forth a practical application of the alleged judicial exception and, as such, satisfies Prong Two of Revised Step 2A of the test outlined in the 2019 Eligibility Guidance.

Prong 2 of Revised Step 2A

Claim 1 provides a practical application of any judicial exception in a manner that imposes a meaningful limit on any such judicial exception. As stated in Section II of the 2019 Eligibility Guidance, “a claim that integrates a judicial exception into a practical application will apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” *See*, 2019 Eligibility Guidance, Federal Register, Vol. 84, No. 4, p. 54. The 2019 Eligibility Guidance further explains that the claims should be evaluated to determine whether there is integration into a practical application by: (a) identifying whether there are any additional elements recited in the claim beyond the judicial exception(s); and (b) evaluating those additional elements individually and in combination to determine whether they integrate the exception into a practical application, using one or more of the considerations laid out by the Supreme Court and Federal Circuit. *Id.* at 54-55.

Claim 1 is integrated into a practical application for reasons similar to those explained by the USPTO in analyzing claim 1 of Example 40 of the Subject Matter Eligibility Examples. Claim 1 of Example 40 sets forth:

A method for adaptive monitoring of traffic data through a network appliance connected between computing devices in a network, the method comprising:

collecting, by the network appliance, traffic data relating to the network traffic passing through the network appliance, the traffic data comprising at least one of network delay, packet loss, or jitter;

comparing, by the network appliance, at least one of the collected traffic data to a predefined threshold; and

collecting additional traffic data relating to the network traffic when the collected traffic data is greater than the predefined threshold, the additional traffic data comprising Netflow protocol data.

See Subject Matter Eligibility examples, p. 10. In the Subject Matter Eligibility Examples, the USPTO explains that claim 1 of Example 40 is directed to a judicial exception (a mental process). *Id.* at 11. However, the USPTO further explained that the judicial exception is integrated into a practical application, rendering the claim patent eligible. In analyzing claim 1 of Example 40, the USPTO noted that “[a]lthough each of the collecting steps analyzed individually may be viewed as mere pre- or post-solution activity, the claim as a whole is directed to a particular improvement in collecting traffic data.” *Id.* (emphasis added). The USPTO continues, stating that “the method limits collection of additional Netflow protocol data to when the initially collected data reflects an abnormal condition, which avoids excess traffic volume on the network and hindrance of network performance. This provides a specific improvement over prior systems, resulting in improved network monitoring.” *Id.* (emphasis added). The USPTO concludes that the claim as a whole integrates the mental process into a practical application and, thus, claim 1 of Example 40 is patent eligible. *Id.*

Similarly, claim 1 sets forth a method that includes pre- or post-solution activity, but as a whole is directed to a particular improvement in determining effectiveness scores for advertisements and transmitting advertisements having higher effectiveness scores to

users. Specifically, the method limits the identification of media to a particular technical process where signatures or human-inaudible codes associated with the media are compared to signatures or human-inaudible codes associated with reference media. Further, claim 1 recites correlating an Internet action with exposure to the media identified based on the signatures or human-inaudible codes, the correlating of the second Internet action performed substantially instantaneously as the second Internet action occurs. The specific improvement over prior methods – performing a correlation between internet actions and exposure to media instantaneously – is a product of the combination of technical steps that limit, apply, and rely on the alleged judicial exception. Specifically, the use of signatures or human-inaudible codes used to identify media and the instantaneous correlation of the media and detected Internet actions provides the specific improvement over prior methods, as described in at least paragraphs [0013]-[0015] of the instant specification. Thus, claim 1 as a whole integrates the alleged exception of “Organizing Human Activity” into a practical application of technology that provides a specific improvement. Accordingly, claim 1 is eligible because it is not directed to the alleged judicial exception and instead integrates that alleged exception into a practical application.

While claim 1 offers an unmistakable practical application of technology, it also provides no risk whatsoever of pre-empting the use of any judicial exception. Rather, it is unambiguously limited to a practical application of technology that provides a meaningful limit on any judicial exception that could be imagined as present, and can in no way be reasonably seen to be a mere drafting effort seeking to monopolize any judicial exception. As such, the claim is not directed to a judicial exception and is patent

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eligible at Prong Two of Revised Step 2A. Thus, claim 1 is directed to patent-eligible subject-matter. Likewise, independent claims 26 and 31, and all claims depending respectively therefrom, set forth patent eligible subject matter under the 2019 Eligibility Guidance. Therefore, withdrawal of the § 101 rejections of independent claims 1, 26, and 31, and all claims depending respectively therefrom, is requested.

Conclusion

Throughout the claims, instances of “actions” have been replaced with “action.” This change does not narrow the claim. The term “action” is used throughout these claims to mean “at least one action.”

In general, the Office makes various statements regarding the pending claims that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

All claims are in condition for allowance. If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at (312) 580-1020.

The Commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455. Please refund any overpayment to Hanley, Flight & Zimmerman, LLC at the address below.

Respectfully submitted,
HANLEY, FLIGHT & ZIMMERMAN, LLC
150 South Wacker Drive
Suite 2200
Chicago, Illinois 60606

By: / Michael W. Zimmerman/
Michael W. Zimmerman
Registration No. 57,993
Attorney for the Applicants

May 21, 2019

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

The Status of the Claims:

1. (Currently Amended): A method comprising:

associating corresponding panelists of a plurality of panelists with corresponding groups based on one or more characteristics of the panelists;

sampling ambient audio collected by a mobile computing device to generate sampled audio;

generating first signatures or collecting first human-inaudible codes from the sampled audio to identify first media having audio included in the ambient audio and exposed to a first panelist of the plurality of panelists, the media identified by comparing the generated first signatures or collected first human-inaudible codes to reference signatures or reference human-inaudible codes associated with reference media;

accessing, with a computing device, a notification of a first Internet action performed by the first panelist;

correlating, with the computing device, the first Internet action with exposure to the first media identified based on the generated first signatures or collected first human-inaudible codes, the correlating of the first Internet action performed substantially instantaneously as the first Internet action occurs in response to the notification of the first Internet action;

determining a first effectiveness score of the first media in affecting behavior of a first one of the groups of panelists based on the correlation of the first Internet action with the exposure to the first media;

generating second signatures or collecting second human-inaudible codes to identify second media exposed to the first panelist or to a second panelist of the plurality of panelists by comparing the collected second signatures or the generated second human-inaudible codes to the reference signatures or the reference human-inaudible codes associated with the reference media, the second panelist and the first panelist belonging to a same one of the groups;

accessing, with the computing device, a notification of a second Internet action performed by the first panelist or the second panelist;

correlating, with the computing device, the second Internet action with exposure to the second media identified based on the second signatures or second human-inaudible codes, the correlating of the second Internet action performed substantially instantaneously as the second Internet action occurs in response to the notification of the second Internet action;

determining a second effectiveness score of the second media in affecting behavior for the first group based on the correlation of the second Internet action with the exposure to the second media;

performing a comparison of the first effectiveness score and the second effectiveness score to determine a higher effectiveness score for affecting the first group;

accessing data indicative of a characteristic of a user who is not a panelist;

associating the user with the first group based on the characteristic of the user;

selecting, with the computing device, the first media or the second media for presentation to the user based on the higher effectiveness score and the first group with which the user is associated; and

electronically transmitting the selected one of the first media or the second media from the computing device for presentation to the user.

2. (Canceled)

3. (Previously Presented): The method of claim 1, wherein the selected one of the first media or the second media includes an advertisement.

4. (Previously Presented): The method of claim 1, wherein:

the selected one of the first media or the second media is presented via a first communication mechanism; and

at least one of the first Internet action or the second Internet action includes a communication transmitted via a second communication mechanism different from the first communication mechanism.

5. (Previously Presented): The method of claim 1, further including:

monitoring, with the computing device, an additional exposure of the first panelist to the first media;

receiving, with the computing device, an additional notification of an additional Internet action performed by the first panelist;

correlating, with the computing device, the additional Internet action with the additional exposure to the first media to determine an updated effectiveness score of the first media in affecting behavior of panelists in the first group; and

presenting the updated effectiveness score via an output device.

6. (Previously Presented): The method of claim 5, wherein correlating the additional Internet action with the additional exposure to the first media is performed by the computing device substantially instantaneously in response to the additional notification.

7. (Canceled)

8. (Previously Presented): The method of claim 1, wherein accessing data indicative of the characteristic of the user, associating the user with the first group, selecting the first media or the second media for presentation to the user, and transmitting the selected one of the first media or the second media are performed by the computing device in response to receiving a request for media to be presented to the user.

9. (Previously Presented): The method of claim 8, wherein the request for media to be presented to the user includes at least one of:

- a request for a web page;
- a request for a resource associated with a web page;
- a request for a component associated with a web page;
- a request for an advertisement to be displayed in connection with a web page;
- a request for audiovisual content to be presented to the user; or
- a request for a television commercial to be presented to the user.

10. (Previously Presented): The method of claim 1, further including:

storing a representation of the first effectiveness score and the second effectiveness score in a database;

wherein selecting the first media or the second media for presentation to the user includes:

retrieving a previously stored representation of the first effectiveness score of the first media and the second effectiveness score of the second media in affecting behavior of a first one of the groups having the determined characteristic of the user; and

selecting the first media or the second media based on the previously stored representation of the first effectiveness score and the second effectiveness score.

11. (Previously Presented): The method of claim 8, wherein the selected media includes an advertisement.

12. (Previously Presented): The method of claim 1, wherein the selected media includes at least one of:

a discount offer;

an audiovisual program;

a song;

an audio program;

a game;

- a survey;
- a representation of award points;
- a coupon; or
- an invitation.

13. (Previously Presented): The method of claim 1, wherein transmitting the selected one of the first media or the second media includes transmitting the selected one of the first media or the second media to an output device viewable by the user.

14. (Previously Presented): The method of claim 1, wherein transmitting the selected one of the first media or the second media includes transmitting the selected one of the first media or the second media to a directly addressable media delivery device associated with the user.

15. (Cancelled)

16. (Previously Presented): The method of claim 1, wherein transmitting the selected media includes:

- obtaining standard media from a media source;
- inserting the selected one of the first media or the second media in the obtained standard media; and
- transmitting the standard media, including the selected one of the first media or the second, for presentation to the user.

17. (Previously Presented): The method of claim 1, wherein selecting the first media or the second media for presentation to the user is further based on the characteristic of the user.

18. (Previously Presented): The method of claim 1, wherein selecting the first media or the second media for presentation to the user includes modifying existing media based on an effectiveness score of the existing media for one of the groups with which the user is associated, and transmitting the selected one of the first media or the second media includes transmitting the modified media for presentation to the user.

19. (Previously Presented): The method of claim 1, wherein the characteristic includes at least one of:

- a demographic characteristic;
- a geographic characteristic;
- a characteristic based on previous purchases;
- a characteristic based on previous actions; or
- a characteristic based on preferences.

20. (Previously Presented): The method of claim 1, wherein at least one of the first Internet action or the second Internet action performed by at least one of the first panelist or the second panelist includes a purchase of a product or a service associated with the

first media or the second media to which the first or the second panelist has been exposed.

21. (Previously Presented): The method of claim 1, wherein at least one of the first Internet action or the second Internet action performed by at least one of the first panelist or the second panelist includes an action associated with the first media or the second media to which the first panelist or the second panelist has been exposed.

22. (Previously Presented): The method of claim 1, wherein at least one of the first media or the second media includes at least one of:

- an audiovisual program;
- a television program;
- a movie;
- a radio program;
- content presented via a music delivery device;
- content presented via an audio player;
- content presented via a compact disc;
- content presented via a DVD;
- content presented via a Blu-Ray disc;
- a video game;
- content presented at a website; or
- content presented via an Internet browser.

23. (Previously Presented): The method of claim 1, wherein at least a one of the first media or the second media is presented via a broadcast medium.

24. (Previously Presented): The method of claim 24, wherein a second one of the first media or the second media is presented via a non-broadcast medium.

25. (Cancelled)

(Previously Presented): The method of claim 1, further including: monitoring website visits for the first and second panelists; and
identifying a web page visited by the first and second panelists.

26. (Currently Amended): A computer-readable storage medium comprising computer program code, encoded on the storage medium, which when executed causes a processor to at least:

associate corresponding panelists of a plurality of panelists with corresponding groups based on one or more characteristics of the panelists;

sample ambient audio collected by a mobile computing device to generate sampled audio;

generate first signatures or collect first human-inaudible codes from the sampled audio to identify first media having audio included in the ambient audio and exposed to a first panelist of the plurality of panelists, the media identified by comparing the generated

first signatures or collected first human-inaudible codes to reference signatures or reference human-inaudible codes associated with reference media;

access a notification of a first Internet action performed by the first panelist;
correlate, with a computing device, the first Internet action with exposure to the first media identified based on the generated first signatures or collected first human-inaudible codes, the correlating of the first Internet action performed substantially instantaneously as the first Internet action occurs in response to the notification of the first Internet action;

determine a first effectiveness score of the first media in affecting behavior of a first one of the defined groups of panelists based on the correlation of the first Internet action with the exposures to first media;

generate second signatures or collect second human-inaudible codes to identify second media exposed to the first panelist or to a second panelist of the plurality of panelists by comparing the generated second signatures or collected second human-inaudible codes to the reference signatures or the reference human-inaudible codes associated with reference media, the second panelist and the first panelist belonging to a same one of the groups;

access, with the computing device, a notification of a second Internet action performed by the second panelist;

correlate, with the computing device, the second Internet action with exposure to the second media identified based on the collected second signatures or generated second human-inaudible codes, the correlating of the second Internet action performed

substantially instantaneously as the second Internet action occurs in response to the notification of the second Internet action;

determine a second effectiveness score of the second media in affecting behavior for the first group based on the correlation of the second Internet action with the exposure to second media;

perform a comparison of the first effectiveness score and the second effectiveness score to determine a higher effectiveness score for effecting the first group;

access data indicative of a characteristic of a user who is not a panelist;

associate the user with the first group based on the determined characteristic of the user;

select the first media or the second media for presentation to the user based on the higher effectiveness score and the first group with which the user is associated; and

transmit the selected one of the first media or the second media from the computing device for presentation to the user.

27. (Canceled)

28. (Previously Presented): The computer-readable storage medium of claim 28, wherein the selected one of the first media or the second media includes an advertisement.

29. (Previously Presented): The computer-readable storage medium of claim 28, wherein:

the selected one of the first media or the second media is presented via a first communication mechanism; and

at least one of the first Internet action or the second Internet action includes a communication transmitted via a second communication mechanism different from the first communication mechanism.

30. (Cancelled)

31. (Currently Amended): A system comprising:

a plurality of panelist monitoring devices to:

sample ambient audio collected by a mobile computing device to generate sampled audio;

generate first signatures or collect first human-inaudible codes from the sampled audio to identify first media having audio included in the ambient audio and exposed to a first panelist of the plurality of panelists, the media identified by comparing the generated first signatures or collected first human-inaudible codes to reference signatures or reference human-inaudible codes associated with reference media;

monitor a first exposure to a first media by a first panelist of a plurality of panelists, the first media identified by comparing the generated first signatures or the collected first human-inaudible codes to reference signatures or reference human-inaudible codes associated with reference media;

access a notification of a first Internet action performed by the first panelist;

monitor a second exposure to a second media by at least one of the first panelist or a second panelist of the plurality of panelists, the second media identified by comparing generated second signatures or collected second human-inaudible codes to the reference signatures or the reference human-inaudible codes associated with reference media; and

access a notification of a second Internet action performed by the at least one of the first panelist or the second panelist; and

a processor to:

associate corresponding panelists of a plurality of panelists with corresponding groups based on one or more characteristics of the panelists;

correlate the first Internet action with the first exposure to the first media identified based on the collected first signatures or generated first human-inaudible codes, the correlating of the first Internet action performed substantially instantaneously as the first Internet action occurs in response to the notification of the first Internet action;

correlate the second Internet action with the second exposure to the second media identified based on the collected second signatures or generated second human-inaudible codes, the correlating of the second Internet action performed substantially instantaneously as the second Internet action occurs in response to the notification of the second Internet action;

determine a first effectiveness score of the first media in affecting behavior of a first group of panelists based on the correlated first Internet action;

determine a second effectiveness score of the second media in affecting behavior for the first group of panelists based on the correlated second Internet action;

perform a comparison of the first effectiveness score and the second effectiveness score to determine a higher effectiveness score;

access data indicative of a characteristic of a user who is not a panelist;

associate the user with the first group based on the determined characteristic of the user; and

select the first media or the second media for presentation to the user based on the higher effectiveness score and the first group with which the user is associated.

32. (Canceled)

33. (Previously Presented): The system of claim 33, wherein at least one of the first media or the second media includes an advertisement.

34. (Previously Presented): The system of claim 33, wherein:

at least one of the first media or the second media is presented via a first communication mechanism; and

at least one of the first or the second Internet action includes a communication transmitted via a second communication mechanism different from the first communication mechanism.

35. (Canceled)

36. (Previously Presented) The method of claim 1, further including:
- acquiring audio data from the first media;
 - detecting location information of the first panelist; and
 - dynamically adjusting a data acquisition rate of the audio data based on the location information, wherein the first signatures are generated or the first human-inaudible codes are collected based on the audio data.
37. (Previously Presented) The method of claim 1, wherein determining the first and second effectiveness scores and selecting the first media or the second media for presentation to the user are performed substantially instantaneously.
38. (Previously Presented) The computer-readable storage medium of claim 28, wherein the computer program code further causes the processor to determine the first and second effectiveness scores and select the first media or the second media for presentation to the user substantially instantaneously.