

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MEKIKI CO., LTD. and MEKIKI)	
CREATES CO., LTD.,)	
)	
Plaintiffs and)	C.A. No. 09-745 (JAP)
Counter Defendants)	
)	JURY TRIAL DEMANDED
v.)	
)	
FACEBOOK, INC.,)	
)	
Defendant and)	
Counterclaimant.)	
_____)	

**DECLARATION OF ADAM M. PIVOVAR IN SUPPORT OF DEFENDANT’S
REPLY BRIEF TO ITS MOTION TO TRANSFER VENUE UNDER 28 U.S.C. § 1404(a)**

I, Adam M. Pivovar, declare as follows:

1. I am an attorney with Cooley LLP, attorneys for Defendant Facebook, Inc. I make this declaration in support of Defendant’s Reply Brief to Its Motion to Transfer Venue Under 28 U.S.C. § 1404(a). I have personal knowledge of the facts contained within this declaration, and if called as a witness, could testify competently to the matters contained herein.

2. Attached hereto as Exhibit 1 is a true and correct copy of a printout from Facebakers.com titled “Facebook in California,” available via the website “<http://www.facebakers.com> and located at <http://www.facebakers.com/united-states-facebook-statistics/CA/chart-interval-5/>, printed on 4/29/2010.

Exhibit 1 indicates the “Number of users on Facebook in California: 13,778,780.” I have reviewed Exhibit 5 to the Declaration of Eric J. Bakewell in support of Plaintiffs’ Answering Brief In Opposition to Facebook, Inc.’s Motion to Transfer Venue (“Bakewell Declaration”)

(D.I. 28), which states: “Number of users on Facebook in Delaware: 187,420.” Based on this information, I have calculated that there are 73.52 users of Facebook in California for every user of Facebook in Delaware.

3. On April 29, 2010, I performed the following internet searches using the identified search terms and the Google (www.google.com) and Google Scholar (www.google.com) search engines for the individuals listed in paragraph 8 of the Declaration of Reuben Chen in support of Defendant’s Motion to Transfer Venue (“Chen Declaration”) (D.I 22). True and correct copies of the search results are included in the exhibits attached to this declaration:

Individual (as identified in Chen Decl. ¶ 8)	Search Terms	Search Engine	Results
Mehul Shah (Palo Alto, CA)	"Mehul Shah" "Palo Alto" CA	www.google.com	Exhibit 2
David L. Gilmour (Los Altos, CA)	"David L. Gilmour" "Los Altos" CA	www.google.com	Exhibit 3
Chris Cheah (San Jose, CA)	"Chris Cheah" "San Jose" CA	www.google.com	Exhibit 4
James G. Douvikas (Danville, CA)	"James G. Douvikas" Danville CA	www.google.com	Exhibit 5
Daniel L. Ahlberg (Pleasanton, CA)	"Daniel L. Ahlberg" "Pleasanton" CA	www.google.com	Exhibit 6
John Feldmeier (Palo Alto, CA)	"John Feldmeier" "Palo Alto" CA	www.google.com	Exhibit 7
Glenn R. Seidman (Sunnyvale, CA)	"Glenn R. Seidman" CA	www.google.com	Exhibit 8
Kevin O’Neil (San Diego, CA)	"Kevin O’Neil" "San Diego" CA inventor	www.google.com	Exhibit 9
Brian D. Robertson (Huntington Beach, CA)	"Brian D. Robertson" inventor	www.google.com	Exhibit 10

In addition to performing the searches described in paragraph above, I have also attached

to the respective exhibits exemplary documents that have been authored or invented by the listed individuals, which contain information relevant to the patents-in-suit and pre-date the earliest listed priority date on the face of the patents-in-suit. I accessed these exemplary documents by clicking on the links provided in search results for the searches described above. The exemplary documents retrieved and the method for retrieving the documents are as follows:

Individual (as identified in Chen Decl. ¶ 8)	Exemplary Document Retrieved	Process for Retrieval
Mehul Shah (Palo Alto, CA)	ReferralWeb: A Resource Location System Guided by Personal Relations.	I clicked on first search result link entitled “Homepage for Mehul A. Shah.” From Mr. Shah’s homepage I followed the link entitled “ReferralWeb: A Resource Location System Guided by Personal Relations.” (See Exhibit 2.)
David L. Gilmour (Los Altos, CA)	U.S. Patent No. 6,253,202 (Method, System and Apparatus for Authorizing Access by a First User to a Knowledge Profile of a Second User Responsive to an Access Request from the First User)	From search results I clicked on link entitled “Method, system and apparatus for authorizing access by a first user to a knowledge ...” (See Exhibit 3.)
Chris Cheah (San Jose, CA)	U.S. Patent No. 7,003,546 (Method and System for Controlled Distribution of Information Over a Network)	I clicked on the second search result link entitled: “Method and system for controlled distribution of contact information over a network.” (See Exhibit 4.)
James G. Douvikas (Danville, CA)	U.S. Patent Application No. 10/679,373 (E-Service to Manage Contact Information and Track Contact Location)	I clicked on first search result link entitled “E-service to manage contact information and track contact location.” (See Exhibit 5.)
Daniel L. Ahlberg (Pleasanton, CA)	U.S. Patent Application No. 10/251,174 (Structure for Accessing and Populating Community Websites)	I clicked on the second search result link entitled “Structure for accessing and populating community websites - Google Patents Result.” (See Exhibit 6.)
John Feldmeier	U.S. Patent Application No.	I clicked on the search result link entitled

(Palo Alto, CA)	10/251,174 (Structure for Accessing and Populating Community Websites)	“Structure for accessing and populating community websites.” (See Exhibit 7.)
Glenn R. Seidman (Sunnyvale, CA)	U.S. Patent No. 7,289,971 (Personal Information Security and Exchange Tool)	I clicked on the first search result link entitled “Personal information security and exchange tool” (See Exhibit 8.)
Kevin O’Neil (San Diego, CA)	U.S. Patent No. 7,289,971 (Personal Information Security and Exchange Tool)	I clicked on the first search result link entitled “Personal information security and exchange tool” (See Exhibit 9.)
Brian D. Robertson (Huntington Beach, CA)	U.S. Patent No. 6,269,369 (Networked Personal Contact Manager)	I clicked on the first search result link entitled “Networked personal contact manager” (See Exhibit 10.)

I also created the following chart that compares the Abstract and Field of the Invention of the patents-in-suit with the Abstract and/or Field of the Invention of the exemplary documents retrieved in the internet searches of individuals listed in Chen Declaration paragraph 8:

Individual (as identified in Chen Decl. ¶ 8)	Abstract and/or Field of the Invention
N/A (patents-in-suit)	<p>Abstract</p> <p>To provide a human relationships registering system, a method and a server for registering human relationships, a program for registering human relationships, and a medium storing human relationships registering program and readable by a computer, all of which are used to establish wide and close relationships with members having a variety of occupations or engaged in various technical fields and to obtain expert knowledge or information. The human relationships registering system comprises first data processing units 2 and 3 including sections for receiving personal data of a new member, and a second data processing unit including a section for storing the received personal data. The second data processing unit stores the personal data of the new member in correlation to an existing member when the existing member confirms the new member.</p> <p>1. Field of the Invention</p>

	<p>The invention relates to a human relationships registering system, a method and a server for registering human relationships, a program for registering human relationships, and a medium storing human relationships registering program and readable by a computer, all of which are used to establish wide and close human relationships.</p>
<p>Mehul Shah (Palo Alto, CA)</p>	<p>Abstract We describe the design and implementation of ReferralWeb, a system for identifying experts on keyword queries and generating a path of social relations by which to contact them. This system models and extracts existing social and professional relationships in the computer science community by mining publicly available documents on the internet. Using similar techniques, experts are also isolated from indexed web documents. A user interface combines the reconstructed social network and search engines to allow exploration and visualization of one's local personal network. We describe interviews and experiments which indicate that the current prototype fulfills a need not addressed by other public services. Finally, possible solutions for improved robustness and further evolution are proposed.</p> <p>(See Exhibit 2.)</p>
<p>David L. Gilmour (Los Altos, CA)</p>	<p>Abstract A method of authorizing a user profile access request includes the step of detecting the access request from an inquiring user to access a user profile of a target user. Responsive to the detected access request, an authorization request is automatically generated and sent to the target user. In response to the authorization request, the target user may then authorize access to his or her user profile by the inquiring user. Of course, the target user may also decline access to the relevant user profile.</p> <p>FIELD OF THE INVENTION The present invention relates generally to the field of knowledge management and, more specifically, to a method and apparatus for accessing a user knowledge profile within a database.</p> <p>(See Exhibit 3.)</p>
<p>Chris Cheah (San Jose, CA)</p>	<p>Abstract An information management and distribution system is disclosed. The information management and distribution system includes a client-side application and a server application that interact to facilitate the controlled exchange of contact information over a network. The client-side application can provide creation and design, rolodex, exchange, and update features. The information management and distribution system can also include a corporate administrator application. Still another aspect of the invention is</p>

	<p>that contact information can be distributed to registered users in a common format.</p> <p>1. Field of the Invention</p> <p>The present invention relates to the management and exchange of information and, more particularly, to information management and exchange over networks.</p> <p>(See Exhibit 4.)</p>
<p>James G. Douvikas (Danville, CA)</p>	<p>Abstract A method of providing an electronic business card (EBC) access and organization service on the Web. The cardholder database is accessible and searchable from any browser connected to the Internet or the EBC service may be installed behind a conventional firewall and thus accessible only to intranet users. The service thus provides easy access to cardholder contact information with privacy assured by use of integrated access restrictions. Access to and delivery of contact information by the service is not limited to a Web browser interface as commonly known today. The service provides multi-mode access and/or data delivery interfaces. The service also provides an export feature that formats search results into a pre-defined file structure readable by a conventional contact management programs. Custom export file formats may also be defined provide even wider connectivity and cross-platform utility. Access to individual records is controlled at both the record level and the field level, with multiple privacy levels for each field, in addition to the well-known "public" and "private" levels. Users having certain permissions are permitted to read a defined group of records, though not necessarily all fields in each record. A location tracking feature is also provided to allow the cardholder to rapidly designate a pre-defined contact location. Alternately, the cardholder may define a temporary contact location not normally stored in the database system. Electronic mail sent by the cardholder is automatically formatted to contain a signature hypertext link directing recipients of the email to the EBC service. This hyperlink enables the recipient of the email to rapidly access the EBC system to locate the cardholder and/or obtain additional information.</p> <p>1. Field of the Invention</p> <p>The present disclosure relates to electronic commerce, more specifically electronic storage and retrieval of information.</p> <p>(See Exhibit 5.)</p>
<p>Daniel L. Ahlberg (Pleasanton, CA)</p>	<p>Abstract A website structure for populating the registration database of a website, and</p>


<p>John Feldmeier (Palo Alto, CA)</p>	<p>for providing access to information contained within various community areas that comprise the website. A plurality of community areas are provided via website pages which contain information pertaining to a community interest. Each registered user will have a home page with personal information. Other overlying community areas might provide group information to which a user belongs, or organizational information to which a group belongs, and so forth. The information within the community areas can be viewed and shared by various users of the website, with access to the information controlled by the status of the user. The membership database for the website is built via invitations from member users to non-member users. An identification can be assigned to each relationship. Access to various information within the community areas is thereby controlled by the status of the user, or the relationship the user has with other member users. The database can thereby be populated by known or trusted persons of current members.</p> <p>FIELD OF THE INVENTION</p> <p>The present invention relates generally to a network system, or website structure thereon, used for the provision of access by an individual to information that relates to multiple website communities in which the individual is a participant. More specifically, the present invention provides website structures for summarizing access to the information pertaining to an individual's involvement in these multiple communities. The extent of access to the website information for a specific community is based upon the security level of the individual in relation to the community, and which is granted to them by other members of that community.</p> <p>(See Exhibits 6, 7.)</p>
<p>Glenn R. Seidman (Sunnyvale, CA) Kevin O'Neil (San Diego, CA)</p>	<p>Abstract Utilization of the E-Metro Community and Personal Information Agents assure an effective and comprehensive agent-rule based command and control of informational assets in a networked computer environment. The concerns of informational privacy and informational self-determination are addressed squarely by the invention affording persons and entities a trusted means to author, secure, search, process, and exchange personal and/or confidential information in a networked computer environment. The formation of trusted electronic communities wherein members command and control their digital persona, exchanging or brokering for value the trusted utility of their informational assets is made possible by the invention. The present invention provides for the trusted utilization of personal data in electronic markets, providing both communities and individuals aggregate and individual rule-based control of the processing of their personal data.</p>

	<p>FIELD OF INVENTION</p> <p>The present invention relates to the software management of information within a network computing environment. More specifically, the present invention relates to a software system operating on the Internet that creates a virtual private network where a user may author, secure, search, exchange and process personal information in a trusted and controlled manner. This software system encapsulates trusted communities and their members, where a trusted authority certifies the identity and the informational-self of community members. Once a user is registered with a trusted community, the user can author and secure at will the hypermedia content, command and control the rule-based presentation and processing of their personal information.</p> <p>(See Exhibits 8-9.)</p>
<p>Brian D. Robertson (Huntington Beach, CA)</p>	<p>Abstract</p> <p>A network-computer-based personal contact manager system is disclosed wherein users of networked clients maintain and update a set of user information which is stored in a relational database on a networked server. The personal contact manager system allows each user to specify on an individual basis which of their contacts are permitted to access respective datums of their user information. In some cases, and assuming permission is granted, the system will issue notifications (e.g., by e-mail) to a user's contacts when the user changes his information or when a preset event, such as a birthday, as defined by the user, is to occur. The system also allows users to find contacts based on common group affiliations and notifies users when there are coincidences in their data (e.g., travel plans, astrological compatibility). The personal contact manager system supports the retrieval of information on the contacts of contacts, assuming such as permission has been granted by the contacts and their contacts, and can also be used to synchronize the server database with a PIM database of the user and any contacts of the user whoe have the appropriate permissions.</p> <p>[Field of the Invention]</p> <p>The present invention relates generally to computer software used to manage contact information--such as mailing addresses, e-mail addresses, phone numbers, and birthdays--and more specifically to a method of creating links between members over a network and providing information to each member based on levels of permission maintained by the other members to which they are linked.</p> <p>(See Exhibit 10.)</p>

4. Attached hereto as Exhibit 11 is a true and correct copy of an April 21, 2010 email containing a redacted version of my Westlaw research trail from April 5, 2010. Exhibit 11 indicates that at 9:28 p.m. on April 5, 2010 I viewed the case captioned as *Qinetiq Ltd. v. Oclaro, Inc.* (2009 WL 5173705). To my knowledge and based on my communications with other on this team, my April 5, 2010 discovery of the *QinetiQ Ltd. v. Oclaro, Inc.* decision was the first time that any of Facebook's counsel in this case became aware of the existence of that decision. Facebook filed its motion to transfer on April 9, 2010, 4 days after becoming aware of the *QinetiQ Ltd. v. Oclaro, Inc.* decision.

5. Attached hereto as Exhibit 12 is a true and correct copy of a search I performed on the District of Delaware's CM/ECF website for cases involving "Facebook" within the District of Delaware. Also attached as part of Exhibit 12 is a true and correct copy of the results of that search, which reveals that Facebook has been a defendant in 3 cases filed in the District of Delaware.

I declare under penalty of perjury under that the foregoing is true and correct. Executed on May 6, 2010 in Palo Alto, California.



Adam Pivovar