UNITED STATES PATENT AND TRADEMARK OFFICE

O'Connor & Company
2608 North Saunders Lake Drive
Suite B
Minnetrista, MN 55364-8632

In re application of	: **DECISION ON PETITION**
Weiwen Weng	: **TO MAKE SPECIAL FOR**
Application No. 11/617,989	: **NEW APPLICATION**
Filed: December 29, 2006	: **UNDER 37 CFR 1.102**
For: METHOD AND APPARATUS FOR THE HOME	:
DELIVERY OF LOCAL RETAIL E-COMMERCE	
ORDERS	

This is a decision on the renewed petition filed on March 1, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1.   The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2.   Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort,

the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3.   Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4.   Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5.   Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed to a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6.   Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7.   Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8.   After-Final and Appeal Procedures:
To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

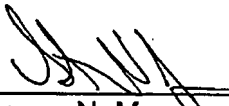9.   Proceedings Outside the Normal Examination Process:
If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10.   Final Disposition:
The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Steven N. Meyers, at (571) 272-6611.

Steven N. Meyers,
Special Program Examiner
Technology Center 3600

Sm/sm: 3/19/07

Applicant: Weiwen WENG

Attorney Docket No.: VTR-100

Serial No.:   11/617,989

For: METHOD AND APPARATUS FOR THE HOME DELIVERY
                    OF LOCAL RETAIL E-COMMERCE ORDERS

Filed: December 29, 2006

Tech. Center   3600

Request for Reconsideration of Petition to Make Special

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the dismissed petition to enter accelerated examination, mailed from the Director's Office on February 1, 2007, Applicant requests reconsideration of the petition filed on December 29, 2006. Filed herewith on March 1, 2007 are an amended pre-examination search statement and an amended accelerated-examination support document, which address all points identified in the initial petition dismissal.

It is respectfully submitted that Applicant has clearly met the burden necessary to enter the Accelerated Examination program, and that this petition is now in condition for acceptance. If any points remain to be resolved, the undersigned agent for the Applicant can be contacted for a telephonic discussion.

Respectfully Submitted,

/Ryan P. O'Connor/

_____
Ryan P. O'Connor, Reg. No. 56,693
O'Connor & Company
2608 N. Saunders Lake Drive
Suite B
Minnetrista, MN 55364
Customer No. 62542

March 1, 2007

Doc Code: PET.SPRE.ACX

PTO/SB/28 (08-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION TO MAKE SPECIAL UNDER ACCELERATED EXAMINATION PROGRAM

Attorney Docket Number	VTR-100	First Named Inventor	Weng

Application Number (if Known)	

Title of Invention	METHOD AND APPARATUS FOR THE HOME DELIVERY OF LOCAL RETAIL E-COMMERCE ORDERS

APPLICANT HEREBY PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE REVISED ACCELERATED EXAMINATION PROGRAM. See Instruction sheet on page 3.

1.	**Claims of the application:**
	a. The application must contain three (3) or fewer independent claims and twenty (20) or fewer total claims. The application may not contain any multiple dependent claims.
	b. **Applicant hereby agrees not to separately argue the patentability of any dependent claim during any appeal** in the application. Specifically, the applicant agrees that the dependent claims will be grouped together with and not argued separately from the independent claim from which they depend in any appeal brief filed in the application (37 CFR 41.37(c)(1)(vii)).
	c. The claims must be directed to **a single invention**.
2.	**Interviews:**
	Applicant hereby agrees to have (if requested by examiner):
	a. An interview (including an interview before a first Office action) to discuss the prior art and any potential rejections or objections with the intention of clarifying and possibly resolving all issues with respect to patentability at that time, and
	b. A telephonic interview to make an election without traverse if the Office determines that the claims are not obviously directed to a single invention.
3.	**Preexamination Search Statement and Accelerated Examination Support Document:**
	With this petition, applicant is providing: a **preexamination search statement**, in compliance with the requirements set forth in item 8 of the instruction sheet, and an **"accelerated examination support document"** that includes:
	a. An **information disclosure statement** in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the independent claims;
	b. For each reference cited, **an identification of all the limitations of the claims** that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;
	c. A **detailed explanation of how each of the claims are patentable** over the references cited with the particularity required by 37 CFR 1.111(b) and (c);
	d. A concise **statement of the utility** of the invention as defined in each of the independent claims (unless the application is a design application);
	e. An identification of any cited references that may be disqualified as prior art under 35 U.S.C. 103(c) as amended by the CREATE act; and
	f. **A showing of where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112** in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶6; and (2) the structure, material, or acts that correspond to any means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶6. If the application claims the benefit of one or more applications under title 35, United St ates Code, the showing must also include where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112 in each such application in which such support exists.

EFS Web 2.0

Doc Code: **PET.SPRE.ACX**

PTO/SB/28 (08-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION TO MAKE SPECIAL UNDER ACCELERATED EXAMINATION PROGRAM
(Continued)

Attorney Docket Number	VTR-100	First Named Inventor	Weng

Attachments:

a.		Accelerated Examination Support Document (see item 3 above).
b.		A statement, in compliance with the requirements set forth in item 8 of the instruction sheet, detailing the preexamination search which was conducted.
c.		Information Disclosure Statement.
d.	☐	Other (*e.g.*, a statement that the claimed subject matter is directed to environmental quality, energy, or countering terrorism (37 CFR 1.102(c)(2)).

Fees: The following fees must be filed electronically via EFS or EFS-Web:

a.	The basic filing fee, search fee, examination fee, and application size fee (if required) under 37 CFR 1.16.
b.	Petition fee under 37 CFR 1.17(h) - unless the petition is filed with a showing under 37 CFR 1.102(c)(2).

Signature:

Click Remove if you wish to remove this signatory			**Remove**
Signature	/Ryan P. O'Connor/	Date	2006-12-29
Name (Print/Typed)	Ryan Patrick O'Connor	Registration Number	56693

Click Add if you wish to add additional signatory	**Add**

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.

Instruction Sheet Petition to Make Special Under the Accelerated Examination

A grantable petition must meet the following conditions:

1. The petition to make special under the accelerated examination program must be filed with the application and accompanied by the fee set forth in 37 CFR 1.17(h) or a statement that the claimed subject matter is directed to environmental quality, energy, or countering terrorism.

2. The application must be a non-reissue utility or design application filed under 35 U.S.C. 111(a).

3. The application must be **filed electronically** using the Office electronic filing system (EFS) or EFS-Web.

4. The application must be complete under 37 CFR 1.51 and in condition for examination on filing. For example, the application must be filed together with the basic filing fee, search fee, examination fee, and application size fee (if applicable), and an oath or declaration under 37 CFR 1.63.

5. The application must contain three (3) or fewer independent claims and twenty (20) or fewer total claims. The application may not contain any multiple dependent claims. The petition must include a statement that **applicant will agree not to separately argue the patentability of any dependent claim during any appeal** in the application. Specifically, the applicant is agreeing that the dependent claims will be grouped together with and not argued separately from the independent claim from which they depend in any appeal brief filed in the application (37 CFR 41.37(c)(1)(vii)).

6. The claims must be directed to a **single invention**. The petition must include a statement that applicant will agree to have a telephonic interview to make an election without traverse in a telephonic interview if the Office determines that all the claims are not directed to a single invention.

7. The petition must include a statement that **applicant will agree** to have an interview (including an interview before a first Office action) to discuss the prior art and any potential rejections or objections with the intention of clarifying and possibly resolving all issues with respect to patentability at that time.

8. At the time of filing, applicant must provide a statement that a **preexamination search was conducted**, including an identification of the field of search by United States class and subclass and the date of the search, where applicable, and, for database searches, the search logic or chemical structure or sequence used as a query, the name of the file or files searched and the database service, and the date of the search.
   a. This preexamination search must involve U.S. patents and patent application publications, foreign patent documents, and nonpatent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated source and includes such a justification with this statement.
   b. This preexamination search must be directed to the claimed invention and encompass all of the features of the independent claims, giving the claims the broadest reasonable interpretation.
   c. The preexamination search must also encompass the disclosed features that may be claimed, in that an amendment to the claims (including any new claim) that is not encompassed by the preexamination search will be treated as non-responsive and will not be entered.
   d. A search report from a foreign patent office will not be accepted unless the search report satisfies the requirements set forth above.
   e. Any statement in support of a petition to make special must be based on a good faith belief that the preexamination search was conducted in compliance with these requirement. See 37 CFR 1.56 and 10.18.

9. At the time of filing, applicant must provide in support of the petition an **accelerated examination support document that includes:**
   a. An **information disclosure statement** in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;
   b. For each reference cited, **an identification of all the limitations of the claims** that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;
   c. A **detailed explanation of how each of the claims are patentable** over the references cited with the particularity required by 37 CFR 1.111(b) and (c);
   d. A concise **statement of the utility** of the invention as defined in each of the independent claims (unless the application is a design application);
   e. An identification of any cited references that may be disqualified as prior art under 35 U.S.C. 103(c) as am ende d by the CREATE act; and
   f. A **showing of where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112** in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶6; and (2) the structure, material, or acts that correspond to any means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶6. If the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112 in each such application in which such support exists.
   For more information, see notice "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" available on the USPTO web site at http://www.uspto.gov/web/office s/pac/dapp/ogsheet.html

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Applicant: Weiwen Weng

Attorney Docket No.: VTR-100

Serial No.:   Not Assigned

For: METHOD AND APPARATUS FOR THE HOME DELIVERY
                    OF LOCAL RETAIL E-COMMERCE ORDERS

Filed: Herewith

Pre-Examination Search Document

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

       This pre-examination search statement is provided in support of the petition for accelerated examination filed herewith.

       A pre-examination search was conducted involving U.S. patents and patent-application publications, foreign patent documents and non-patent literature as indicated below. The results of the search are provided on an Information Disclosure Statement filed concurrently herewith.

8(A)   Pre-examination Search

       U.S. Field of Search:

       Class(es)/Subclass(es) Searched:

             705/8, 9, 15;
             186/3

       Date Conducted: December 7 and 25, 2006.

Database Searches:

1) Database: USPTO

Files Searched: U.S. Patent Full-Text and Full-Page Image Databases (PatFT and AppFT)

Search Logic:

L1   CCL/705/8 and ABST/delivery

L2   CCL/705/9 and ABST/delivery

L3   CCL/705/15 and ABST/delivery

L4   CCL/186/3 and ABST/delivery

L5   http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&u=%2Fnetahtml%2FPTO%2Fsearch-adv.htm&r=0&p=1&f=S&l=50&Query=ABST%2F%28internet+and+delivery+and+order%29&d=PTXT

L6   http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-bool.html&r=19&f=G&l=50&co1=AND&d=PTXT&s1=online&s2=delivery&OS=online+AND+delivery&RS=online+AND+delivery

L7   http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&u=%2Fnetahtml%2FPTO%2Fsearch-adv.htm&r=0&f=S&l=50&d=PTXT&RS=SPEC%2F%28delivery+AND+internet%29&Refine=Refine+Search&Refine=Refine+Search&Query=SPEC%2F%28delivery+and+internet+and+retail%29

L8   http://appft1.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&u=%2Fnetahtml%2FPTO%2Fsearch-adv.html&r=0&p=1&f=S&l=50&Query=SPEC%2F%28delivery+and+internet+and+retail%29&d=PG01

Date Conducted: December 7 and 26, 2006.

2) Database: Worldwide Patents managed by EPO at esp@cenet
               (http://ep.espacenet.com/advancedSearch)

Search Logic:

L1   http://v3.espacenet.com/results?-
AB=internet+and+delivery+and+order&DB=EPODOC&sf=a&CY=ep&PGS=10&ST=a
dvanced&LG=en

L2   http://v3.espacenet.com/results?-
AB=internet+and+delivery+and+retail&DB=EPODOC&sf=a&CY=ep&PGS=10&ST=a
dvanced&LG=en

3) Database Service: HillSearch

HillSearch is a program of the James J. Hill Reference Library and includes
access to hundreds of millions of current and archived articles from the nation's national
and regional newspapers, industry journals, trade magazines, and newswires. HillSearch
comprises ABI/INFORM® and ProQuest Newspapers.

Search Logic:

S1   internet retail delivery

S2   online retail delivery

S3   local delivery network

S4   S3 + retail

S5   local e-commerce delivery

Date Conducted: December 7 and 26, 2006.

4) Database Service: Google.com

Search Logic:

S1   internet retail delivery

S2   online retail delivery

S3   local delivery network

S4   S3 + retail

S5   local e-commerce delivery

Date Conducted: December 7, 2006.

8(B)   Search Directed to the Invention

The pre-examination search was directed to the claimed invention, giving the claims their broadest reasonable interpretation.

8(C)   Search Directed to the Disclosure

No disclosed features that are unclaimed at this time are currently regarded as features that may be claimed later during accelerated examination of the present application filed herewith.

8(D)   Search Report from a Foreign Patent Office

No search report from a foreign patent office is provided here as the pre-examination search.

8(E)   Statement of Good Faith

All statements above in support of the petition to make special are based on a good faith belief that the search was conducted in compliance with the requirements of this rule.

Respectfully Submitted,

/Ryan P. O'Connor/

_____
Ryan P. O'Connor, Reg. No. 56,693
O'Connor & Company
2608 N. Saunders Lake Drive
Suite B
Minnetrista, MN 55364
December 29, 2006

Applicant: Weiwen Weng

Attorney Docket No.: VTR-100

Serial No.:   Not Assigned

For: METHOD AND APPARATUS FOR THE HOME DELIVERY
                    OF LOCAL RETAIL E-COMMERCE ORDERS

Filed: Herewith

Accelerated Examination Support Document

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This accelerated examination support document is provided in support of the petition for accelerated examination filed herewith.

There are 20 claims currently pending in the application. The independent claims 1, 12, and 17 currently read as follows:

1.   A method of empowering a patron to deliver at least one e-commerce order to one or more buyers, the method comprising:

(a) matching at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria; and

(b) managing the delivery transaction and compensation.

12.   A method of selling one or more products and delivering the products to a buyer, the method comprising:

(a) providing the one or more products;

(b) providing means for electronically purchasing the product(s) by the buyer;

(c) providing the option of delivery by a patron to the buyer;

(d) providing means for determining at least one potential patron for delivery of the product(s) to the buyer;

(e) providing means for determining, for each potential patron, the delivery deviation associated with the buyer;

(f) providing means for comparing the delivery deviation from step (e) with acceptable deviation criteria of each potential patron; and

(g) if at least one patron is associated with deviation criteria that is acceptable, providing means for selecting one patron, authorizing the delivery transaction, and compensating said patron for delivery of the product(s) to the buyer.

17.   An e-commerce system for empowering a patron to deliver one or more e-commerce orders to at least one buyer, the system comprising:

(a) a client computer to present a user interface to perform the registering of a patron;

(b) a data-storage medium to store order information;

(c) a data-storage medium to store buyer information;

(d) a data-storage medium to store patron information;

(e) a data-storage medium to store transaction information; and

(f) a client or server computer to perform calculations to match, if possible, at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria.

9(A) References Deemed Most Closely Related:

An Information Disclosure Statement in compliance with 37 CFR 1.98 is being filed herewith citing each of the following references deemed most closely related to the subject matter of the claims:

L. Hohyung   US 20050137935
T. J. Smith et al.   US 20030115104
A. Chen et al.   US 20030171996
R.W. Tuttrup et al. WO 0205177
                     http://www.uship.com
                     http://www.licketyship.com

9(B) Identification of Limitations Disclosed by References and 9(C) Detailed Explanation of Patentability

L. Hohyung (US 20050137935)

Hohyung teaches a system and method for enabling direct transactions between a customer and a provider of goods and/or services. A plurality of suppliers or service providers provide data regarding offerings and services, and a database is collected for review and comparison by potential customers. A distribution system delivers products and services to local service and pick-up centers where the customer retrieves them, or delivers the products and services directly to the customer, depending on customer preference. The cost of delivery is dependent on the customer preference and is based on proximity of delivery to customer.

With respect to claim 1, limitation (b), Hohyung teaches managing a delivery transaction at least at paragraph [0025], "…allow customers to conduct direct transactions with suppliers of goods…" Hohyung suggests managing compensation at paragraph [0074] of the specification.

With respect to limitation (a) of claim 1, Hohyung does not teach or suggest matching at least one pending e-commerce order with a patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria.

Furthermore, Hohyung does not tend to empower a patron to deliver at least one e-commerce order to one or more buyers, when the patron is from the general population. Therefore, Hohyung does not disclose, teach, or suggest all of the inherent advantages of applicant's invention according to claim 1.

With respect to the method of claim 12, Hohyung teaches or suggests limitations (a)-(d) at, for example, paragraphs [0025]-[0027]. However, Hohyung does not teach limitations (e)-(g) of claim 12. Specifically, Hohyung does not teach or suggest determining, for each potential patron, a delivery deviation associated with a buyer, and then comparing the delivery deviation with acceptable deviation criteria of each potential patron, and if at least one patron is associated with deviation criteria that is acceptable, providing means for selecting one patron, authorizing the delivery transaction, and compensating said patron for delivery of the product(s) to the buyer.

Hohyung provides customers the ability to select the geographical location at which to receive or pick up delivered goods. Hohyung mentions "local business service and pick-up center" (at paragraph [0026]) as options for delivery, but in general is silent on determining delivery deviations for any given potential patron, and comparing those deviations with acceptable delivery criteria for the patron.

With respect to the system of claim 17, Hohyung teaches or suggests limitations (b)-(e) at paragraph [0026]. Hohyung does not actually suggest limitation (a), a client

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computer to present a user interface to perform the registering of a patron, because patrons are not active participants in the system described in Hohyung. Hohyung clearly does not teach or suggest limitation (f) of claim 17, a client or server computer to perform calculations to match, if possible, at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria, for the reasons stated in the preceding paragraph.

T. J. Smith et al. (US 20030115104)

Smith et al. teaches a method and system for managing delivery of goods from a supplier to a buyer. The delivery generally involves at least one delivery agent, at least one store, at least one supplier, a plurality of buyers, and a communications network. The method allows a respective store to communicate respective order information to a logistics intermediary. A web page is provided that includes basic order information and includes a clickable icon for accessing detailed order information from the database in connection with that order.

With respect to claim 1, limitation (b), Smith et al. in paragraph [0013] describe a manner of managing a delivery transaction. Paragraph [0019] discusses compensation in a general way: "Logistics intermediary 154 also generates an invoice associated with the master requisition showing the bill to be paid by store…"

With respect to limitation (a) of claim 1, Smith et al. does not teach or suggest matching at least one pending e-commerce order with a patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria. The method and system of Smith et al. are intended to minimize the need for direct human interaction, primarily by optimizing delivery times for a given patron and buyer, according to the specification (e.g. at [0012] and elsewhere). Therefore, Smith et al. tends to teach away from a step of matching a patron with a buyer needing an order to be delivered, regardless of delivery criteria. Additionally, Smith et al. does not discuss deviation criteria or order criteria for patrons.

The specification, taken as a whole and read by one of ordinary skill in the art, fails to empower a patron to deliver at least one e-commerce order to one or more buyers, when the patron is from the general population. Therefore, Smith et al. does not disclose, teach, or suggest all of the inherent advantages of applicant's invention according to claim 1.

With respect to the method of claim 12, Smith et al. teaches or suggests limitations (a)-(d) at, for example, paragraphs [0012]-[0013]. However, Smith et al. does not teach limitations (e)-(g) of claim 12. Specifically, Smith et al. does not teach or suggest determining, for each potential patron, a delivery deviation associated with a buyer, and then comparing the delivery deviation with acceptable deviation criteria of each potential patron, and if at least one patron is associated with deviation criteria that is

acceptable, providing means for selecting one patron, authorizing the delivery transaction, and compensating said patron for delivery of the product(s) to the buyer.

With respect to the system of claim 17, Smith et al. teaches or suggests limitations (a)-(e) at paragraph [0014]. Limitation (a), relating to a user interface for registering of a patron, is not taught explicitly but rather seems to be inherent in the disclosure at [0014]. Smith et al. does not teach or suggest limitation (f) of claim 17, a client or server computer to perform calculations to match, if possible, at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria. To emphasize, Smith et al. attempts to minimize the need for direct human interaction, primarily by optimizing delivery times for a given patron and buyer.

A. Chen et al. (US 20030171996)

Chen et al. teaches a method that enables customers who purchase online to select either pickup or receipt of products at designated locations. The method comprises receiving a customer's order from an online store via an electronic communications network, and providing a list of shops from which the customer can select the nearest shop to him for pickup of products.

With respect to claim 1, limitation (b), Chen et al. in paragraph [0025] describe a manner of managing a delivery transaction. Methods of compensating a patron (person making a delivery) are not disclosed, but compensation according to limitation (b) could be regarded as an inherent feature of methods of Chen et al.

With respect to limitation (a) of claim 1, Chen et al. does not teach or suggest matching at least one pending e-commerce order with a patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria. In paragraph [0010], one object of the invention of Chen et al. is to provide a method of ensuring that a *customer* need only travel the shortest distance possible to collect products ordered online. There is no recitation of distance to be traveled by a patron, or whether that distance or any associated (individual or cumulative) deviation is acceptable to said patron. There is further no recitation in Chen et al. of acceptable order criteria of a patron, so that a match can be made according to limitation (a) of claim 1.

The limitation (a) in claim 1 is not obvious in view of the disclosure of Chen et al., and Chen et al. offers no motivation for such a match because the general purpose (according to e.g. [0009]) is to allow a buyer to pick up an order himself or specify where it should be delivered.

Chen et al. teaches that, when a buyer selects direct delivery, "Any conventional means for delivering products to the customer is contemplated" (paragraph [0030]). It is respectfully submitted that means for delivery products according to applicant's method

of claim 1 is certainly *not conventional*. Paragraph [0030] emphasizes that Chen et al. does not anticipate, explicitly or inherently, applicant's claimed invention according to claim 1.

With respect to the method of claim 12, Chen et al. teaches or suggests limitations (a)-(d) at, for example, paragraph [0027]. However, Chen et al. does not teach limitations (e)-(g) of claim 12. Specifically, Chen et al. does not teach or suggest determining, for each potential patron, a delivery deviation associated with a buyer, and then comparing the delivery deviation with acceptable deviation criteria of each potential patron, and if at least one patron is associated with deviation criteria that is acceptable, providing means for selecting one patron, authorizing the delivery transaction, and compensating said patron for delivery of the product(s) to the buyer.

With respect to the system of claim 17, Chen et al. teaches or suggests limitations (b)-(e) at paragraph [0031]. Limitation (a), relating to a user interface for registering of a patron, is not taught or suggested because there is no reason for a patron to register according to Chen et al. For at least the reasons already presented, Chen et al. does not teach or suggest limitation (f) of claim 17, a client or server computer to perform calculations to match, if possible, at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria.

R.W. Tuttrup et al. (WO 0205177)

Tuttrup et al. teaches apparatuses and methods for distribution and delivery of goods ordered on the internet. In a preferred embodiment, goods are delivered to a local distribution center instead of directly to customers' houses for the benefit of reduced shipping costs, and better handling of perishables.

With respect to claim 1, limitation (b), Tuttrup et al. teaches managing a delivery transaction at least at Figure 1. Tuttrup et al. suggests managing compensation in the Field of the Invention.

With respect to limitation (a) of claim 1, Tuttrup et al. does not teach or suggest matching at least one pending e-commerce order with a patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria. Generally, the methods of Tuttrup et al. do not directly cause "a patron to deliver at least one e-commerce order to one or more buyers" (preamble of claim 1), but rather cause an order or orders to be delivered to a distribution center for later pickup by a buyer.

Tuttrup et al. discloses a "buddy network" concept, allowing "consumers from among a group of consumers located in the same area to assign a designated pick-up person for a predetermined period of time, that person, for example, picking up items for more than one neighbor" (page 16, lines 30-32 and page 17, lines 1-4). This embodiment

could be construed as a method of empowering a patron (here, the patron being the designated pick-up person) to deliver at least one order to one or more buyers, thus possibly satisfying the preamble to claim 1. However, this embodiment fails to teach or suggest matching a *pending* order with the patron's *acceptable deviation criteria* and *acceptable order criteria*, and thus fails to suggest at least three elements of the limitation in (a) of claim 1.

With respect to the method of claim 12, Tuttrup et al. teaches or suggests limitations (a) and (b) at Figure 1, teaches away from limitations (c) and (d), and does not teach or suggest limitations (e)-(g) of claim 12. Instead of "providing the option of delivery by a patron to the buyer (limitation (c)) and providing means for determining at least one potential patron for delivery... (limitation (d)), Tuttrup et al. teaches that it is advantageous to instead deliver buyers' orders to a local distribution center, i.e. not "to the buyer." With respect to limitations (e), (f), and (g), Tuttrup et al. does not teach or suggest determining, for each potential patron, a delivery deviation associated with a buyer, and then comparing the delivery deviation with acceptable deviation criteria of each potential patron, and if at least one patron is associated with deviation criteria that is acceptable, providing means for selecting one patron, authorizing the delivery transaction, and compensating said patron for delivery of the product(s) to the buyer.

With respect to the system of claim 17, Tuttrup et al. teaches or suggests limitations (b)-(e) at Figure 1. Limitation (a), relating to a user interface for registering of a patron, is not taught or strongly suggested. For at least the reasons already presented, Tuttrup et al. does not teach or suggest limitation (f) of claim 17, a client or server computer to perform calculations to match, if possible, at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria.

http://www.uship.com

The internet site www.uship.com (uShip, Inc., hereinafter "uShip") teaches an online marketplace for shipping services. Members list items they would like shipped and receive bids from feedback-rated service providers. uShip uses a reverse-auction format and "search technology to reduce shipping costs by allowing service providers to find shipments along their routes and fill empty cargo space" (at web page www.uship.com/about.aspx).

Based on a review of items listed to be shipped, uShip is geared towards large items and large collections of items, to be shipped over long distances, such as a moving company shipping furniture and household goods as part of a move across country.

With respect to claim 1, it should first be pointed out that, according to uShip, persons who can perform a delivery ("patrons" in claim 1) are movers, carriers, transporters, van lines, freight brokers and independent service providers—not ordinary persons from the general population. The following quote can be observed (on 12/28/06)

at the uShip home page: "[uShip] matches people who need something shipped…with people who carry cargo." Applicant's invention empowers anyone to participate in the method of claim 1 as a patron, not just someone who ordinarily carries cargo.

With respect to limitation (a) of claim 1, uShip does teach matching orders with a patron who is willing to deliver the order or orders (at e.g. web page http://www.uship.com/tips /showtip.aspx?tipid=7). However, it is emphasized in several instances that uShip allows carriers (patrons) to find shipments along their routes, the idea being to utilize capacity of transportation service providers. Therefore, the limitations on "acceptable delivery criteria" are not fully taught or suggested by the written disclosure of uShip. Specifically, the method of uShip tends to include a price a patron is willing to accept, the nature of the goods, and importantly, whether there is still space for additional cargo in the patron's vehicle. "Deviation criteria" are not disclosed anywhere to be part of a patron's acceptable delivery criteria.

With respect to limitation (b) of claim 1, uShip's methods clearly teach away from "managing the delivery transaction and compensation." At the web page www.uship.com/tips/showtip.aspx?tipid=7, in pertinent part: "We are not involved in the *actual transaction* between shippers and drivers" (emphasis added). Furthermore, with respect to compensation, "payment options are negotiated between you and your driver…" (at web page www.uship.com/tips/showtip.aspx?tipid=4), i.e., compensation is not part of the methods of uShip.

With respect to claim 12, uShip does not teach a "method of selling one or more products and delivering the products to a buyer" (preamble to claim 12). uShip's methods are effective for delivery of goods, and are outside the scope *per se* of a novel method of selling a product to a buyer. Furthermore, uShip does not teach any of the limitations (a)-(g) of claim 12. If the disclosure of uShip is combined with a reference— such as, for example, Smith et al. in US 20030115104, discussed above—that teaches or suggests a method of selling, as well as the limitations (a)-(d) of claim 12, uShip does not make up for the deficiencies with respect to claim limitations (e), (f), and (g), for at least the reasons explained above with respect to delivery deviation, deviation criteria, and transaction and compensation details.

With respect to the system of claim 17, uShip suggests claim limitations (a)-(e) at, for example, web page http://www.uship.com/ship, when various terms are given their broadest possible interpretation. These terms include "patron," "order," and "buyer." For at least the reasons already presented, uShip does not teach or suggest limitation (f) of claim 17, a client or server computer to perform calculations to match, if possible, at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria.

<u>http://www.licketyship.com</u>

The internet site www.licketyship.com (hereinafter "LicketyShip") teaches a method of allowing a potential buyer to search for a product, checking the inventories of stores near a buyer, matching the desired product closest to the buyer with the nearest available courier from an instant-delivery network, and delivering direct from the store closest to the buyer. The product selection is limited, i.e., the method cannot generally be used for any e-commerce order or delivery.

Based on a review of features described on the web site, LicketyShip is geared towards delivering goods to a buyer, from a non-disclosed retailer, to the buyer quickly (such as within 4 hours).

With respect to claim 1, it should be pointed out that, according to LicketyShip, persons who can perform a delivery ("patrons" in claim 1) are specifically low-cost couriers willing to perform very fast delivery (see e.g. web page www.licketyship.com/about_us.php#our-bag)—not ordinary persons from the general population. Applicant's invention, on the other hand, empowers anyone to participate in the method of claim 1 as a patron, not just someone who ordinarily performs "fast" deliveries.

With respect to limitation (a) of claim 1, LicketyShip offers no teaching or suggestion of matching orders with a patron's acceptable delivery criteria. The delivery time is supposed to be short, but that is a criterion imposed on the patron, not a criterion set by the patron and for which a match can be made with a pending order. Furthermore, patron deviation criteria and order criteria are not taught or disclosed. The methods of LicketyShip focus on a buyer and a seller, but the disclosure is minimal with respect to the patron to deliver from seller to buyer.

With respect to limitation (b) of claim 1, LicketyShip does teach managing the delivery transaction and compensation at, for example, web page www.licketyship.com/about_us.php#our-bag.

With respect to the method of claim 12, LicketyShip teaches or suggests a method of selling products and delivering products to a buyer, including limitations (a)-(d), at web page www.licketyship.com/gethelp.php. With respect to limitations (e), (f), and (g), LicketyShip does not teach or suggest determining, for each potential patron, a delivery deviation associated with a buyer, and then comparing the delivery deviation with acceptable deviation criteria of each potential patron. LicketyShip further fails to teach or suggest that if at least one patron is associated with deviation criteria that is acceptable to the patron, providing means for selecting one patron, authorizing the delivery transaction, and compensating said patron for delivery of the product(s) to the buyer.

With respect to the system of claim 17, LicketyShip suggests claim limitations (b)-(e) at, for example, web page www.licketyship.com/gethelp.php. For at least the reasons already presented, LicketyShip does not teach or suggest limitations (a) or (f) of

claim 17, a client computer to present a user interface to perform the registering of a patron; and a client or server computer to perform calculations to match, if possible, at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria.

Summary for 9(C):

All of the references identified above fail to at least teach or suggest "matching at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria" as required in clause (a) of claim 1. Thus, claim 1 is respectfully submitted to patentably distinguish over each of these references alone or in combination.

All of the references identified above fail to at least teach or suggest providing means for determining, for each potential patron, the delivery deviation associated with the buyer; providing means for comparing the delivery deviation with acceptable deviation criteria of each potential patron; and if at least one patron is associated with deviation criteria that is acceptable, providing means for selecting one patron, authorizing the delivery transaction, and compensating said patron for delivery of the product(s) to the buyer, as required in clauses (e)-(g) of claim 12. Thus, claim 12 is respectfully submitted to patentably distinguish over each of these references alone or in combination.

All of the references identified above fail to at least teach or suggest a client or server computer to perform calculations to match, if possible, at least one pending e-commerce order with the patron's acceptable delivery criteria, said acceptable delivery criteria including acceptable deviation criteria and acceptable order criteria, as required in clause (f) of claim 17. Thus, claim 17 is respectfully submitted to patentably distinguish over each of these references alone or in combination.

No argument is herein presented with respect to the separate patentability of any dependent claims 2-11, 13-16, or 18-20. Because the independent claims 1, 12, 17 are believed to be patentable, said dependent claims are submitted to be allowable.

9(D) Concise Statement of Utility:

The invention as claimed has utility in that it provides for efficient delivery of goods from sellers to buyers. Specific utility of the invention as claimed includes reduction in fuel usage that can translate into value creation for all members of the value chain: reduction in delivery fees for buyers, higher customer satisfaction and purchasing of goods for retailers, and the ability to earn extra income for delivers.

<u>9(E) Showing of Support under 35 USC 112, First Paragraph:</u>

Support in the disclosure under 35 USC 112, first paragraph, for claims 1-20 is found at least in the Summary of the Invention and in Figures 1-3 of the present application.

Claim 12 invokes a means-plus-function element, in limitations (b), (d), (e), and (f). Examples of method steps recited in the specification that correspond to each means-plus-function element are as follows:

(b) providing means for electronically purchasing the product(s) by the buyer

Paragraph [0047]: "In some embodiments of the invention, a buyer first places an online order using a retail store's ordering system. The buyer could also place the order by telephone, by e-mail, by text message, or by causing another person to perform steps leading to an order being placed."

(d) providing means for determining at least one potential patron for delivery of the product(s) to the buyer

Paragraph [0067]: "In general, a patron can receive information pertaining to one or more orders for potential delivery either actively or passively, and through a wide variety of communication means. In certain embodiments, a patron can choose to receive notification (such as by e-mail or text message on a cellular phone) when a buyer places an order that tends to match, or comes close to matching, the patron's pre-existing delivery criteria. In other embodiments, a potential patron could be notified of available orders that match his/her delivery criteria when he/she is checking out."

(e) providing means for determining, for each potential patron, the delivery deviation associated with the buyer

Paragraph [0075]: "Figure 3 is intended to illustrate one non-limiting way in which travel routes and deviations can be calculated. Many other types of deviations are possible, including for example a route that comprises a deviation departing from the original route at a first point, taking the patron along a different route to deliver one or more orders, and then rejoining the original route at a second point. When there are multiple deliveries to be made, the complexity of the route can increase, as a function of local conditions and street layout, the distances between orders and length of deviations, and so on. There can be a large number of possible solutions to a given route and given number of orders to be delivered, but in preferred embodiments, the route is optimized, according to calculations performed on a computer, to minimize the true travel cost for the patron and to best meet the delivery criteria imposed by the patron."

(f) providing means for comparing the delivery deviation from step (e) with acceptable deviation criteria of each potential patron

Paragraph [0073]: "Parameters associated with the delivery, such as total deviation cost of the delivery, are calculated by a server and compared to the patron's or potential patron's acceptable delivery criteria, including acceptable deviation criteria."

Claims 1 and 17 do not invoke means-plus-function or steps-plus-function clauses.

This application claims priority under 35 U.S.C. 120 from U.S. Patent Application No. 11/307,379 for "Method and Apparatus for the Home Delivery of Local Retail E-Commerce Order" (W. Weng) filed on February 3, 2006. Support in that disclosure under 35 USC 112, first paragraph, for the instant independent claims is found as follows:

Claim 1: Support under 35 USC 112, first paragraph is found at least at paragraph [0013] and claim 1 of App. No. 11/307,379.

Claim 12: Support under 35 USC 112, first paragraph is found at least at paragraph [0025] and Figure 2 of App. No. 11/307,379.

Claim 17: Support under 35 USC 112, first paragraph is found at least at Figure 1 (including the associated description) and claim 12 of App. No. 11/307,379.

9(F) Identification of References Disqualified as Prior Art under 35 USC 103(c):

None of the cited references are disqualified as prior art under 35 USC 103(c).

Respectfully Submitted,

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