PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter I of the Patent Cooperation Treaty)
(PCT Rule 44bis)

Applicant’s or agent’s file reference
151778PCCP

FOR FURTHER ACTION
See item 4 below

International application No.
PCT/ AU2016/051083

International filing date (day/month/year)
11 November 2016 (11.11.2016)

Priority date (day/month/year)
16 November 2015 (16.11.2015)

International Patent Classification (8th edition unless older edition indicated)
See relevant information in Form PCT/ISA/237

Applicant
WHIMPEY, Dave

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 6 sheets, including this cover sheet.
   In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

   - Box No. I  Basis of the report
   - Box No. II  Priority
   - Box No. III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
   - Box No. IV  Lack of unity of invention
   - Box No. V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
   - Box No. VI  Certain documents cited
   - Box No. VII  Certain defects in the international application
   - Box No. VIII  Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

Date of issuance of this report
22 May 2018 (22.05.2018)

Authorized officer
Athina Nickitas-Etienne

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The International Bureau of WIPO
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1211 Geneva 20, Switzerland

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Form PCT/IB/373 (January 2004)
From the:
INTERNATIONAL SEARCHING AUTHORITY

To:

CULLENS
Level 32
239 George Street
Brisbane, Queensland 4000
Australia

PCT
WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing (day/month/year)
10 February 2017

Applicant's or agent's file reference
151778PCCP

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/AU/2016/051083

International filing date (day/month/year)
11 November 2016

Priority date (day/month/year)
16 November 2015

International Patent Classification (IPC) or both national classification and IPC
G06Q 50/34 (2012.01) A63F 7/04 (2006.01) A63F 13/85 (2014.01)

Applicant
WHIMPEY, Dave (ET AL)

1. This opinion contains indications relating to the following items:

   - Box No. I  Basis of the opinion
   - Box No. II  Priority
   - Box No. III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
   - Box No. IV  Lack of unity of invention
   - Box No. V  Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step and industrial applicability; citations and explanations supporting such statement
   - Box No. VI  Certain documents cited
   - Box No. VII  Certain defects in the international application
   - Box No. VIII  Certain observations on the international application

2. FURTHER ACTION

   If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority (“IPEA”) except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

   If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

   For further options, see Form PCT/ISA/220.

Name and mailing address of the ISA
AUSTRALIAN PATENT OFFICE
PO BOX 200, WODEN ACT 2606,
AUSTRALIA
Email address: pct@ipaustralia.gov.au

Date of completion of this opinion
10 February 2017

Authorised Officer
Ying Li
AUSTRALIAN PATENT OFFICE
(ISO 9001 Quality Certified Service)
Telephone No. 0262832802

Form PCT/ISA/237 (Cover sheet) (July 2011)
<table>
<thead>
<tr>
<th>Box No. 1</th>
<th>Basis of this opinion</th>
</tr>
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<tr>
<td>1.</td>
<td>With regard to the <strong>language</strong>, this opinion has been established on the basis of:</td>
</tr>
<tr>
<td></td>
<td>X The international application in the language in which it was filed</td>
</tr>
<tr>
<td></td>
<td>☐ A translation of the international application into, , which is the language of a translation furnished for the purposes of international search (under Rules 12.3(a) and 23.1(b)).</td>
</tr>
<tr>
<td>2.</td>
<td>☐ This opinion has been established taking into account the <strong>rectification of an obvious mistake</strong> authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))</td>
</tr>
<tr>
<td>3.</td>
<td>With regard to any <strong>nucleotide and/or amino acid sequence</strong> disclosed in the international application, this opinion has been established on the basis of a sequence listing filed or furnished:</td>
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<tr>
<td></td>
<td>a. (means)</td>
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<td>☐ on paper</td>
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<td>☐ in electronic form</td>
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<td>b. (time)</td>
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<td>☐ in the international application as filed</td>
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<td>☐ together with the international application in electronic form</td>
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<td>☐ subsequently to this Authority for the purposes of search</td>
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<td>4.</td>
<td>☐ In addition, in the case that more than one version or copy of a sequence listing has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.</td>
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<td>5.</td>
<td>Additional comments:</td>
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**WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY**

<table>
<thead>
<tr>
<th>Box No. V</th>
<th>Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</th>
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**1. Statement**

<table>
<thead>
<tr>
<th>Novelty (N)</th>
<th>Claims 16, 19</th>
<th>YES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Claims 1-15, 17, 18, 20</td>
<td>NO</td>
</tr>
<tr>
<td>Inventive step (IS)</td>
<td>Claims NONE</td>
<td>YES</td>
</tr>
<tr>
<td></td>
<td>Claims 1-20</td>
<td>NO</td>
</tr>
<tr>
<td>Industrial applicability (IA)</td>
<td>Claims 1-20</td>
<td>YES</td>
</tr>
<tr>
<td></td>
<td>Claims NONE</td>
<td>NO</td>
</tr>
</tbody>
</table>

**2. CITATIONS AND EXPLANATIONS:**

**CITATIONS**

D1: US 2013/0252691 A1 (ALEXOPOULOS) 26 September 2013
D4: US 2013/0196754 A1 (BURNS) 01 August 2013

**NOVELTY (N)**

Claim 1: Citation D1 discloses a gambling method (abstract) including: receiving, from a user, one or more user preferences (par.[0162]); selecting a gambling opportunity based at least in part on the user preferences (pars.[0162, 0166]); and providing the selected gambling opportunity to the user (pars.[0162, 0166]).

Similarly, citations D2-D4 also disclose the features above (D2: pars. [0018, 0028]; D3: pars.[0007, 0030]; D4: pars.[0008, 0031]).

Therefore, citations D1-D4 disclose all the features of claim 1 and therefore claim 1 is not novel and does not comply with the requirements of Article 33(2) of the PCT.

Claim 2: Citation D1 discloses detecting a motion gesture of a portable device of the user and selecting the gambling opportunity upon detection of the motion gesture (pars.[0062, 0076]: 'members of the inventive computer system 102-104 (e.g. lottery terminals) ...... client devices 102-104 are any device that is ...... such as a PDA, pocket PC, wearable computer'). Therefore, D1 discloses all the features of claim 2 and therefore this claim is not novel and does not comply with the requirements of Article 33(2) of the PCT.

Claims 3-5: Citation D2 discloses receiving details of a bet from a first user and sharing details of the bet with another user, wherein the details of the bet are shared with other users in proximity to the first user (pars.[0003, 0029]); providing to the second user a user interface from which they place the same or a similar bet (par.[0042]). Therefore D2 discloses all the features of claims 3-5 and therefore these claims are not novel and do not comply with the requirements of Article 33(2) of the PCT.

Claims 6-11: Citation D4 discloses a wagering method with a wagering opportunity (par.[0008]): the user preferences including a non-performance based preference which includes one or more of a preferred colour, a preferred gender, a preferred location, a favourite number, a favourite letter and a name preference (pars.[0030]); providing to the user, a user interface including details of the selected wagering opportunity, wherein the user interface includes one or more icons, graphically illustrating the non-performance based user preference with reference to the wagering opportunity and the plurality of wagering opportunities are provided to the user in an ordered list according to the user preferences (pars.[0008, 0009, 0031, 0041, 0044]); a plurality of wagering options in relation to the wagering opportunity (par.[0009, 0031, 0032]). Therefore D2 and D4 disclose all the features of claims 6-11 and therefore these claims are not novel and do not comply with the requirements of Article 33(2) of the PCT.

Similarly, D2 also discloses the features defined in claims 6-9 at pars.[0028, 0029, 0042].

Claim 12: Citations D1 and D3 disclose that the one or more user preferences define preferences relating to lottery numbers, and the gambling opportunity comprises a set of lottery numbers generated at least in part according to the user preferences (D1: pars.[0162, 0181]; D3: par.[0030]). Therefore, D1 and D3 disclose all the features of claim 12 and therefore this claim is not novel and does not comply with the requirements of Article 33(2) of the PCT.
Claims 13-15, 17, 20: Citation D3 discloses that the preferences are indirectly associated with one or more numbers (pars.[0048]); the preferences include at least one of a shape preference, a colour preference, a date preference, a mathematical preference and a statistical preference (pars.[0030, 0048]); the set of numbers comprises a first set of numbers generated according to the user preferences, and a second set of numbers generated randomly, or pseudo-randomly (pars.[0060-0062]); a plurality of sets of numbers are generated for the user, wherein each set of numbers is related to a different game in a lottery (pars.[0057]); the user preferences include a date preference and a mathematical preference (pars.[0030, 0048]). Therefore D3 discloses all the features of claims 13-15, 17, 20 and therefore these claims are not novel and do not comply with the requirements of Article 33(2) of the PCT.

Similarly, D1 also discloses the features defined in claims 13, 14 and 20 at pars.[0105, 0162, 0166].

Claim 18: Citation D1 discloses receiving a selection of a lottery from a plurality of lotteries and the set of lottery numbers is generated in part according to the selected lottery (pars.[0162, 0181]). Therefore, D1 discloses all the features of claim 18 and therefore this claim is not novel and does not comply with the requirements of Article 33(2) of the PCT.

Therefore claims 1-15, 17, 18 and 20 are not novel and do not comply with the requirements of Article 33(2) of the PCT.

None of the cited documents discloses the features defined in claims 16 and 19. Therefore claims 16 and 19 are novel and meet the requirements of Article 33(2) of the PCT with regard to novelty.

**INVENTIVE STEP (IS)**

Claims 1-15, 17, 18 and 20 lack novelty and are therefore considered to lack an inventive step.

Claims 16: Neither D1 nor D3 teaches assigning a probability to each of a plurality of numbers according to the user preferences to generate the set of lottery numbers. However, the way of generating the lottery number in D1 or D3 is merely a matter of design choice and does not involve an inventive step. Therefore the matter defined in claim 16 does not involve an inventive step in light of citation D1 or D3, and therefore these claims do not comply with the requirements of Article 33(3) of the PCT.

Claim 19: Neither D1 nor D3 teaches generating an alert relating to a lottery according to a threshold and providing the alert to the user. However, generating or providing an alert in certain situations in D1 or D3 is merely a matter of design choice and does not involve an inventive step. Therefore the matter defined in claim 16 does not involve an inventive step in light of citation D1 or D3, and therefore these claims do not comply with the requirements of Article 33(3) of the PCT.

Please note: Although D1 does not explicitly disclose the features defined in claims 3-11, 15-17 and 19, these features are considered as mere matters of design choices and do not involve an inventive step in light of D1. For instance, sharing information among the users’ devices based on the location of claims 3-5 or the wagering opportunity being one of the gambling opportunities of claim 6 is an obvious design choice to a person skilled in the art and is an arrangement that any competent worker in the art would be expected to make directly and without difficulty and by routine steps alone. Similarly, although D2 does not explicitly disclose the features defined in claims 2 and 10-20, D3 does not explicitly disclose the features defined in claims 2-11, 16, 18 and 19, and D4 does not explicitly disclose the features defined in claims 2-5 and 12-20, those features are considered as mere matters of design choices and do not involve an inventive step in light of D2-D4 respectively.

Therefore claims 1-20 do not involve an inventive step and do not comply with the requirements of Article 33(3) of the PCT.

**INDUSTRIAL APPLICABILITY (IA)**

The invention defined in the claims is considered to meet the requirements of Industrial Applicability under Article 33(4) of the PCT because it can be made by, or used in, industry.
The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

A search and examination of your application was performed because a meaningful search was considered possible following the PCT search and examination guidelines, however all of the claims are directed towards excluded subject matter under the Rules 39.1 iii. and vi. of the PCT as they are directed to a business scheme and or a computer program to implement the scheme.