

# Comments On The Detailed Description (DD) Drafting Assignment

## I. General

- A. Many people are really making the effort here and it shows.  
Thanks for all your hard work!
- B. Writing the Detailed Description (DD) is not as purely creative as claim drafting, but it's long and grinding and you have to be precise and very , very thorough – remember that you will NEVER have a chance to supplement your disclosure. With the DD, you are aiming for completeness and stocking your arsenal with every potential claim limitation that you may need to fall back on.
- C. The present invention disclosure is designed to have several issues that arise frequently in practice. There are gaps and there are aspects of the disclosure that are fine for the inventor's purposes, but not satisfactory for yours. It's not designed to be the easiest thing in the world to write. It is designed to try and get you to think and stretch. I think that a number of people are beginning to rise to the challenge and start recognizing and filling in gaps.
- D. I did not mark every error every time – some repeated errors were numerous. Consequently, just because it's not marked doesn't mean its right.
- E. Don't give me the originals of any of your materials. Assume that any materials that you give to me may get lost or damaged and I might need another copy from you.

- II. Things to think about
- A. It sure helps to have a plan of attack (ICOA), right?
  - B. Recognize the importance of figures. You are really crafting your disclosure around the figures. Consequently, the first step is to try to figure out the point of novelty and the second step is to think about what figures you would like to use to express it. Also, the ORDER of the figures can make a big difference in making your explanation understandable to the Examiner or a jury.
  - C. Now that you have written the DD, you would probably have asked the inventor many additional questions during the inventor interview, right? It was only when you got really into writing the DD that you realized that you might not have some needed data. What questions would you ask? How can you be better prepared next time? Read the invention disclosure more thoroughly before the inventor interview and recognize the weak points of the disclosure so that you could question the inventor more specifically? More penetrating and exacting knowledge of innovation so that you can recognize what you don't know sooner? Form and overall "outline" of how you think the application will go when you read through the invention disclosure the first time and then ask questions to flesh out the outline?
  - D. Now that you have written a complete DD:
    - 1. What problems did you catch during your writing?
    - 2. How would you have structured your DD differently?  
If you had to start over, what would you start with as first figure?
  - E. Would you have picked different claim terms after your wrote the DD? Did you then take the time to modify your claims and go with the new claim terms? Don't let your initial claims lock you into a bad disclosure.
  - F. Do you have a different idea about what "the invention" actually is?

### III. Formalities

- A. Increase readability by using concept joiners like “also”, “additionally”, “Thus” and “Consequently” to connect your concepts rather than just reciting bullet points. Also, link to earlier and later figures that describe the elements that you are referencing in more detail. “As described further below with regard to Figure X”. “For example” is also effective
- B. Recite embodiments using positive, but not limiting language.
  - No= “The server does not ...”
  - No=”The server must ...” “must be” “all X”
- C. When you recite that something happens, you must recite HOW it happens – what are the functional and structural aspects that ENABLE the thing?
  - No = “The communication device then initiates exchange of information with the other communication device.”
  - Use “fudge words” as flags – if you see them, look closely to see if you are really disclosing – Examples “based on”
  - Passive voice is sometimes also a flag = “the selection is made”
- D. When drafting, ignore the number grammatically. For example: “The server 420” instead of “server 420” This also means that you can’t have “the server 420” and “the server 421” because they are indistinguishable. Instead recite “the first server- the second server” or use a more descriptive word “the initiating communication device – the joining communication device”

#### IV. Not Getting Where You Want To Go

##### A. Not A Disclosure

We need an affirmative, explicit disclosure if the Examiner is going to allow us to incorporate a term in the spec into the claim.

BAD: “will” “would” “can” “could” “possibility” “should” “intended to”  
“One alternative embodiment could be ...”

Not Affirmative. Does not illustrate that we had the necessary possession of the invention to meet the written description requirement.

Also not disclosures – “any of a variety of ways” “May be any number”

Very questionable disclosure “exists”

##### C. Don’t use legal or claim terms in the DD

No “by means of”, “said” “plurality”

May not actually be a disclosure in the DD

NO “consist”, “via”

Use “for example” instead of e.g. – it is in English and makes it less likely that you will accidentally write i.e., which is to be avoided.

##### D. Watch the slang – “turns on”

##### E. No trademarks – no Shazaam! – pick a descriptive/functional name for the innovation. Something like “Near Proximity Auto Inclusion”?

##### F. Stop saying “match” – it literally means “is identical to”, which is rarely what you want to say.

V. Drafting Tips

- A. See ShoutOut Hints below
- B. Good job including the interfaces
- C. “Group” – people are still having trouble with “group.”  
“file” - *Computers*. a collection of related data or program records stored on some input/output or auxiliary storage medium. (Dictionary.com)  
A “group” is an abstract concept – but how about “group file”?
- D. Also, why not include the group file as a figure?  
Graph the data structure of the group (Group Type, List of smartphone identifiers associated with Group, Geographical Extent of Group, Group Leader, All other Group Options mentioned specifically)  
-You will find that the structure of the group file varies with mode.  
-Also, the formation and management of the group files is really at the heart of your point of novelty – we really want the enablement here.  
-It also provides a useful reference when you write the flowchart about how the group file is formed and/or managed. What data needs to be in the group file? How did it get there? How is it accessed?
- E. Does this small tweak in the name make the operation of the system more understandable? Think about why? It may be difficult to transition from a conceptual/human level of description to a lower data/mechanical level of description.
- F. In this regard, here are some flags that represent human or conceptual activity that let you know that you may be at the wrong level of disclosure: “device recognizes” “intent” “observable characteristics” “decides” in general any human cognitive or emotional result
- G. Generalized advice – when you feel that something is being fudged, charge it head on. If nothing else, it makes the issue more apparent for the inventor to review so that they are likely to catch it before you file. The is opposite the typical “school” instinct of attempting to hide it or gloss over it. Recognize that if you actually succeed in hiding it or glossing over it, you have probably shot yourself and your client in the foot.

- H. With regard to determining proximity, to determine if a second phone is within a radius of the first phone, just calculate the distances between the phone and compare that to the radius
- I. With regard to determining whether a phone is on a road determines the road by accessing a database of associated roads and positions (Google Maps) – if on or within 3 M, then position is “on” road  
<http://www.gps.gov/applications/roads/>  
- Note that the system actually is completely unable to determine if a “vehicle” is on a road. The location of the phone in the vehicle is merely assumed. Also, the characteristics of the vehicle are assumed to be those that have previously been entered in the system. Thus, don’t talk about the characteristics of the “vehicle” in terms of what is observed by a user of the phone. Instead, talk about the stored “vehicle characteristics” that are associated with the phone.
- J. I got the feeling in several instances that people learned a lot about the system, but didn’t have time to go back and fix things.

ShoutOut- Some hints, not in the final language you should use.

Before using ShoutOut, each user creates an account that is stored at the server and enters the information of the car that they usually drive. Thus, the car information is associated with a specific account (which is associated with a specific smartphone) and is stored at the server. This data could be entered through the RoadShout application using the smartphone, but would only have to be entered once (but could be updated). Later, whenever the user enters ShoutOut, RoadShout uses the stored car information as the vehicle information associated with the smartphone.

Additionally, when RoadShout is activated to receive voice commands, RoadShout monitors the received audio signal to identify when an audio signal of “RoadShout” is detected (when someone says “Roadshout”). It then listens for a further command. If that next command is the audio signal of “ShoutOut”, then Roadshout

enters ShoutOut mode and awaits the next signal. Note that in order to recognize a voice signal, the smartphone is previously provided with an audio model of the voice signal (by the server) and then monitors the received audio signal for the presence of the audio model. Alternatively, the voice signal may be relayed to the server and the analysis performed there.

[http://en.wikipedia.org/wiki/Speech\\_recognition](http://en.wikipedia.org/wiki/Speech_recognition)

Once ShoutOut mode is selected by a user, the smartphone application monitors the received audio signal to detect any of the “Passed Me” type of commands (again, an audio model of the commands was previously provided). Other audio terms that are received are compared with standard audio models such as colors (“green”, etc), makes of cars (“Ford”, etc.), and models of cars (“Explorer”, etc.)

The positional identifiers such as “Passed Me” can be processed by the server based on the current and previous relative positions of the smartphones due to the periodically recorded GPS position of all smartphones that are stored at the server. Alternatively, the phone may be programmed to locally store several GPS readings so that the phone can tell the direction of travel and relay it to the server.

The vehicle identifiers can be processed by retrieving the vehicle information associated with all ShoutOut-registered smartphones that are identified using the positional identifiers and determining which smartphones are associated with the same vehicle information.

# Next Assignment - Full Patent Application Ready to File! and completed Filing Paperwork

This is the full patent application, including all sections and complying with all PTO requirements

A. Due date – April 3rd – two weeks

B. Draft

1. Background
2. Summary
3. Brief Description of Drawings
4. Abstract

C. Revise

1. Claims

Know that when you turn in the full patent application at the next assignment, the claims will be your official claims just as if you had filed them at the PTO. If there is a problem with the claims, then expect a summary rejection from the PTO. We are going for realism and will be as picky as the average Examiner (which is very picky) and looking for an excuse to reject you without mercy.

2. Detailed Description (DD)

All shortcomings in the DD are fair ground for rejection

3. Figures

Must comply with PTO standards as discussed in class

D. Grading

1. When grading the whole application, approximately 60% of the grade will be based on the new sections and 40% of the grade will be based on the DD and claims. Consequently, amend your DD and/or claims to improve them.

E. Fair Warning!

You will be stuck with the patent application that you turn in for the remaining two office actions. Consequently, make sure that the DD includes everything that you think you might need.

F. Completed filing paperwork

As a “class participation” assignment, complete the following filing documents for your patent application. The documents are available electronically at the PTO’s website or may be printed out from the class materials and filled in by hand. The filing documents should conform to your actual patent application. For example, the fee calculation should reflect your actual number of claims and the attorney docket number should be your secret code

1. ADS
2. Fee transmittal
3. Declaration
4. Power of Attorney
5. IDS

Your firm: Papa Dels’s Patents  
Otherwise use law school address and phone number

Inventor: Lane Bellow  
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Company: RoadShout!, LLC  
Same address as Lane Bellow, IL company