

# **EXHIBIT 12**

PATENT

LEADP102USA

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

Applicant(s): Michael McKibben, *et al.*

Examiner: Diane Mizrahi

Serial No: 10/732,744

Art Unit: 2165

Filing Date: December 10, 2003

Title: DYNAMIC ASSOCIATION OF ELECTRONICALLY STORED  
INFORMATION WITH ITERATIVE WORKFLOW CHANGES

**Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

---

**REPLY TO FINAL OFFICE ACTION DATED JANUARY 5, 2006**

---

Dear Sir:

Accompanying this Reply is an RCE and extension fee for one month. Favorable reconsideration of the above-identified patent application is respectfully requested in view of the amendments and comments below.

AMENDMENTS TO THE SPECIFICATION

Please replace the paragraph on page 5, lines 1-13, with the following paragraph:

Data created within the board is immediately associated with the user, the user's permission level, the current workspace, any other desired workspace that the user designates, and the application. This association is captured in a form of metadata and tagged to the data being created. The metadata automatically captures the context in which the data was created as the data is being created. Additionally, the data content is indexed to facilitate searching for the content in a number of different ways ~~in a number of different ways~~ in the future by the user or other users. This tagging process is universal, in that, the data model allows for any binary data (e.g., files), as well as any set of definable data to be accepted into the system. The system is not restricted to processing e-mail, faxes, calendar events, meetings, phone calls, etc., that are included in the bundled system, but can also accommodate whatever data the user chooses to use. The system is also universal insofar as its user interaction can be through a browser that is pervasively employed for use with conventional operating systems.

Please replace the paragraph on page 6, lines 1-3, with the following paragraph:

In another aspect thereof, the tool ~~provides~~ automatically stores contextual information relating to an item of communication and utilizes that contextual information in performance of communication tasks.

Please replace the paragraph on page 14, lines 19-31, with the following paragraph:

Data created while the user is in the board is immediately associated with the user, the current workspace, any other desired workspace that the user designates, and the application. This association is captured in a form of metadata and tagged to the data being created. The metadata automatically captures the context in which the data was

created as the data is being created. Additionally, the data content is indexed to facilitate searching for the content in number of different ways in the future by the user or other users. This tagging process is universal, in that, the data model allows for any binary data (e.g., files), as well as any set of definable data to be accepted into the system. The system is not restricted to processing e-mail, faxes, calendar events, meetings, phone calls, etc., that are included in the bundled system, but can also accommodate whatever data the user chooses to define. The system is also universal insofar as user interaction ~~as it user interaction~~ can be through a browser that is pervasively employed for use with conventional operating systems.

Please replace the paragraph on page 15, lines 1-14, with the following paragraph:

Referring now to FIG. 5, there is illustrated a flow chart of a process for board and web generation in accordance with the present invention. At 500, a webs-and-boards table is created to track the relationship of said aspects. At 502, a user creates a board. This can be via an administrator initially configuring a person's user workspace ~~person user workspace~~, or thereafter, a user creating another workspace, for example, a shared workspace. At 504, the user performs data operations while in the board. The data and applications employed to operate on the data are then included as content associated with the user in this particular context. Given that there can be multiple users, there can be a corresponding one or more webs associated with the one or more users. A BOARD(S) column lists the number of boards, and select ~~select~~ numbers of the boards can now be grouped in collections or webs, as indicated at 506, to facilitate workflow, for example. For any number of reasons, the web and board relationships can be changed, as indicated at 508. At 510, the webs-and-boards table is automatically updated as these changes occur. The process then reaches a Stop block.

Please replace the paragraph that begins on page 16, line 22 and ends on page 17, line 2, with the following paragraph:

Referring now to FIG. 8, there is illustrated a more detailed block diagram of a system 800 of the present invention. The system 800 includes the internal network 702 on which is disposed the services system 704 and the one or more users 706 seeking use of the services of the services component 708 provided thereby. The services of the services component 708 facilitate the use of the data management tool, which employs one or more webs 802 and boards 804. The tool further provides portal services 806 for accessing the services from various internal and external network locations using the TCP/IP suite of protocols. Other services provided include, but are ~~not limited to~~ not limited to, voice services 808 and outside services 810. Outside services 810 facilitate including non-employees and the use of third-party applications in specific projects in the system by providing various levels of access to any number of data locations and services. Read/write permissions can be granularized to the file level, if desired.

Please replace the paragraph that begins on page 28, and ends on page 23, line 6, with the following paragraph:

Here, the Meet application option is selected to allow user interaction with setting up a meeting related to projects of the user. The Meet application option further includes List and Create sub-options. When the List sub-option is selected, a center viewing area 1510 is used to present board, context, web address and other information so that the user can review the existing board and context information related to setting up a meeting. Selection the Create sub-option allows the user to create a meeting in association with ~~in associated with~~ one or more of the boards and make changes to existing board relationships and contexts. Other user-selectable options are provided such that the user can Join in a session with one or more other users, Move data to Archive, Select all objects, set a Reminder for himself or herself, and Delete boards.

AMENDMENTS TO THE CLAIMS

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

Claims 1-17 (Cancelled)

18. (Currently Amended) A computer-implemented network-based system that facilitates management of data, comprising:

a computer-implemented context component of the network-based system for capturing that captures context information associated with [[a]] user-defined topic data created by [[of]] a user in a first context of the network-based system and dynamically associating the context information with the data via metadata that is stored on the network-based system; and

a computer-implemented tracking component of the network-based system for tracking that tracks a change of the user from the first context to a second context [[,]] of the network-based system and automatically associating associates at least a portion of the context information with the second context in the metadata.

19. (Currently Amended) The system of claim 18, the context component is associated with a workspace, board that which is a collection of data and application functionality related to the user-defined topic data.

20. (Currently Amended) The system of claim 18, the context component is associated with a web, which web that is a collection of interrelated workspaces boards, the web maintains a [[the]] location of data of the respective interrelated workspaces boards when one or more of the interrelated workspaces boards are moved into a different workspaces board interrelationship, whether within the web or to another web.

21. (Currently Amended) The system of claim 18, the context information includes a relationship between the [[a]] user and at least one of an application, application data, and user environment.

22. (Currently Amended) The system of claim 18, the context component captures context information of the first context and context information related to at least one other context ~~one or more other contexts~~.

23. (Currently Amended) The system of claim 22, the context information of the at least one other context ~~one or more other contexts~~ is at least one of stipulated by the user[[,]] and suggested automatically by the system based upon ~~various~~ search and association criteria set by the user.

24. (Currently Amended) The system of claim 18, wherein data created in the first context is ~~can be~~ associated with data created in the second context.

25. (Currently Amended) The system of claim 18, the context information is tagged to data via the data metadata when the data is created.

26. (Currently Amended) A computer-implemented method of managing ~~facilitating~~ data management, comprising computer-executable acts of:

creating data within a user environment of a web-based computing platform using an application, the data in the form of at least files and documents;

dynamically ~~automatically~~ associating metadata with the data, the data and metadata stored on the web-based computing platform, the metadata includes information related to a user of the user environment, ~~information related to the data, to the~~ application, and to the user environment;

tracking movement of the user from the user environment of the web-based computing platform to a second user environment of the web-based computing platform; and

associating in the metadata at least one of the data and the application with the second user environment such that the user employs the at least one of the application and data from the second environment.

27. (Canceled)

28. (Original) The method of claim 26, further comprising capturing context information of the user.

29. (Currently Amended) The method of claim 26, further comprising indexing content of the user environment such that a plurality of users can access the content from ~~[[a]]~~ an associated plurality of user environments.

30. (Canceled)

31. (Original) The method of claim 26, the least one of the data and the application is associated automatically with the second user environment.

32. (Previously Presented) The method of claim 26, further comprising accessing the user environment and the second user environment using a browser.



33. (Original) The method of claim 26, further comprising communicating with the user environment using a TCP/IP communication protocol.

34. (Original) The method of claim 26, further comprising locating the user environment from a remote location using a URL address.

35. (Original) The method of claim 26, further comprising accessing the user environment via a portable wireless device.

36. (Currently Amended) A computer-implemented method of managing ~~facilitating~~ data ~~management~~, comprising computer-executable acts of:  
providing a plurality of user environments in a web-based system;  
ordering two or more of the user environments according to ~~in a number~~  
~~of different~~ arrangements ~~collections~~ of the user environments;  
providing a plurality of applications for generating and processing ~~that~~  
~~generate and process~~ data in the user environments, the data of a user environment is associated with the user environment; and  
traversing the different arrangements ~~collections~~ of the user environments with one or more of the applications to locate the data associated therewith.

37. (Original) The method of claim 36, the step of traversing is performed using a webslice that includes traversal information for locating the data associated with a given user environment.

38. (Original) The method of claim 37, the traversal information includes at least a collection ID, a user environment ID, and a routing path to the location of the environment data.

39. (Currently Amended) The method of claim 36, the arrangements ~~collections~~, user environments, and associated data carry both hierarchical and non-hierarchical associations simultaneously within the applications.

40. (Currently Amended) A computer-readable medium having computer-executable instructions for performing a method of managing ~~facilitating~~ data ~~management~~, the method comprising:

creating data within a user workspace of a web-based computing platform using an application;

dynamically ~~automatically~~ associating metadata with the data, the data and metadata stored on the web-based computing platform, the metadata includes information related to a user of the user workspace, ~~information-related~~ to the data, to the application and to the user workspace;

tracking movement of the user from the user workspace to a second user workspace of the web-based computing platform;

associating the data and the application with the second user workspace in the metadata such that the user employs the application and data from the second user workspace; and

indexing the data created in ~~in~~ ~~of~~ the user workspace such that a plurality of different users can access the data via the metadata from a plurality of different user workspaces.

41. (Currently Amended) A computer-implemented system that facilitates management of data, comprising:

computer-implemented means for creating data within a user workspace of a server using an application;

computer-implemented means for associating metadata with the data, the metadata stored in association with the data on the server, the metadata includes information related to a user of the user workspace, ~~information related to the data~~, to the application and to the user workspace;

computer-implemented means for tracking movement of the user from the user workspace to a second user workspace of the server; and

computer-implemented means for associating the data and the application with the second user workspace of the server in the metadata such that the user can employ the application and data from the second user workspace.

Claims 42-44 (Cancelled)

45. (New) A computer-implemented system that facilitates management of data, comprising:

a computer-implemented context component of a web-based system for defining a first user workspace of the web-based system, assigning one or more applications to the workspace, capturing context data associated with user interaction while in the workspace, and for storing the context data as metadata on the web-based system, which metadata is dynamically associated with data created in the workspace; and

a computer-implemented tracking component of the web-based system for tracking change information associated with a change in access of the user from the first user workspace to a second user workspace, and dynamically storing the change information as part of the metadata.

46. (New) The system of claim 45, wherein the tracking component automatically creates the metadata when the user accesses the first user workspace.

47. (New) The system of claim 45, wherein the context component captures relationship data associated with a relationship between the first user workspace and at least one other user workspace.

48. (New) The system of claim 45, wherein an application associated with the first user workspace is automatically accessible via the second user workspace when the user moves from the first user workspace to the second user workspace.

49. (New) The system of claim 45, wherein context data relating to an item of communication is automatically stored and used in performance of communication tasks.

50. (New) A server that employs the system of claim 45.

51. (New) The system of claim 45, wherein the context component captures data and application functionality related to a user-defined topic of the first user workspace, and includes the data and application functionality in the metadata.

52. (New) The system of claim 45, wherein when the data created in the first user workspace is accessed from a second user workspace, in response to which the context component adds information to the metadata about the second user workspace.

53. (New) The system of claim 45, wherein the first user workspace is associated with a plurality of different applications, the plurality of different applications comprising telephony, unified messaging, decision support, document management, portals, chat, collaboration, search, vote, relationship management, calendar, personal information management, profiling, directory management, executive information systems, dashboards, cockpits, tasking, meeting and, web and video conferencing.

54. (New) The system of claim 45, further comprising a storage system for storing the data and the metadata according to at least one of a relational and an object storage methodology.

55. (New) The system of claim 45, wherein storing of the metadata in association with data facilitates many-to-many functionality of the data via the metadata.

56. (New) The system of claim 45, wherein the first user workspace provides access to at least one communications tool, which includes e-mail, voicemail, fax, teleconferencing, instant message, chat, contacts, calendar, task, notes, news, ideas, vote, web and video conferencing, and document sharing functionality.

57. (New) The system of claim 45, wherein one or more applications includes file storage pointers that are dynamic and associated with the first user workspace.

58. (New) A computer-readable medium having stored thereon computer-executable instructions for carrying out the system of claim 45.

59. (New) The system of claim 45, wherein the context component facilitates encryption of the data generated in the first user workspace.

REMARKS

Applicant's representative thanks the Examiner for courtesies extended during multiple interviews regarding the subject application.

Claims 1-10, 12-26, 28, 29, and 31-44 are currently pending in the subject application and are presently under consideration. A new listing of the claims is provided at pages 5-12 of the Reply. Claims 1-10, 12-17, and 42-44 have been cancelled without prejudice. Claims 11, 27 and 30 were cancelled in a previous Reply. Applicants' representative reserves the right to prosecute these claims at a later time.

Claims 18-26, 29, 36, and 39-41 have been amended to more clearly recite the invention. New claims 45-59 have been added for consideration. It is believed that no new matter has been added.

It is respectfully requested that the Examiner use Column/Line notation rather than paragraph notation, where the cited reference does not use paragraph numbering. Applicants' representative does not have access to references with paragraph notations as may be provided internally at the Patent Office. For example, see cited reference Smiga *et al.* and Examiner references in Final OA to paragraphs.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

**I. Rejection of Claims 1-10, 12-26, 28, 29, and 31-44 Under 35 U.S.C. §103(a)**

Claims 1-10, 12-26, 28, 29, and 31-44 are rejected under 35 U.S.C. §103(a) as being unpatentable over Samuel J. McKelvie *et al.* (Pub. No. 2003/0217096 A1) hereinafter referred to as "McKelvie", and further in view of Brian Smiga *et al.* (US 6,421,678), hereinafter referred to as "Smiga".

Applicants' representative respectfully requests that Examiner withdraw the rejection for at least the following reasons. Neither McKelvie nor Smiga, alone or in combination, teach or suggest applicant's invention as recited in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. See MPEP §706.02(j). The *teaching or suggestion to make the claimed combination* and the reasonable expectation of success *must be found in the prior art and not based on the Applicant's disclosure*. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

McKelvie teaches a network-based messaging system that comprises multiple agents to communicate messages between multiple users in real time using, for example, an XML document synchronization model. Each agent has properties defined in XML and can subscribe to properties of other agents. Each agent can notify other agents which subscribe to it of changes to its properties. The agents communicate using an XML or alternative extensible data interchange protocol. The agents include device agents to represent each of multiple user devices, which may include computers on a wireline network and mobile devices on a wireless network. The agents also include persona agents to represent each user. The persona agents collect information about the properties of other agents and publish the information to other, subscribing agents. Each persona agent comprises properties to maintain state information for each device used by the corresponding user. Most of the agents reside in a centralized agent system.

Smiga teaches a natural language based information organization and collaboration tool for a computer system. Smiga includes an apparatus and method for processing text expressions in a computer system, the apparatus including: 1) relational object database defining an information object with an associated keyword, project, list, contact, data/time event or enclosure; 2) a user input device for receiving an input text expression; 3) a parsing device for identifying the keyword in the input text expression, the parsing device including functions for linking the input text expression to the information object based on the keyword identified in the input text expression; and 4) a user output device for displaying to the user the identity of the information object to which the input text expression was linked. The apparatus further includes supplemental information in the object database which is related to the information object, and the user

output device further includes functions for displaying the supplemental information when a corresponding keyword is identified in the input text expression. The apparatus further includes a method and apparatus for collaboration between users of a time and project management system, natural language-based information organization and collaboration tool for a computer system. Smiga further teaches supplemental information in an object database which is related to the information object, and a user output device that further includes functions for displaying the supplemental information when a corresponding keyword is identified in the input text expression.

In contrast, the subject invention is much more than a messaging architecture as taught in McKelvie and the natural language processing system of Smiga. The instant invention captures, dynamically, context information of a workspace and stores that information in the form of metadata, which is further associated with data (e.g., files, documents,...). The metadata allows the tracking and capture of user interactions through one or more workspaces.

At a high level, the invention comprises a data management tool that is a unified, horizontal system for communications, organization, information processing, and data storage. The tool is a common workflow layer that can be automated with a scalable, relational database, as well as with an object-oriented storage methodology. The novel architecture operates where the highest contextual assumption is that there exists an entity that consists of one or more users, and first assumes that files are associated with the user.

When a user logs in to a system that employs the tool, the user enters into a personal or user workspace environment. This workspace is called a board, and is associated with a user context. From within this board, the tool makes accessible to the user a suite of applications for creating and manipulating data. Any user operating within any board has access to the suite of applications associated with that board, and can obtain access to any data in any form (e.g., documents and files) created by the applications and to which he or she has permission. Context information associated with the workspace is automatically stored in the database as metadata, and the metadata is further associated with data that is created in the workspace. Accordingly, any data created by the user in the workspace can be searched via the metadata.



Moreover, thereafter, the user can then move (or login) to a different workspace, such as a shared workspace (or shared board) that accommodates multiple users, for example, and the user can then access the same data created by the user in the first workspace and/or new data that was created in the shared workspace. The fact that the user is now in the shared workspace, and that s/he accessed the same data created in the personal (or first) workspace, is recorded as additional information stored in the metadata of the same data created in the personal workspace. Thus, the metadata is a means of accumulating a history of all interaction information for any piece of data. As there can be millions of data files or documents stored on a storage medium, this corresponding metadata for each of the millions of data files or document is the means by which the data can be searched. By searching the metadata, the user can retrieve, for example, all data created by User A in Workspace (or Board) B.

A web refers to a collection of interrelated boards (or workspaces), and the web represents the relationships between multiple boards. The concept of boards and webs is used to automate workflow processes and define relationships between data and applications, for example. Thus, data generated by applications is associated with an individual, group of individuals, and topical content, and not simply with a folder, as in traditional systems. Again, this context information of the single workspace and/or shared workspaces and any movement of a user or users between the workspaces is automatically captured and stored in the metadata, and the metadata is further associated with data that is created in the workspaces.

As amended, independent claim 18 recites a computer-implemented context component for capturing context information associated with user-defined topic data created by a user in a first context *of the network-based system* and *dynamically associating the context information with the data via metadata that is stored on the network-based system*, and a computer-implemented *tracking component of the network-based system for tracking a change of the user from the first context to a second context of the network-based system and automatically associating at least a portion of the context information with the second context in the metadata*.

McKelvie does not teach or suggest such recited limitations. With respect to the claimed tracking limitation, the Examiner references paragraphs ([0132] and [0407]) in

McKelvie. However, paragraph [0132] indicates use of an RTMP communications protocol for agent-to-agent conversation, by allowing all messages and contracts between any two agent servers to be carried over a single transport connection, regardless of the number of agents involved. With respect to paragraph [0407], McKelvie appears to teach application of the agent-based system and data synchronization to content distribution such that an agent can represent the state of a content element, such as a stock quote, sports score, HTML document or file. When the content changes, subscribing agents would be notified. The publishing agent may also send alerts containing transient information to be displayed to the user (for example, a home run screen or sound).

Accordingly, McKelvie does not teach the claimed limitations, and thus, this rejection should be withdrawn.

Moreover, McKelvie does not teach or suggest the concepts of a board (or workspace), a web, and/or collections of boards (or workspaces) and webs as recited in the claims and described in the specification, and other limitations of claims 19-25 that depend from claim 18.

For example, amended claim 20 recites *the context component is associated with a web, which web is a collection of interrelated workspaces, the web maintains a location of data of the respective interrelated workspaces when one or more of the interrelated workspaces are moved into a different workspaces interrelationship*. The Examiner references paragraphs [0040], [0056], and [0132] of McKelvie.

Paragraph [0040] appears to describe a general network of wired and wireless devices and systems (e.g., a server, a PC, a proxy gateway, and wireless devices), and teaches nothing of workspaces (or boards).

Paragraph [0056] appears to teach about messaging between agents. To wit, “every message in the system has a standard protocol wrapper consisting of a message header and a body. Except for response messages, the message header always specifies the destination agent and, if the agents are communicating over an established contract, the contract identifier (ID) assigned by the destination agent. Response messages only require an item ID for routing and do not require a destination agent or contract ID. The receiving agent can use the contract ID to look up the source agent, so no source agent URI is needed unless the agents are establishing a contract or are communicating without

a contract.” This does not teach about interrelated workspaces and aspects of webs, as claimed. Paragraph [0132] of McKelvie, as indicated above, teaches use of an RTMP communications protocol for agent-to-agent conversation, by allowing all messages and contracts between any two agent servers to be carried over a single transport connection, regardless of the number of agents involved. Again, this teaches nothing of the recited limitation in claim 20.

Claim 21 recites *the context information includes a relationship between the user and at least one of an application, application data, and user environment*.

Contrariwise, as referenced in the Office Action at paragraph [0129] of McKelvie, appears to teach of handling a contract for messages between agents. McKelvie does not teach of a relationship between the user and at least one of an application, application data, and user environment.

With respect to claims 22 and 23, paragraph [0040] of McKelvie is referenced. However, as indicated by the brief description of paragraph [0040] above, McKelvie teaches nothing about the limitations recited in these claims.

Accordingly, it is requested that claim 18 and the claims 19-25 that depend therefrom be allowed.

Amended independent claim 26 recites, in part “...creating data within a user environment of a web-based computing platform using an application, the data in the form of at least files and documents...”, “*dynamically associating metadata with the data, the data and metadata stored on the web-based computing platform, the metadata includes information related to a user of the user environment, to the data, to the application, and to the user environment*”, “tracking movement of the user from the user environment of the web-based computing platform to a second user environment of the web-based computing platform”, and “dynamically associating in the metadata at least one of the data and the application with the second user environment such that the user employs the at least one of the application and data from the second environment.

McKelvie does not teach or suggest including in the metadata information related to a user of the user environment. Moreover, McKelvie does not teach or suggest dynamically associating metadata with the data, or associating in the metadata at least one of the data and the application with the second user environment. Additionally,

McKelvie does not teach or suggest tracking movement of the user between environments of the same computing platform. Moreover, as recited in additional limitations, McKelvie does not teach or suggest “associating at least one of the data and the application with the second user environment such that the user employs the at least one of the application and data from the second environment.”

Smiga fails to make up for the aforementioned deficiencies of McKelvie with respect to these independent claims. Accordingly, there would have been no motivation to modify the teachings of McKelvie with the teachings of Smiga. Moreover, the references themselves do not provide a requisite basis for suggesting or motivating the Examiner’s purported combination. Applicants’ representative requests that this claim and claims 28, 29 and 31-35 that depend therefrom be allowed.

With respect to amended independent claim 36, the subject claim recites, in part, acts of “*ordering two or more of the user environments according to different arrangements of the user environments*”, and “*traversing the different arrangements of the user environments with one or more of the applications to locate the data associated therewith.*”

McKelvie does not teach or suggest an act of ordering. Additionally, McKelvie does not teach the concept of “arrangements” or “collections” as described in the subject description. The Examiner references paragraph [0040] of McKelvie in support of this rejection. As before, paragraph [0040] appears to describe a general network of wired and wireless devices and systems (e.g., a server, a PC, a proxy gateway, and wireless devices), and neither teaches nor suggests anything related to *ordering two or more of the user environments according to different arrangements of the user environments* and *traversing the different arrangements of the user environments with one or more applications to locate the data associated therewith.*

The rejection of dependent claim 37 is also based on information in paragraph [0040] of McKelvie, which teaches nothing related to the claimed limitation of using traversal information to locate data associated with a given user environment. Accordingly, this rejection should be withdrawn.

Claim 38 depends from claim 37, and further clarifies the traversal information as including *a collection ID, a user environment, and a routing path to the location of the*

*environment data*. McKelvie does not teach or suggest use of such aspect. Accordingly, claims 36 and 37-39 that depend therefrom, should be allowed.

Independent claims 40 and 41, as amended, recite limitations similar to what has been addressed *supra*. McKelvie neither teaches nor suggests such limitations. Further, Smiga, as combined, does not make up for the deficiencies of McKelvie. Thus, it is respectfully requested that the rejection for these claims be withdrawn.

New independent claim 45 recites limitations not taught or suggested by McKelvie alone, or in combination with Smiga.

In view of at least the forgoing, it is respectfully submitted that McKelvie alone does not teach or suggest applicants' claimed invention as recited in independent claims 18, 26, 36, 40, 41 and 45 (and dependent claims 19-25, 28-29, 31-35, 37-39, and 46-59). Accordingly, it is respectfully submitted that the subject invention is not anticipated by McKelvie, and is not obvious in view of Smiga, and therefore, these claims should be allowed.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-3663 (LEADP102USA). Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicants' undersigned representative at the telephone number below.

Respectfully submitted,

\_\_\_\_\_  
Eric D. Jorgenson  
Reg. No. 46,002

Law Office of Eric D. Jorgenson, Esq.  
1457 King Road  
Hinckley, Ohio 44233  
Telephone (216) 225-4169  
Facsimile (330) 278-3135

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

## Request for Continued Examination (RCE) Transmittal

Address to:  
 Mail Stop RCE  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Application Number	10/732,744
Filing Date	12/10/2003
First Named Inventor	Michael McKibben
Art Unit	2165
Examiner Name	Diane Mizrahi
Attorney Docket Number	LEADP102USA

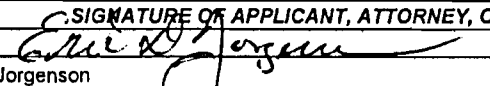
**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**  
 Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
- a.  Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i.  Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii.  Other \_\_\_\_\_
- b.  Enclosed
- i.  Amendment/Reply
- ii.  Affidavit(s)/ Declaration(s)
- iii.  Information Disclosure Statement (IDS)
- iv.  Other \_\_\_\_\_

2. **Miscellaneous**
- a.  Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b.  Other \_\_\_\_\_

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. \_\_\_\_\_ I have enclosed a duplicate copy of this sheet.
- a.  Deposit Account No. \_\_\_\_\_
- i.  RCE fee required under 37 CFR 1.17(e)
- ii.  Extension of time fee (37 CFR 1.136 and 1.17)
- iii.  Other \_\_\_\_\_
- b.  Check in the amount of \$ \_\_\_\_\_ enclosed
- c.  Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED			
Signature		Date	May 5, 2006
Name (Print/Type)	Eric D. Jorgenson	Registration No.	46,002

CERTIFICATE OF MAILING OR TRANSMISSION			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.			
Signature		Date	May 5, 2006
Name (Print/Type)	Eric D. Jorgenson	Date	May 5, 2006

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.  
 If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.