

**Microsoft's Opposition to Motorola's Motion
to Exclude Testimony of Howard Jay Siegel,
Ex 3**

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:10-24063-CIV-MORENO

MOTOROLA MOBILITY, INC.,

Plaintiff / Counterclaim Defendant,

v.

MICROSOFT CORPORATION,

Defendant / Counterclaim Plaintiff.

**INITIAL EXPERT REPORT OF TAL LAVIAN REGARDING
INVALIDITY OF U.S. PATENT NOS. 7,024,214 and 7,493,130**

JUNE 24, 2011

EXHIBIT D

to

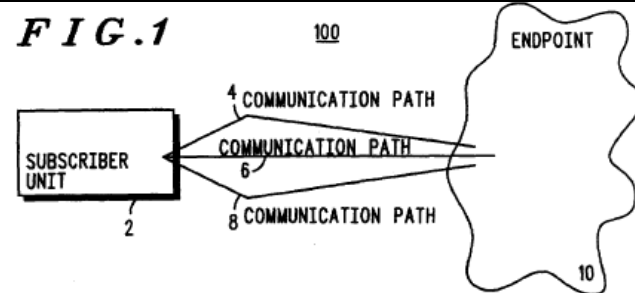
**INITIAL EXPERT REPORT OF TAL LAVIAN REGARDING
INVALIDITY OF U.S. PATENT NOS. 7,024,214 and 7,493,130**

U.S. Patent 5,406,643 (“Burke ‘643”)¹

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
1	<p>In a network that includes a first computer system having a first data store and second computer system having a second data store, a method for synchronizing the first and second data stores in a flexible manner considering the circumstances that exist at the time of synchronization, the method comprising the following:</p>	<p>“The communications path selection is done locally, on a portable subscriber unit.”(2). Abstract</p> <p>“This invention relates generally to data communication and, in particular, to a method for distinguishing between a plurality of communication paths and selecting from those a communications path for use.” Col. 1:27-30.</p> <p>“Data and voice communications technologies have advanced rapidly in recent years, leading to the immergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability. In response to this pressure, manufacturers of communication-capable portable and fixed devices, such as personal organizers and laptop computers, are beginning to incorporate multiple communication technologies into their products. It is anticipated that the device user will learn to view the different technologies as merely alternatives for performing the same type of operation.” Col. 1:33-55.</p>

NOTE: The citations in this chart are merely exemplary. I intend and may rely upon other portions of the identified patents and reference in support of my opinions. Unless otherwise indicated, the disclosure and discussion applies to both Motorola’s and Microsoft’s constructions.

¹ “Method and Apparatus for Selecting Between a Plurality of Communication Paths” issued to Burke et al.; filed February 11, 1993; issued April 11, 1995 (MOTM_24063 0085218 MOTM_24063 0085235).

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p style="text-align: center;">FIG. 1</p>  <p style="text-align: center;">100</p> <p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:40-54.</p>
1.1	an act of the first computer system determining that a data item is to be synchronized;	Burke ‘643 discloses that a subscriber unit will request communication with an end point 10 (<i>See Fig. 8</i>), such as an email system or a database. One of the primary reasons a subscriber would do this if it had a data item that needed to be synchronized with the end point. Thus, the system of Burke ‘643 contemplates determining that a data item is to be synchronized before it requests communication with the end point. To the extent this claim element is not expressly disclosed, this would be obvious to one of skill in the art. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.

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		<p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10.” Col. 3:40-54.</p> <p>“FIG. 8 is a flow chart diagram of the steps performed by processing unit 200 of FIG. 2 under directions from the control software depicted in FIG. 3 during data communications in accordance with the present invention. Commencing with begin block 100 when a subscriber unit 2 requests communications with an end point 10, flow proceeds to block 110 where the processing unit 200 creates a session 70.” Col. 7:40-47.</p> <p><i>See also</i> Figs 7 and 8 and discussion of these Figures in the Burke 643 patent.</p>
1.2	an act of the first computer system identifying which of a plurality of synchronization mechanisms, including one or more hardwired or wireless communication connections, are available to use for synchronization;	<p>Step 86 of Figure 7 selects from available communication paths. This necessarily requires identifying which paths are available.</p> <p>“Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:47-54.</p> <p>“FIG. 4 depicts the structure a communications path prototype (CPP) record in accordance with the present invention. CPP records 50 are maintained within a list in device managers 36 and 38, respectively, and define a potential path to a designated end point 10. As shown, each CPP record 50 comprises an END POINT NAME field 51, ATTRIBUTE LIST 52, CONFIGURATION LIST 53, STATUS FLAG 54, and PROTOTYPE HANDLE field 55. In accordance with the present</p>

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		<p>invention, each CPP record 50 is used to establish a link in order to send data packets between application software programs 30 of FIG. 3 and an end point 10 of FIG. 1.” Col. 5:34-46.</p> <p>“The disclosed record structure contains destination information, predefined communications path attributes, communication device commands, status and ID. END POINT NAME field 51 designates a specific remote message source or destination. Packet server 34 can select a subset of all CPP records maintained within device managers 36 and 38 by using END POINT NAME field 51 as a selection criteria. This allows packet server 34 to identify those CPP records 50, herein also referred to as prototypes, which define diverse physical paths to a designated end point 10.” Col. 5:47-57.</p> <p>“FIG. 7 is a flow chart diagram depicting the steps performed by the data processing unit of FIG. 2 under direction of the control software of FIG. 3 during communications path selection in accordance with the present invention. Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory.” Col. 7:1-7.</p> <p>“Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82.” Col. 7:20-24</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p>
1.3	an act of the first computer system consulting a set of one or more flexible selection rules to select a	“Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory. This step corresponds to storing and maintaining prototypes (CPP records 50) within device managers 36 and 38. From

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	<p>synchronization mechanism, the set of one or more flexible rules taking into consideration value, from having access to synchronized data, relative to at least one of (i) an economic cost for synchronization using each available synchronization mechanism, (ii) network security for each available synchronization mechanism, (iii) security of the second computer system, or (iv) value of data being synchronized and thereby selecting an available synchronization mechanism appropriate for the data item given the one or more flexible selection rules; and</p>	<p>block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way. Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82. Based upon receipt these prototypes, packet server 34 may select a communication path. In accordance with another aspect of the present invention, packet server 34 can further delimit selection of a communications path based upon a comparison of the communications criteria in the communications command and the communication path attributes as maintained in CPP records 50.” Col. 7:5-19.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-69.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet</p>

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		<p>server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable as required by Motorola’s construction.</p> <p>To the extent Burke ‘643 is found not to disclose this claim element, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost. It was well known in the art to consider other criteria, such as security and value of the synced data in selecting a communication path. In addition, the combination of Burke ‘643 with either Hanmann ‘584, the RIM white papers or Lazaridis ‘694 renders this claim obvious. These references teach consulting the claimed flexible rules to select a synchronization mechanism (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings.</p> <p>One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
1.4	an act of the first computer system using	“At block 140 the appropriate device manager 36 issues the proper control sequence

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	the selected synchronization mechanism to synchronize the data item with the second computer.	to the communications equipment in accordance with the DATA LINK RESOURCE LIST 63 of the specific data link 60 of FIG. 5, as identified by DATA LINK HANDLE 73, allowing the data transfer to occur over the pre-selected communications path.” Col. 7:65-8:3. <i>See also</i> Fig. 7-9 and corresponding discussion in the specification.
3	A method in accordance with claim 1, wherein the first computer system is a mobile device, and the second computer system is a synchronization server.	FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Col. 3:40-47. It would be obvious to one of skill in the art to use a synchronization server as the “well-known destination to which the subscriber unit 2 wishes to connect.” Such servers were well known in the art and using a synchronization server would have been obvious to try, a routine and simple design choice, and a matter of common sense, especially given that subscriber units like those disclosed in Burke ‘643 typically are connected to synchronization servers to ensure continuity between data on the subscriber unit and other systems on the network.
4	A method in accordance with claim 3, wherein the act of the first computer system determining that a data item is to be synchronized comprises the following: an act of the mobile device determining on its own that the data item is to be synchronized.	Burke ‘643 discloses that a subscriber unit will request communication with an end point 10 (<i>See</i> Fig. 8), such as an email system or a database. One of the primary reasons a subscriber would do this if it had a data item that needed to be synchronized with the end point. Thus, the system of Burke ‘643 contemplates determining that a data item is to be synchronized before it requests communication with the end point. To the extent this claim element is not expressly disclosed, this would be obvious to one of skill in the art. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.

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		<p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10.” Col. 3:40-54.</p> <p>“FIG. 8 is a flow chart diagram of the steps performed by processing unit 200 of FIG. 2 under directions from the control software depicted in FIG. 3 during data communications in accordance with the present invention. Commencing with begin block 100 when a subscriber unit 2 requests communications with an end point 10, flow proceeds to block 110 where the processing unit 200 creates a session 70.” Col. 7:40-47.</p> <p><i>See also</i> Figs 7 and 8 and discussion of these Figures in the Burke 643 patent.</p>
5	A method in accordance with claim 3, wherein the act of the first computer system determining that a data item is to be synchronized comprises the following: an act of the mobile device receiving a user-issued instruction to synchronize the data item.	<p>FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18. The CPU 16 with associated memory may be realized using a conventional microprocessor such as an MC68HC11 microprocessor which has in the past been from Motorola Inc. As will be appreciated, the CPU 16 operates under control of an supervisory control program (Operating System) partially or wholly contained in ROM 14 and utilizing RAM 12, to control in bound and out bound data traffic on terminal 18 and to perform all tasks as initiated by the user, via data entry device 20. 3:55-4:4.</p> <p><i>See also, e.g.,</i> claim 1.</p> <p>To the extent this claim element is not expressly or inherently disclosed, this</p>

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		would be obvious to one of skill in the art. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.
6	A method in accordance with claim 3, wherein the act of the first computer system determining that a data item is to be synchronized comprises the following: an act of the mobile device receiving a signal from the synchronization server that represents to the mobile device that the data item is to be synchronized.	<p>Burke ‘643 discloses that subscriber units communicate with endpoints via a session:</p> <p>“Commencing with begin block 100 when a subscriber unit 2 requests communications with an end point 10, flow proceeds to block 110 where the processing unit 200 creates a session 70. In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30. The creation of a new session is described in more detail below.” Col. 7:44-53.</p> <p>“When a session 70 has been successfully established, data communication can occur. Thus at block 120 a communications command is issued specifying the type of communication, i.e. send, receive, etc., communication parameters, i.e. data buffers, etc., and a session reference identifying a session 70 over which the communication is to occur.” Col. 7:54-60</p> <p>“At decision block 160 a test is performed to determine whether communications is complete. If software applications 30 is finished communicating, the session 70 is deleted 170. The session deletion process is described below in more detail. If software applications 30 is not finished communicating, then flow returns to block 120 to issue another communications command.” Col. 8:6-12.</p> <p>To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many</p>

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		different types of systems, including synchronization systems.
10	A method in accordance with claim 3, wherein the mobile device comprises a mobile telephone.	<p>Burke ‘643 discloses that the subscriber unit can communicate with end points over telephone and cellular lines. Based on this, it would be obvious to one of skill in the art that the subscriber unit can be a mobile telephone.</p> <p>“End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit.” Col. 3:44-47.</p> <p>“Data and voice communications technologies have advanced rapidly in recent years, leading to the emergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability. In response to this pressure, manufacturers of communication-capable portable and fixed devices, such as personal organizers and laptop computers, are beginning to incorporate multiple communication technologies into their products. It is anticipated that the device user will learn to view the different technologies as merely alternatives for performing the same type of operation.” Col. 1:33-55.</p> <p>“Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:50-54.</p> <p>“ The apparatus of claim 9 wherein the communications resources comprise: telephone modems, radio frequency transceivers; infrared transceivers; and fiber-</p>

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		optic transceivers.”
14	A method in accordance with claim 1, wherein the plurality or synchronization mechanisms comprises at least one wireless synchronization mechanism.	“Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col.3:50-54.
17	A method in accordance with claim 14, wherein the at least one wireless synchronization mechanism uses an 802.11b network.	<p>Figure 1 of Burke ‘643 discloses that devices can communicate over paging, cellular, telephone, infrared, fiber-optic and radio frequency channels systems. In view of these teachings, it would have been obvious to one skill in the art to use a 802.11b network with the system disclosed by Burke ‘643. Such networks were well known and commonly used, and would have been a matter of simple design choice.</p> <p>“End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit.” Col. 3:44-47.</p> <p>“Data and voice communications technologies have advanced rapidly in recent years, leading to the immergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability. In response to this pressure, manufacturers of communication-capable portable and fixed devices, such as personal organizers and laptop computers, are beginning to incorporate multiple communication technologies into their products. It is anticipated that the device user</p>

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		<p>will learn to view the different technologies as merely alternatives for performing the same type of operation.” Col. 1:33-55.</p> <p>“Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:50-54.</p> <p>“ The apparatus of claim 9 wherein the communications resources comprise: telephone modems, radio frequency transceivers; infrared transceivers; and fiber-optic transceivers.”</p> <p>In addition, the combination of Burke ’643 and Hanmann ‘584 renders this claim obvious. As shown below, Hanmann ‘584 teaches “the at least one wireless synchronization mechanism uses an 802.11b network.” One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p> <p><u>Hanmann ‘584</u></p> <p>“Any suitable communication channel may be used to synchronize the mobile terminal 32, including a wired or wireless modem, Ethernet, CPN, or a WAP such as Bluetooth, 802.11b, or HomeRF. The mobile terminal 32 may select two or more of the available communication channels for synchronizing based on data type.” Col. 5:32-37.</p>

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19	A method in accordance with claim 14, wherein the at least one wireless synchronization mechanism uses a cellular network.	“Data and voice communications technologies have advanced rapidly in recent years, leading to the emergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability.” 1:33-47.
22	A method in accordance with claim 1, further comprising the following: an act of receiving instructions to change the set of flexible selection rules; and an act of changing the set of selection rules in response to the instruction.	<p>“According to one aspect of the invention, the method for permitting a subscriber unit having memory and communication resources to select one of a plurality communications paths to a designated destination comprises the steps of: storing in memory a list of communication paths having associated attributes; receiving a connection command comprising destination and communications criteria; selecting from the list, at least one communications path, as a function of destination; and establishing a connection to the selected communications path.” Col. 2:29-39.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes</p>

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		<p>such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>“Packet server 34 requests from all device managers 36, 38 CPP records 50 (prototypes) with the designated value of END POINT NAME 51 corresponding to end point 10. Each device manager 36, 38 publishes only those prototypes having the specified value of END POINT NAME 51 and having the value AVAILABLE for STATUS FLAG 54. Packet server 34 examines at block 210, the resultant prototype list and selects at least one prototype at block 215 based upon the matched destination information and further in light of the communication criteria specified within the new session request.” Col. 8:26-37.</p> <p>“During operation, the software applications issues a request 440 to create a new session 433 in session list 430. The request contains a specified end point name to which a connection is desired, and communications related criteria, such as baud rate, max packet size, transfer cost, directionality etc. Packet server 34 issues a request 441 to device manager 36 via internal software interface 400, to examine all prototypes with the designated end point name.” Col. 9:42-50.</p> <p>“Packet server 34 examines available prototypes and selects prototype 413 as the prototype which has the proper end point name and best meets the criteria specified</p>

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		<p>by the software applications to characterize the communication path.” Col. 9:51-55.</p> <p>“Another advantage of the present invention is that it provides, in local memory, a list of possible communications paths for automatic selection by packet server 34 on behalf of a software application 30. The automatic selection is based in part upon destination and further in view of a match between communications criteria defined by the software application and attributes associated with each communications path.” Col. 11:10-17.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable by a user. To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 with either the RIM white papers, Hanmann ‘584 or Lazaridis ‘694 renders this claim obvious. These references teach flexible rules that are changeable (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings.</p> <p>One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many</p>

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		synchronization mechanisms, and there were a finite number of identified, predictable solutions.
23	A method in accordance with claim 22, wherein the act of receiving instructions to change the set of flexible selection rules comprises the following: an act of receiving instructions to change the set of flexible selection rules from a user of the first computer system.	<p>“According to one aspect of the invention, the method for permitting a subscriber unit having memory and communication resources to select one of a plurality communications paths to a designated destination comprises the steps of: storing in memory a list of communication paths having associated attributes; receiving a connection command comprising destination and communications criteria; selecting from the list, at least one communications path, as a function of destination; and establishing a connection to the selected communications path.” Col. 2:29-39.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet</p>

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>“Packet server 34 requests from all device managers 36, 38 CPP records 50 (prototypes) with the designated value of END POINT NAME 51 corresponding to end point 10. Each device manager 36, 38 publishes only those prototypes having the specified value of END POINT NAME 51 and having the value AVAILABLE for STATUS FLAG 54. Packet server 34 examines at block 210, the resultant prototype list and selects at least one prototype at block 215 based upon the matched destination information and further in light of the communication criteria specified within the new session request.” Col. 8:26-37.</p> <p>“During operation, the software applications issues a request 440 to create a new session 433 in session list 430. The request contains a specified end point name to which a connection is desired, and communications related criteria, such as baud rate, max packet size, transfer cost, directionality etc. Packet server 34 issues a request 441 to device manager 36 via internal software interface 400, to examine all prototypes with the designated end point name.” Col. 9:42-50.</p> <p>“Packet server 34 examines available prototypes and selects prototype 413 as the prototype which has the proper end point name and best meets the criteria specified by the software applications to characterize the communication path.” Col. 9:51-55.</p> <p>“Another advantage of the present invention is that it provides, in local memory, a list of possible communications paths for automatic selection by packet server 34 on behalf of a software application 30. The automatic selection is based in part upon destination and further in view of a match between communications criteria defined by the software application and attributes associated with each communications</p>

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>path.” Col. 11:10-17.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable by a user. To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 with either the RIM white papers, Hanmann ‘694 or Lazaridis ‘694 renders this claim obvious. These references teach flexible rules that are changeable by a user (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings.</p> <p>One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
24	A method in accordance with claim 22, wherein the act of receiving instructions to change the set of flexible selection rules comprises the following: an act of receiving instructions to change the set	“According to one aspect of the invention, the method for permitting a subscriber unit having memory and communication resources to select one of a plurality communications paths to a designated destination comprises the steps of: storing in memory a list of communication paths having associated attributes; receiving a connection command comprising destination and communications criteria; selecting

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
	of flexible selection rules from an agent of the second computer system.	<p>from the list, at least one communications path, as a function of destination; and establishing a connection to the selected communications path.” Col. 2:29-39.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>“Packet server 34 requests from all device managers 36, 38 CPP records 50 (prototypes) with the designated value of END POINT NAME 51 corresponding to</p>

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>end point 10. Each device manager 36, 38 publishes only those prototypes having the specified value of END POINT NAME 51 and having the value AVAILABLE for STATUS FLAG 54. Packet server 34 examines at block 210, the resultant prototype list and selects at least one prototype at block 215 based upon the matched destination information and further in light of the communication criteria specified within the new session request.” Col. 8:26-37.</p> <p>“During operation, the software applications issues a request 440 to create a new session 433 in session list 430. The request contains a specified end point name to which a connection is desired, and communications related criteria, such as baud rate, max packet size, transfer cost, directionality etc. Packet server 34 issues a request 441 to device manager 36 via internal software interface 400, to examine all prototypes with the designated end point name.” Col. 9:42-50.</p> <p>“Packet server 34 examines available prototypes and selects prototype 413 as the prototype which has the proper end point name and best meets the criteria specified by the software applications to characterize the communication path.” Col. 9:51-55.</p> <p>“Another advantage of the present invention is that it provides, in local memory, a list of possible communications paths for automatic selection by packet server 34 on behalf of a software application 30. The automatic selection is based in part upon destination and further in view of a match between communications criteria defined by the software application and attributes associated with each communications path.” Col. 11:10-17.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable by an agent of the end point. To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of</p>

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		<p>systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 with either the RIM white papers, Hanmann ‘584 or Lazaridis ’694 renders this claim obvious. These references teach flexible rules that are changeable (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings.</p> <p>One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
25	A method in accordance with claim 24, wherein the act of receiving instructions to change the set of flexible selection rules from an agent of the second computer system comprises the following: an act of receiving instructions to change the set of flexible selection rules from a network administrator of a network that includes the second computer system.	See Claim 24. For the same reasons as set forth above in 22, this claim element is either expressly disclosed or obvious.
26	A method in accordance with claim 25, further comprising the following: an act of receiving instructions to change the	See Claim 22. For the same reasons as set forth above in 22, this claim element is either expressly disclosed or obvious.

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	set of flexible selection rules from a user.	
27	A method in accordance with claim 26, wherein the act of changing the set of selection rules in response to the instruction, comprises the following: an act of fulfilling the instructions received from the network administrator of the second computer system to the extent that there is a conflict between the instructions received from the network administrator of the second computer system and the instructions received from the user of the first computer system.	See Claim 22. For the same reasons as set forth above in 22, this claim element is either expressly disclosed or obvious.
28	A method in accordance with claim 1, wherein the act of the first computer system consulting a set of flexible selection rules comprises the following: an act of the first computer system selecting one of the available synchronization mechanisms without synchronous intervention from a user of the first computer system.	“Ultimately, it is anticipated that user involvement in the selection process will diminish to a point where the user may not even know which media is being used at any given instant. To achieve this end, there is need for a method for enabling a portable subscriber unit to automatically select one of a plurality of available communications media based at least partly upon its knowledge of potential communication paths.” 1:59-67.
29	A method in accordance with claim 1, wherein the act of determining that a data item is to be synchronized comprises the following: an act of the first computer system receiving a notification from the second computer system that a data item is available to	Based on Burke 643’s express teaching and the analysis set forth in 1.3 above, a person of ordinary skill in the art would understand that mobile device can notify the user of the availability of data to sync and receive an instruction from a user to sync the data. These acts were well known to those skilled in the art, are routine steps that have been used for decades, and are typically included in many different types of systems, including synchronization systems.

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	synchronize; an act of the first computer system notifying the user of the availability of the data item; and an act of receiving a user-instruction to synchronize the data item.	<p>In addition, the combination of Burke ‘643 and RIM white papers renders this claim obvious. As shown below, RIM white papers teach “an act of the first computer system receiving a notification from the second computer system that a data item is available to synchronize; an act of the first computer system notifying the user of the availability of the data item; and an act of receiving a user-instruction to synchronize the data item.” One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p> <p><u>BES RIM Handhelds 2000</u></p> <p>“When a long message arrives in the user’s corporate inbox, only the first 2K (approximately) of the message body will be sent initially to the handheld. If an attachment is sent in the message, only the file name and size of the attachment are sent. If the user wishes to read more of the message, the user, using the handheld, requests “more” and the Desktop Redirector will send the next 2K. The handheld will then add the additional 2K piece to the original message and inform the user (as with a new email message) that more of the message has arrived. Since most text-based communication via email is less than 2K, most messages won’t be truncated. With this advanced “more” feature, the user can judge the value of the message before memory and battery life is expended to deliver the additional information to the handheld.” BES RIM Handhelds 2000 p. 5.</p>

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32	<p>A method in accordance with claim 1, wherein the act of consulting a set of flexible selection rules to select one of the available synchronization mechanisms comprises the following: an act of selecting the synchronization mechanism at least based on the value of the data.</p>	<p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>In view of the disclosure above, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost and baud rate. It would have been obvious to consider the value of the data to be synced in selecting a communication path. Considering the value of the data to be synced was well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 and either the RIM white papers, Hanmann ‘694 or Lazaridis ‘694 renders this claim obvious. These references teach “the act of consulting a set of flexible selection rules to select one of the available</p>

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		synchronization mechanisms comprises the following: an act of selecting the synchronization mechanism at least based on the value of the data” (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.
33	A method in accordance with claim 1, wherein the act of consulting a set of flexible selection rules to select one of the available synchronization mechanisms comprises the following: an act of selecting the synchronization mechanism at least based on the economic cost of using a network associated with the synchronization mechanism.	“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.
34	A method in accordance with claim 1, wherein the act of consulting a set of flexible selection rules to select one of the available synchronization mechanisms comprises the following: an act of selecting the synchronization	“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field

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	<p>mechanism at least based on the security of a network associated with the synchronization mechanism.</p>	<p>of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>In view of the disclosure above, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost and baud rate. It would have been obvious to consider security in selecting a communication path. Considering the security of the network was well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 and either the RIM white papers, Hanmann ‘694 or Lazaridis ‘694 renders this claim obvious. These references teach “an act of selecting the synchronization mechanism at least based on the security of a network associated with the synchronization mechanism” (see corresponding element ion the corresponding claim chart) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer</p>

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		depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.
38	A method in accordance with claim 1, wherein the act of consulting a set of flexible selection rules to select one of the available synchronization mechanisms comprises the following: an act of selecting the synchronization mechanism at least based on the location of the user of the first computer system.	<p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>In view of the disclosure above, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost and baud</p>

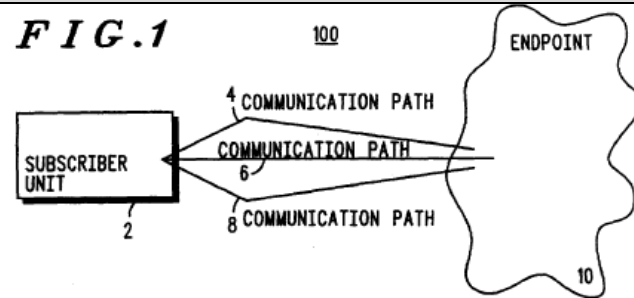
	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>rate. It would have been obvious to consider location in selecting a communication path. Considering the location of the user was well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 and Hanmann ‘584 renders this claim obvious. Hanmann ‘584 teaches “an act of selecting the synchronization mechanism at least based on the location of the user of the first computer system” (see the corresponding element in the Hanmann ‘584 chart) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
39	A method in accordance with claim 1, wherein the act of consulting a set of flexible selection rules to select one of the available synchronization mechanisms comprises the following: an act of determining that there are no current synchronization mechanisms	Figure 7 depicts identifying which communications paths are available and applying various communication criteria to determine a communications path for connection. The steps outlined in Figure 7 can be repeated <i>ad infinitum</i> until there are appropriate communications paths. To the extent this claim is not disclosed, it would be obvious to one of skill in the art to modify Burke ‘643 such that the disclosed system would perform the acts of “an act of determining that there are no current synchronization mechanisms that are selectable based on the flexible set of

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	<p>that are selectable based on the flexible set of rules; an act of reevaluating the flexible selection rules at a later time; and an act of repeating the reevaluation until at least one of the available synchronization mechanisms is selectable based on the flexible selection rules.</p>	<p>rules; an act of reevaluating the flexible selection rules at a later time; and an act of repeating the reevaluation until at least one of the available synchronization mechanisms is selectable based on the flexible selection rules.” This act is well known to those skilled in the art, is a routine step, and is typically included in many different types of systems, including synchronization systems. One of skill in the art would apply common sense and repeat the steps if no synchronization mechanism was present. Thus, these element would be obvious to try.</p> <div data-bbox="1155 568 1575 1169" data-label="Diagram"> <pre> graph TD 80([BEGIN]) --> 82[STORING LIST OF COMM PATHS IN MEMORY] 82 --> 84[ACCEPTING CONNECTION COMMAND] 84 --> 86[SELECTING FROM LIST AN AVAILABLE COMM PATH] 86 --> 88[ESTABLISHING A CONNECTION] 88 --> 90([END]) </pre> <p style="text-align: center;">FIG. 7</p> </div>
41	A method in accordance with claim 1,	See 1.3 and claim 39 above.

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	wherein the act of the first computer system determining that a data item is to be synchronized comprises the following: an act of the first computer system determining whether to synchronize a data item by consulting a set of flexible selection rules; and an act of the first computer system synchronize the data item with the second computer if the first computer system determines that the data item is to be synchronized.	
42	A computer program product for use in a network that includes a first computer system having a first data store and second computer system having a second data store, the computer program product for implementing a method for synchronizing the first and second data stores in a flexible manner considering the circumstances that exist at the time of synchronization, the computer program product comprising one or more computer-readable media having stored thereon the following:	<p>“This invention relates generally to data communication and, in particular, to a method for distinguishing between a plurality of communication paths and selecting from those a communications path for use.” 1:27-30.</p> <p>“Data and voice communications technologies have advanced rapidly in recent years, leading to the immergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability. In response to this pressure, manufacturers of communication-capable portable and fixed devices, such as personal organizers and laptop computers, are beginning to incorporate multiple communication technologies into their products. It is anticipated that the device user will learn to view the different technologies as merely alternatives for performing the same type of operation.” Col. 1:33-55.</p>

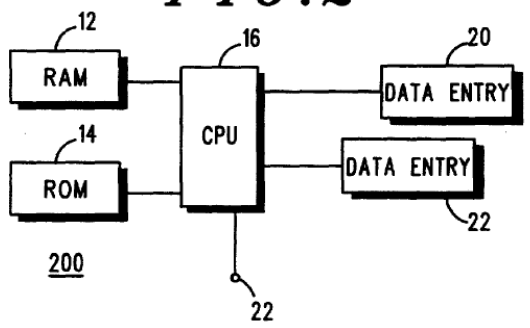
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“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:40-54.

“FIG. 2 is a block diagram of a data processing unit employed by the subscriber unit of FIG. 1.” Col. 2:59-60.

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		<p style="text-align: center;">FIG. 2</p>  <p>“FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18.” Col. 3:55-62.</p>
42.1	computer-executable instructions for determining that a data item is to be synchronized;	<p>Burke ‘643 discloses that a subscriber unit will request communication with an end point 10 (<i>See</i> Fig. 8), such as an email system or a database. One of the primary reasons a subscriber would do this if it had a data item that needed to be synchronized with the end point. Thus, the system of Burke ‘643 contemplates determining that a data item is to be synchronized before it requests communication with the end point. To the extent this claim element is not expressly disclosed, this would be obvious to one of skill in the art. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-</p>

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		<p>known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10.” Col. 3:40-54.</p> <p>“FIG. 8 is a flow chart diagram of the steps performed by processing unit 200 of FIG. 2 under directions from the control software depicted in FIG. 3 during data communications in accordance with the present invention. Commencing with begin block 100 when a subscriber unit 2 requests communications with an end point 10, flow proceeds to block 110 where the processing unit 200 creates a session 70.” Col. 7:40-47.</p> <p><i>See also Figs 7 and 8 and discussion of these Figures in the Burke 643 patent.</i></p>
42.2	computer-executable instructions for identifying which of a plurality of synchronization mechanisms, including one or more hardwired or wireless communication connections, are available to use for synchronization;	<p>Step 86 of Figure 7 selects from available communication paths. This necessarily requires identifying which paths are available.</p> <p>“Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:47-54.</p> <p>“FIG. 4 depicts the structure a communications path prototype (CPP) record in accordance with the present invention. CPP records 50 are maintained within a list in device managers 36 and 38, respectively, and define a potential path to a designated end point 10. As shown, each CPP record 50 comprises an END POINT NAME field 51, ATTRIBUTE LIST 52, CONFIGURATION LIST 53, STATUS FLAG 54, and PROTOTYPE HANDLE field 55. In accordance with the present invention, each CPP record 50 is used to establish a link in order to send data packets between application software programs 30 of FIG. 3 and an end point 10 of FIG. 1.” Col. 5:34-46.</p>

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		<p>“The disclosed record structure contains destination information, predefined communications path attributes, communication device commands, status and ID. END POINT NAME field 51 designates a specific remote message source or destination. Packet server 34 can select a subset of all CPP records maintained within device managers 36 and 38 by using END POINT NAME field 51 as a selection criteria. This allows packet server 34 to identify those CPP records 50, herein also referred to as prototypes, which define diverse physical paths to a designated end point 10.” Col. 5:47-57.</p> <p>“FIG. 7 is a flow chart diagram depicting the steps performed by the data processing unit of FIG. 2 under direction of the control software of FIG. 3 during communications path selection in accordance with the present invention. Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory.” Col. 7:1-7.</p> <p>“Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82.” Col. 7:20-24</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p>
42.3	computer-executable instructions for consulting a set of one or more flexible selection rules to select a synchronization mechanism, the set of one or more flexible rules taking into consideration value, from having access	“Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory. This step corresponds to storing and maintaining prototypes (CPP records 50) within device managers 36 and 38. From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various

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	<p>to synchronized data, relative to at least one of (i) an economic cost for synchronization using each available synchronization mechanism, (ii) network security for each available synchronization mechanism, or (iii) security of the second computer system, or (iv) value of data being synchronized, and thereby selecting an available synchronization mechanism appropriate for the data item given the one or more flexible selection rules; and</p>	<p>communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way. Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82. Based upon receipt these prototypes, packet server 34 may select a communication path. In accordance with another aspect of the present invention, packet server 34 can further delimit selection of a communications path based upon a comparison of the communications criteria in the communications command and the communication path attributes as maintained in CPP records 50.” Col. 7:5-19.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-69.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for</p>

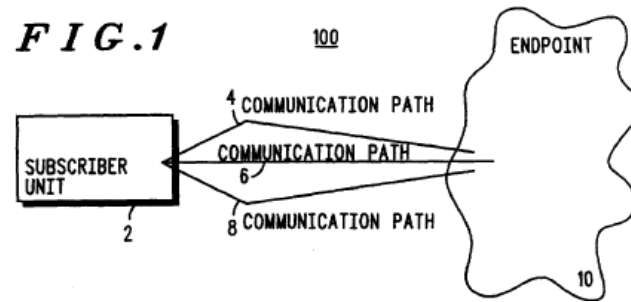
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		<p>the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable as required by Motorola’s construction.</p> <p>To the extent Burke ‘643 is found not to disclose this claim element, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost. It was well known in the art to consider other criteria, such as security and value of the synced data in selecting a communication path. In addition, the combination of Burke ‘643 with either the RIM white papers, Hanmann ‘584 or Lazaridis ‘694 renders this claim obvious. These references teach consulting the claimed flexible rules to select a synchronization mechanism (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings.</p> <p>One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
42.4	computer-executable instructions for using the selected synchronization mechanism to synchronize the data item with the second computer.	“At block 140 the appropriate device manager 36 issues the proper control sequence to the communications equipment in accordance with the DATA LINK RESOURCE LIST 63 of the specific data link 60 of FIG. 5, as identified by DATA LINK HANDLE 73, allowing the data transfer to occur over the pre-selected

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		communications path.” Col. 7:65-8:3. <i>See also</i> Fig. 7-9 and corresponding discussion in the specification.
43	A computer program product in accordance with claim 42, wherein the one or more computer-readable media are physical storage media.	<p>“FIG. 2 is a block diagram of a data processing unit employed by the subscriber unit of FIG. 1.” Col 2:59-60.</p> <div style="text-align: center;"> <p>FIG. 2</p> <pre> graph LR RAM[12] --- CPU[16] ROM[14] --- CPU CPU --- DE1[20] CPU --- DE2[22] CPU --- IOT[18] subgraph 200 RAM ROM CPU DE1 DE2 IOT end </pre> </div> <p>“FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18.” Col. 3:55-62.</p>
44	In a network that includes a first computer system having a first data store and second computer system having a second data store, a method for synchronizing the first and second data stores in a flexible manner considering the circumstances that exist at the time of synchronization, the method comprising the following:	<p>“This invention relates generally to data communication and, in particular, to a method for distinguishing between a plurality of communication paths and selecting from those a communications path for use.” 1:27-30.</p> <p>“Data and voice communications technologies have advanced rapidly in recent years, leading to the emergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available</p>

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communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability. In response to this pressure, manufacturers of communication-capable portable and fixed devices, such as personal organizers and laptop computers, are beginning to incorporate multiple communication technologies into their products. It is anticipated that the device user will learn to view the different technologies as merely alternatives for performing the same type of operation.” Col. 1:33-55.



“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communications paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:40-54.

“FIG. 2 is a block diagram of a data processing unit employed by the subscriber unit

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		<p data-bbox="831 266 1157 293">of FIG. 1.” Col. 2:59-60.</p> <div data-bbox="1110 365 1627 717" style="text-align: center;"> <p>FIG. 2</p> <pre> graph LR RAM[RAM 12] --- CPU[CPU 16] ROM[ROM 14] --- CPU CPU --- DE1[DATA ENTRY 20] CPU --- DE2[DATA ENTRY 22] CPU --- IOT[22] subgraph 200 [200] RAM ROM CPU DE1 DE2 IOT end </pre> </div> <p data-bbox="831 800 1902 976">“FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18.” Col. 3:55-62.</p>
44.1	<p data-bbox="281 1002 798 1391">an act of the first computer system determining whether to synchronize a data item by consulting a set of one or more flexible selection rules, the set of one or more flexible rules taking into consideration value, from having access to synchronized data, relative to at least one of (i) an economic cost for synchronization using each available synchronization mechanism, (ii) network security for each available</p>	<p data-bbox="831 1002 1902 1391">“Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory. This step corresponds to storing and maintaining prototypes (CPP records 50) within device managers 36 and 38. From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way. Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path</p>

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	<p>synchronization mechanism, or (iii) security of the second computer system, or (iv) value of data being synchronized, and thereby also determining an available synchronization mechanism appropriate for the data item given the one or more flexible selection rules; and</p>	<p>based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82. Based upon receipt these prototypes, packet server 34 may select a communication path. In accordance with another aspect of the present invention, packet server 34 can further delimit selection of a communications path based upon a comparison of the communications criteria in the communications command and the communication path attributes as maintained in CPP records 50.” Col. 7:5-19.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-69.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would</p>

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		<p>understand that these are changeable as required by Motorola’s construction.</p> <p>To the extent Burke ‘643 is found not to disclose this claim element, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost. It was well known in the art to consider other criteria, such as security and value of the synced data in selecting a communication path. In addition, the combination of Burke ‘643 with either Hanmann ‘584 or Lazaridis ‘694 renders this claim obvious. Both Hanmann ‘584 and Lazaridis ‘694 teach consulting the claimed flexible rules to select a synchronization mechanism (see corresponding element in the Hanmann 84 and 94 Lazaridis invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings.</p> <p>One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
44.2	an act of the first computer system synchronizing the data item with the second computer if the first computer system determines that the data item is to be synchronized based on the one or more flexible selection rules and each available synchronization mechanism, including one or more hardwired or	<p>“At block 140 the appropriate device manager 36 issues the proper control sequence to the communications equipment in accordance with the DATA LINK RESOURCE LIST 63 of the specific data link 60 of FIG. 5, as identified by DATA LINK HANDLE 73, allowing the data transfer to occur over the pre-selected communications path.” Col. 7:65-8:3.</p> <p><i>See also</i> Fig. 7-9 and corresponding discussion in the specification.</p>

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	wireless communication connections.	
46	A method in accordance with claim 44, wherein the first computer system is a mobile device, and the second computer system is a synchronization server.	<p>“The communications path selection is done locally, on a portable subscriber unit.” Abstract</p> <p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit.” Col. 3:40-47.</p> <p>It would be obvious to one of skill in the art to use a synchronization server as the “well-known destination to which the subscriber unit 2 wishes to connect.” Such servers were well known in the art and using a synchronization server would have been obvious to try, a routine and simple design choice, and a matter of common sense, especially given that subscriber units like those disclosed in Burke ’643 typically are connected to synchronization servers to ensure continuity between data on the subscriber unit and other systems on the network.</p>
47	A method in accordance with claim 44, further comprising the following: an act of receiving instructions to change the set of flexible selection rules; and an act of changing the set of flexible selection rules in response to the instruction.	<p>“According to one aspect of the invention, the method for permitting a subscriber unit having memory and communication resources to select one of a plurality communications paths to a designated destination comprises the steps of: storing in memory a list of communication paths having associated attributes; receiving a connection command comprising destination and communications criteria; selecting from the list, at least one communications path, as a function of destination; and establishing a connection to the selected communications path.” Col. 2:29-39.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a</p>

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		<p>selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>“Packet server 34 requests from all device managers 36, 38 CPP records 50 (prototypes) with the designated value of END POINT NAME 51 corresponding to end point 10. Each device manager 36, 38 publishes only those prototypes having the specified value of END POINT NAME 51 and having the value AVAILABLE for STATUS FLAG 54. Packet server 34 examines at block 210, the resultant prototype list and selects at least one prototype at block 215 based upon the matched destination information and further in light of the communication criteria specified within the new session request.” Col. 8:26-37.</p> <p>“During operation, the software applications issues a request 440 to create a new</p>

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		<p>session 433 in session list 430. The request contains a specified end point name to which a connection is desired, and communications related criteria, such as baud rate, max packet size, transfer cost, directionality etc. Packet server 34 issues a request 441 to device manager 36 via internal software interface 400, to examine all prototypes with the designated end point name.” Col. 9:42-50.</p> <p>“Packet server 34 examines available prototypes and selects prototype 413 as the prototype which has the proper end point name and best meets the criteria specified by the software applications to characterize the communication path.” Col. 9:51-55.</p> <p>“Another advantage of the present invention is that it provides, in local memory, a list of possible communications paths for automatic selection by packet server 34 on behalf of a software application 30. The automatic selection is based in part upon destination and further in view of a match between communications criteria defined by the software application and attributes associated with each communications path.” Col. 11:10-17.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable by a user. To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 with either the RIM white papers, Hanmann ‘584 or Lazaridis ‘694 renders this claim obvious. These references teach flexible rules that are changeable by a user (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share</p>

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		common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.
48	A method in accordance with claim 47, wherein the act of receiving instructions to change the set or flexible selection rules comprises the following: an act of receiving instructions to change the set of flexible selection rules from a user of the first computer system.	<p><i>See</i> Claim 47 above and citations below. To the extent this claim is not expressly or inherently disclosed, this claim would be obvious to one of skill in the art. The limitation added by this claim is act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>“As will be appreciated, the CPU 16 operates under control of an supervisory control program (Operating System) partially or wholly contained in ROM 14 and utilizing RAM 12, to control in bound and out bound data traffic on terminal 18 and to perform all tasks as initiated by the user, via data entry device 20.” Col. 3:66-4:4.</p> <p>“Data entry device 20 may comprise any of the well known data entry devices currently available which permit a system user to enter data and commands. Such devices include, but are not limited to, alphanumeric keys, touch screens, pressure or light sensitive pens, graphic user interfaces, computerized information presentation systems, and voice activation schemes.” Col. 4:5-11.</p>
49	A method in accordance with claim 47, wherein the act of receiving instructions to change the set of flexible selection rules comprises the following: an act of	“According to one aspect of the invention, the method for permitting a subscriber unit having memory and communication resources to select one of a plurality communications paths to a designated destination comprises the steps of: storing in memory a list of communication paths having associated attributes; receiving a

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	<p>receiving instructions to change the set of flexible selection rules from an agent of the second computer system.</p>	<p>connection command comprising destination and communications criteria; selecting from the list, at least one communications path, as a function of destination; and establishing a connection to the selected communications path.” Col. 2:29-39.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>“Packet server 34 requests from all device managers 36, 38 CPP records 50</p>

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		<p>(prototypes) with the designated value of END POINT NAME 51 corresponding to end point 10. Each device manager 36, 38 publishes only those prototypes having the specified value of END POINT NAME 51 and having the value AVAILABLE for STATUS FLAG 54. Packet server 34 examines at block 210, the resultant prototype list and selects at least one prototype at block 215 based upon the matched destination information and further in light of the communication criteria specified within the new session request.” Col. 8:26-37.</p> <p>“During operation, the software applications issues a request 440 to create a new session 433 in session list 430. The request contains a specified end point name to which a connection is desired, and communications related criteria, such as baud rate, max packet size, transfer cost, directionality etc. Packet server 34 issues a request 441 to device manager 36 via internal software interface 400, to examine all prototypes with the designated end point name.” Col. 9:42-50.</p> <p>“Packet server 34 examines available prototypes and selects prototype 413 as the prototype which has the proper end point name and best meets the criteria specified by the software applications to characterize the communication path.” Col. 9:51-55.</p> <p>“Another advantage of the present invention is that it provides, in local memory, a list of possible communications paths for automatic selection by packet server 34 on behalf of a software application 30. The automatic selection is based in part upon destination and further in view of a match between communications criteria defined by the software application and attributes associated with each communications path.” Col. 11:10-17.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable by an agent of the end point. To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a</p>

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 with either the RIM white papers, Hanmann ‘584 or Lazaridis ’694 renders this claim obvious. These references teach flexible rules that are changeable (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ’643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
50	A method in accordance with claim 49, wherein the act of receiving instructions to change the set of flexible selection rules from an agent of the second computer system comprises the following: an act of receiving instructions to change the set of flexible selection rules from a network administrator of trusted network that includes the second computer system.	See Claim 49. To the extent this claim is not expressly or inherently disclosed, this claim would be obvious to one of skill in the art. The limitation added by this claim is act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.
51	A method in accordance with claim 50, further comprising the following: an act of receiving instructions to change the set of flexible selection rules from a	See Claim 47 and 48. To the extent this claim is not expressly or inherently disclosed, this claim would be obvious to one of skill in the art. The limitation added by this claim is act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
	user.	included in many different types of systems, including synchronization systems.
52	A method in accordance with claim 51, wherein the act of changing the set of flexible selection rules in response to the instruction, comprises the following: an act of fulfilling the instructions received from the network administrator of the second computer system to the extent that there is a conflict between the instructions received from the network administrator of the second computer system and the instructions received from the user at the first computer system.	See Claim 47 and 49. To the extent this claim is not expressly or inherently disclosed, this claim would be obvious to one of skill in the art. The limitation added by this claim is act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.
54	A method in accordance with claim 44, wherein the act of the first computer system synchronize the data item with the second computer comprises the following:	See Claim 44.
54.1	an act of the first computer system identifying which of a plurality of synchronization mechanisms are available to use for synchronization;	Step 86 of Figure 7 selects from available communication paths. This necessarily requires identifying which paths are available. “Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:47-54. “FIG. 4 depicts the structure a communications path prototype (CPP) record in accordance with the present invention. CPP records 50 are maintained within a list in device managers 36 and 38, respectively, and define a potential path to a

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>designated end point 10. As shown, each CPP record 50 comprises an END POINT NAME field 51, ATTRIBUTE LIST 52, CONFIGURATION LIST 53, STATUS FLAG 54, and PROTOTYPE HANDLE field 55. In accordance with the present invention, each CPP record 50 is used to establish a link in order to send data packets between application software programs 30 of FIG. 3 and an end point 10 of FIG. 1.” Col. 5:34-46.</p> <p>“The disclosed record structure contains destination information, predefined communications path attributes, communication device commands, status and ID. END POINT NAME field 51 designates a specific remote message source or destination. Packet server 34 can select a subset of all CPP records maintained within device managers 36 and 38 by using END POINT NAME field 51 as a selection criteria. This allows packet server 34 to identify those CPP records 50, herein also referred to as prototypes, which define diverse physical paths to a designated end point 10.” Col. 5:47-57.</p> <p>“FIG. 7 is a flow chart diagram depicting the steps performed by the data processing unit of FIG. 2 under direction of the control software of FIG. 3 during communications path selection in accordance with the present invention. Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory.” Col. 7:1-7.</p> <p>“Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82.” Col. 7:20-24</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p>

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54.2	<p>an act of the first computer system consulting a set of flexible selection rules to select one of the available synchronization mechanisms; and</p>	<p>“Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory. This step corresponds to storing and maintaining prototypes (CPP records 50) within device managers 36 and 38. From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way. Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82. Based upon receipt these prototypes, packet server 34 may select a communication path. In accordance with another aspect of the present invention, packet server 34 can further delimit selection of a communications path based upon a comparison of the communications criteria in the communications command and the communication path attributes as maintained in CPP records 50.” Col. 7:5-19.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-69.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by</p>

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable as required by Motorola’s construction.</p> <p>To the extent Burke ‘643 is found not to disclose this claim element, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost. In addition, the combination of Burke ‘643 with either the RIM white papers, Hanmann ‘584 or Lazaridis ‘694 renders this claim obvious. These references teach flexible rules (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
54.3	an act of the first computer system using the selected synchronization mechanism	At block 140 the appropriate device manager 36 issues the proper control sequence to the communications equipment in accordance with the DATA LINK

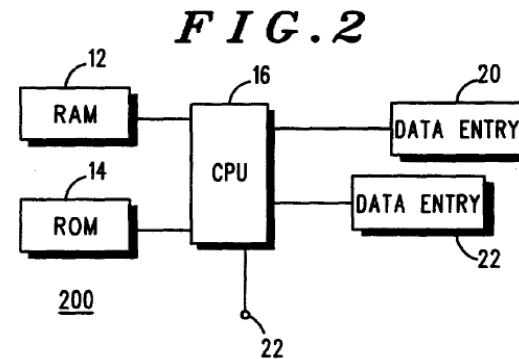
	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
	to synchronize the data item with the second computer.	RESOURCE LIST 63 of the specific data link 60 of FIG. 5, as identified by DATA LINK HANDLE 73, allowing the data transfer to occur over the pre-selected communications path. 7:65-8:3.
55	A computer program product for use in a network that includes a first computer system having a first data store and second computer system having a second data store, the computer program product for implementing a method for synchronizing the first and second data stores in a flexible manner considering the circumstances that exist at the time of synchronization, the computer program product comprising one or more computer-readable media having stored thereon the following:	<p>“This invention relates generally to data communication and, in particular, to a method for distinguishing between a plurality of communication paths and selecting from those a communications path for use.” 1:27-30.</p> <p>“Data and voice communications technologies have advanced rapidly in recent years, leading to the emergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability. In response to this pressure, manufacturers of communication-capable portable and fixed devices, such as personal organizers and laptop computers, are beginning to incorporate multiple communication technologies into their products. It is anticipated that the device user will learn to view the different technologies as merely alternatives for performing the same type of operation.” Col. 1:33-55.</p> <p style="text-align: center;">FIG. 1</p> <p>The diagram, labeled FIG. 1, illustrates a communication system 100. On the left, a rectangular box represents the 'SUBSCRIBER UNIT' (2). On the right, an irregular, cloud-like shape represents the 'ENDPOINT' (10). Three lines, each labeled 'COMMUNICATION PATH', connect the subscriber unit to the endpoint. The top path is labeled '4', the middle path is labeled '6', and the bottom path is labeled '8'. The entire system is enclosed in a larger boundary labeled '100'.</p>

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U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references

“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:40-54.

“FIG. 2 is a block diagram of a data processing unit employed by the subscriber unit of FIG. 1.” Col. 2:59-60.



“FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		entry device 20, display 22, and input/output (I/O) terminal 18.” Col. 3:55-62.
55.1	computer-executable instructions for determining whether to synchronize a data item by consulting a set of one or more flexible selection rules, the set of one or more flexible rules taking into consideration value, from having access to synchronized data, relative to at least one of (i) an economic cost for synchronization using each available synchronization mechanism, (ii) network security for each available synchronization mechanism, (iii) security of the second computer system, or (iv) value of data being synchronized, and thereby also determining an available synchronization mechanism appropriate for the data item given the one or more flexible selection rules; and	<p>“Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory. This step corresponds to storing and maintaining prototypes (CPP records 50) within device managers 36 and 38. From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way. Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82. Based upon receipt these prototypes, packet server 34 may select a communication path. In accordance with another aspect of the present invention, packet server 34 can further delimit selection of a communications path based upon a comparison of the communications criteria in the communications command and the communication path attributes as maintained in CPP records 50.” Col. 7:5-19.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-69.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of</p>

	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable as required by Motorola’s construction.</p> <p>To the extent Burke ‘643 is found not to disclose this claim element, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost. It was well known in the art to consider other criteria, such as security and value of the synced data in selecting a communication path.</p> <p>In addition, the combination of Burke ‘643 with either the RIM white papers, Hanmann ‘584 or Lazaridis ‘694 renders this claim obvious. These references teach consulting the claimed flexible rules to select a synchronization mechanism (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or</p>

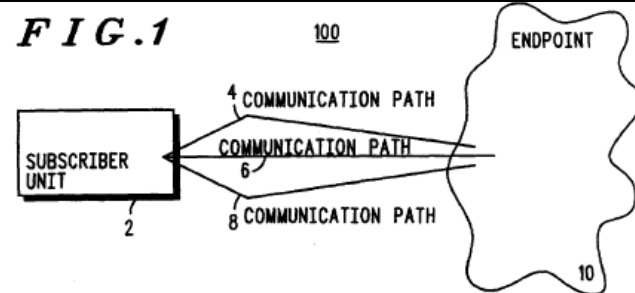
	U.S. Patent No. 7,024,214	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.
55.2	computer-executable instructions for synchronizing the data item with the second computer if the first computer system determines that the data item is to be synchronized based on the one or more flexible selection rules and each available synchronization mechanism, including one or more hardwired or wireless communication connections.	<p>“At block 140 the appropriate device manager 36 issues the proper control sequence to the communications equipment in accordance with the DATA LINK RESOURCE LIST 63 of the specific data link 60 of FIG. 5, as identified by DATA LINK HANDLE 73, allowing the data transfer to occur over the pre-selected communications path.” Col. 7:65-8:3.</p> <p><i>See also</i> Fig. 7-9 and corresponding discussion in the specification.</p>
56	A computer program product in accordance with claim 55, wherein the one or more computer-readable media comprise physical storage media.	<p>“FIG. 2 is a block diagram of a data processing unit employed by the subscriber unit of FIG. 1.” Col. 2:59-60.</p> <div style="text-align: center;"> <p>FIG. 2</p> <pre> graph LR RAM[RAM 12] --- CPU[CPU 16] ROM[ROM 14] --- CPU CPU --- DE1[DATA ENTRY 20] CPU --- DE2[DATA ENTRY 22] CPU --- IOT[22] subgraph 200 RAM ROM CPU DE1 DE2 IOT end </pre> </div> <p>“FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18.” Col.3:55-62.</p>

U.S. Patent 5,406,643 (“Burke ‘643”)¹

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
1	A mobile computing device comprising the following:	<p>“The communications path selection is done locally, on a portable subscriber unit.” Abstract</p> <p>“This invention relates generally to data communication and, in particular, to a method for distinguishing between a plurality of communication paths and selecting from those a communications path for use.” Col. 1:27-30.</p> <p>“Data and voice communications technologies have advanced rapidly in recent years, leading to the emergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability. In response to this pressure, manufacturers of communication-capable portable and fixed devices, such as personal organizers and laptop computers, are beginning to incorporate multiple communication technologies into their products. It is anticipated that the device user will learn to view the different technologies as merely alternatives for performing the same type of operation.” Col. 1:33-55.</p>

NOTE: The citations in this chart are merely exemplary. I intend and may rely upon other portions of the identified patents and reference in support of my opinions. Unless otherwise indicated, the disclosure and discussion applies to both Motorola’s and Microsoft’s constructions.

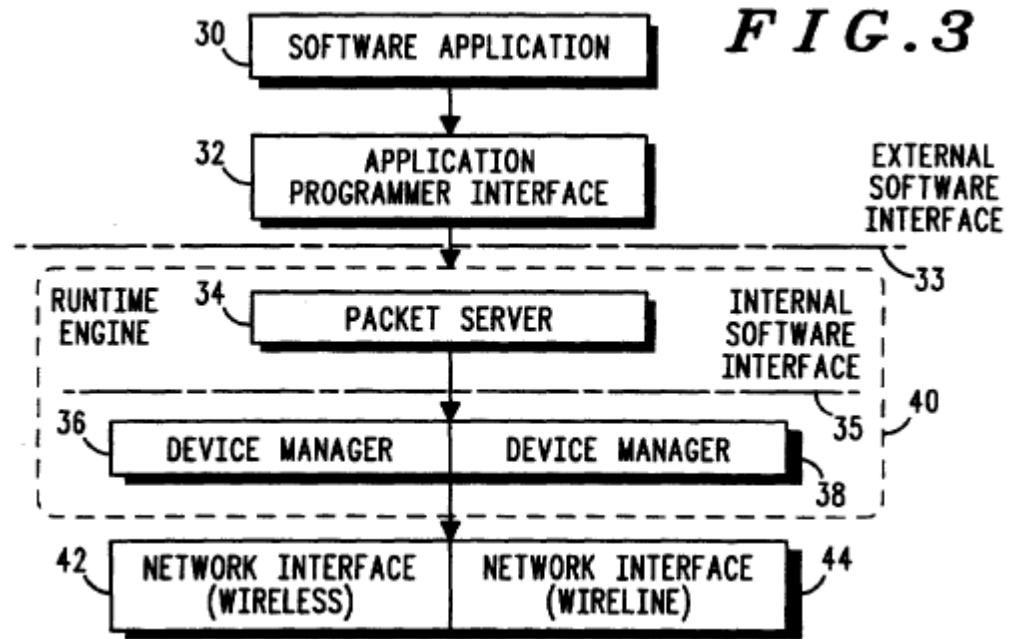
¹ “Method and Apparatus for Selecting Between a Plurality of Communication Paths” issued to Burke et al.; filed February 11, 1993; issued April 11, 1995 (MOTM_24063 0085218-MOTM_24063 0085235).

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p style="text-align: center;">FIG. 1</p>  <p style="text-align: center;">“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:40-54.</p>
1.1	a data store;	“FIG. 2 is a block diagram of a data processing unit employed by the subscriber unit of FIG. 1.” Col. 2:59-60.

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p style="text-align: center;">FIG. 2</p> <p style="text-align: center;">200</p> <p>“FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18.” Col. 3:55-62.</p>
1.2	a networking module; and	<p>“FIG. 3 is a functional block diagram of control software used by the data processing unit 200 of FIG. 2 during data communications in accordance with the present invention. The control software, hereinafter referred to as runtime engine 40, comprises functional blocks including packet server 34 and device managers 36 and 38.” Col. 4:34-40.</p>

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“External software for use with the runtime engine 40 comprises application software 30 and application programmer interface software (API) 32. Application software 30 comprises any computer software program wishing to communicate data in accordance with the present invention. API 32 is a library of communication routines which are called by application software 30 and allow programs written in a specific program language to access a communications device (not shown) through a predetermined set of function calls and network interface device 42,44. In a preferred embodiment the set of library functions comprise functions such as, but not limited to, open.sub.-- session, close.sub.-- session, get.sub.-- message, send.sub.-- message, get.sub.-- number.sub.-- message, get.sub.-- notification.sub.-- configuration, set.sub.-- notification.sub.-- configuration, and get.sub.-- number.sub.-- messages. One or more pairings of application software 30

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>instructions and API 32 routines may interface to packet server 34 through the external software interface 33 as delimited by runtime engine 40.</p> <p>Runtime engine 40 provides a uniform abstraction of available communication systems by providing a standard set of data communication commands for application software 30, which is independent of the computer programming language utilized by application software 30, or the ultimate path selected. During operation, API 32 library calls are routed to packet server 34, which passes requests from one or more application software programs 30 to one or more device managers 36 and 38. Thus, API 32 operates to provide a standard mapping of the specific computer programming language in which application software 30 is implemented into messages that can be passed to the packet server 34.</p> <p>Packet server 34 operates to manage a list of sessions. A session is a record representing the information required by packet server 34 to interact with device managers 36 and 38 and a specific software application program 30. Device managers 36 and 38 control the wireless and or wireline communications equipment handling requests from packet server 34 on behalf of application software 30. Device manager 36 and 38 manage path prototypes and data links as described below. A path prototype is a record representing a potential physical path to a designated end point. A data link is a record that represents an actual physical link to a previously specified end point.</p> <p>Device managers 36 and 38 are independent executables that interface to packet server 34 via an internal software interface 35 and also interface directly to the communications equipment (not shown) via wireless or wireline network interface devices 42 and 44. As will be appreciated, a single device manager can communicate with one or more network interfaces 42 and 44. Each network interface provides the necessary registers and line drivers for communicating with the communications equipment and will typically include a CPU, RAM, and ROM if these resources are not available in the communications equipment. In accordance with the present invention, any number of device managers can communicate with packet server 34.” Col. 4:41-5:33</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
1.3	<p>a processing module configured to access the data store of the mobile device as well as communicate with the synchronization server over the network using the networking module of the mobile device, wherein the processing device of the mobile device is configured to perform the following:</p>	<p>“FIG. 2 is a block diagram of a data processing unit employed by the subscriber unit of FIG. 1.” Col. 2:59-60.</p> <div data-bbox="1108 402 1633 760" data-label="Diagram"> <p style="text-align: center;">FIG. 2</p> <pre> graph LR subgraph 200 [200] RAM[12] --- CPU[16] ROM[14] --- CPU CPU --- DE1[20] CPU --- DE2[22] CPU --- IOT[22] end </pre> </div> <p>“FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18.” Col. 3:55-62.</p>
1.4	<p>determine that a data item is to be synchronized;</p>	<p>Burke ‘643 discloses that a subscriber unit will request communication with an end point 10 (See Fig. 8), such as an email system or a database. One of the primary reasons a subscriber would do this if it had a data item that needed to be synchronized with the end point. Thus, the system of Burke ‘643 contemplates determining that a data item is to be synchronized before it requests communication with the end point. To the extent this claim element is not expressly disclosed, this would be obvious to one of skill in the art. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10.” Col. 3:40-54.</p> <p>“FIG. 8 is a flow chart diagram of the steps performed by processing unit 200 of FIG. 2 under directions from the control software depicted in FIG. 3 during data communications in accordance with the present invention. Commencing with begin block 100 when a subscriber unit 2 requests communications with an end point 10, flow proceeds to block 110 where the processing unit 200 creates a session 70.” Col. 7:40-47.</p> <p><i>See also</i> Figs 7 and 8 and discussion of these Figures in the Burke 643 patent.</p>
1.5	identify which of a plurality of synchronization mechanisms, including one or more hardwired or wireless communication connections, are available to use for synchronization;	<p>Step 86 of Figure 7 selects from available communication paths. This necessarily requires identifying which paths are available.</p> <p>“Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:47-54.</p> <p>“FIG. 4 depicts the structure a communications path prototype (CPP) record in accordance with the present invention. CPP records 50 are maintained within a list in device managers 36 and 38, respectively, and define a potential path to a designated end point 10. As shown, each CPP record 50 comprises an END POINT NAME field 51, ATTRIBUTE LIST 52, CONFIGURATION LIST 53, STATUS FLAG 54, and PROTOTYPE HANDLE field 55. In accordance with the present invention, each CPP record 50 is used to establish a link in order to send data</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>packets between application software programs 30 of FIG. 3 and an end point 10 of FIG. 1.” Col. 5:34-46.</p> <p>“The disclosed record structure contains destination information, predefined communications path attributes, communication device commands, status and ID. END POINT NAME field 51 designates a specific remote message source or destination. Packet server 34 can select a subset of all CPP records maintained within device managers 36 and 38 by using END POINT NAME field 51 as a selection criteria. This allows packet server 34 to identify those CPP records 50, herein also referred to as prototypes, which define diverse physical paths to a designated end point 10.” Col. 5:47-57.</p> <p>“FIG. 7 is a flow chart diagram depicting the steps performed by the data processing unit of FIG. 2 under direction of the control software of FIG. 3 during communications path selection in accordance with the present invention. Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory.” Col. 7:1-7.</p> <p>“Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82.” Col. 7:20-24</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p>
1.6	consult a set of one or more flexible selection rules to select a synchronization mechanism, the set of one or more flexible rules taking into consideration value, from having access	“Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory. This step corresponds to storing and maintaining prototypes (CPP records 50) within device managers 36 and 38. From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
	<p>to synchronized data, relative to at least one of (i) an economic cost for synchronization using each available synchronization mechanism, (ii) network security for each available synchronization mechanism, (iii) security of the second computer system, or (iv) value of data being synchronized and thereby selecting an available synchronization mechanism appropriate for the data item given the one or more flexible selection rules; and</p>	<p>contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way. Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82. Based upon receipt these prototypes, packet server 34 may select a communication path. In accordance with another aspect of the present invention, packet server 34 can further delimit selection of a communications path based upon a comparison of the communications criteria in the communications command and the communication path attributes as maintained in CPP records 50.” Col. 7:5-19.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-69.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable as required by Motorola’s construction.</p> <p>To the extent Burke ‘643 is found not to disclose this claim element, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost. It was well known in the art to consider other criteria, such as security and value of the synced data in selecting a communication path.</p> <p>In addition, the combination of Burke ‘643 with either Hanmann ‘584, the RIM white papers or Lazaridis ‘694 renders this claim obvious. These references teach consulting the claimed flexible rules to select a synchronization mechanism (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
1.7	use the selected synchronization mechanism to synchronize the data item.	<p>“At block 140 the appropriate device manager 36 issues the proper control sequence to the communications equipment in accordance with the DATA LINK RESOURCE LIST 63 of the specific data link 60 of FIG. 5, as identified by DATA LINK HANDLE 73, allowing the data transfer to occur over the pre-selected communications path.” Col. 7:65-8:3.</p>

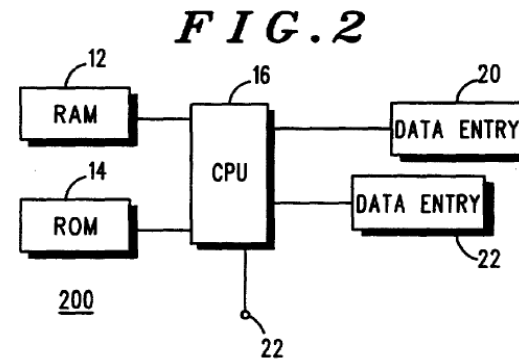
	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<i>See also</i> Fig. 7-9 and corresponding discussion in the specification.
2	A first computer system in a network that includes the first computer system having a first data store and second computer system having a second data store, the first computer system comprising one or more computer-readable media having computer-executable instructions for implementing a method for synchronizing the first and second data stores in a flexible manner considering the circumstances that exist at the time of synchronization, wherein the method comprising the following:	<p>“This invention relates generally to data communication and, in particular, to a method for distinguishing between a plurality of communication paths and selecting from those a communications path for use.” 1:27-30.</p> <p>“Data and voice communications technologies have advanced rapidly in recent years, leading to the immergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability. In response to this pressure, manufacturers of communication-capable portable and fixed devices, such as personal organizers and laptop computers, are beginning to incorporate multiple communication technologies into their products. It is anticipated that the device user will learn to view the different technologies as merely alternatives for performing the same type of operation.” Col. 1:33-55.</p> <p>FIG. 1</p> <p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a</p>

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communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:40-54.

“FIG. 2 is a block diagram of a data processing unit employed by the subscriber unit of FIG. 1.” Col. 2:59-60.



“FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18.” Col. 3:55-62.

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
2.1	an act of the first computer system determining that a data item is to be synchronized;	<p>Burke ‘643 discloses that a subscriber unit will request communication with an end point 10 (<i>See</i> Fig. 8), such as an email system or a database. One of the primary reasons a subscriber would do this if it had a data item that needed to be synchronized with the end point. Thus, the system of Burke ‘643 contemplates determining that a data item is to be synchronized before it requests communication with the end point. To the extent this claim element is not expressly disclosed, this would be obvious to one of skill in the art. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10.” Col. 3:40-54.</p> <p>“FIG. 8 is a flow chart diagram of the steps performed by processing unit 200 of FIG. 2 under directions from the control software depicted in FIG. 3 during data communications in accordance with the present invention. Commencing with begin block 100 when a subscriber unit 2 requests communications with an end point 10, flow proceeds to block 110 where the processing unit 200 creates a session 70.” Col. 7:40-47.</p> <p><i>See also</i> Figs 7 and 8 and discussion of these Figures in the Burke 643 patent.</p>
2.2	an act of the first computer system identifying which of a plurality of synchronization mechanisms, including one or more hardwired or wireless	<p>Step 86 of Figure 7 selects from available communication paths. This necessarily requires identifying which paths are available.</p> <p>“Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
	<p>communication connections, are available to use for synchronization;</p>	<p>4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:47-54.</p> <p>“FIG. 4 depicts the structure a communications path prototype (CPP) record in accordance with the present invention. CPP records 50 are maintained within a list in device managers 36 and 38, respectively, and define a potential path to a designated end point 10. As shown, each CPP record 50 comprises an END POINT NAME field 51, ATTRIBUTE LIST 52, CONFIGURATION LIST 53, STATUS FLAG 54, and PROTOTYPE HANDLE field 55. In accordance with the present invention, each CPP record 50 is used to establish a link in order to send data packets between application software programs 30 of FIG. 3 and an end point 10 of FIG. 1.” Col. 5:34-46.</p> <p>“The disclosed record structure contains destination information, predefined communications path attributes, communication device commands, status and ID. END POINT NAME field 51 designates a specific remote message source or destination. Packet server 34 can select a subset of all CPP records maintained within device managers 36 and 38 by using END POINT NAME field 51 as a selection criteria. This allows packet server 34 to identify those CPP records 50, herein also referred to as prototypes, which define diverse physical paths to a designated end point 10.” Col. 5:47-57.</p> <p>“FIG. 7 is a flow chart diagram depicting the steps performed by the data processing unit of FIG. 2 under direction of the control software of FIG. 3 during communications path selection in accordance with the present invention. Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory.” Col. 7:1-7.</p> <p>“Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		command at block 82.” Col. 7:20-24 “In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.
2.3	an act of the first computer system consulting a set of one or more flexible selection rules to select a synchronization mechanism, the set of one or more flexible roles taking into consideration value, from having access to synchronized data, relative to at least one of (i) an economic cost for synchronization using each available synchronization mechanism, (ii) network security for each available synchronization mechanism, (iii) security of the second computer system, or (iv) value of data being synchronized and thereby selecting an available synchronization mechanism appropriate for the data item given the one or more flexible selection rules; and	“Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory. This step corresponds to storing and maintaining prototypes (CPP records 50) within device managers 36 and 38. From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way. Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82. Based upon receipt these prototypes, packet server 34 may select a communication path. In accordance with another aspect of the present invention, packet server 34 can further delimit selection of a communications path based upon a comparison of the communications criteria in the communications command and the communication path attributes as maintained in CPP records 50.” Col. 7:5-19. “ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-69.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable as required by Motorola’s construction.</p> <p>To the extent Burke ‘643 is found not to disclose this claim element, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path can depend on many criteria, such as cost. It was well known in the art to consider other criteria, such as security and value of the synced data in selecting a communication path.</p> <p>In addition, the combination of Burke ‘643 with either Hanmann ‘584, the RIM white papers or Lazaridis ‘694 renders this claim obvious. These references teach consulting the claimed flexible rules to select a synchronization mechanism (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.
2.4	an act of the first computer system using the selected synchronization mechanism to synchronize the data item with the second computer.	<p>“At block 140 the appropriate device manager 36 issues the proper control sequence to the communications equipment in accordance with the DATA LINK RESOURCE LIST 63 of the specific data link 60 of FIG. 5, as identified by DATA LINK HANDLE 73, allowing the data transfer to occur over the pre-selected communications path.” Col. 7:65-8:3.</p> <p><i>See also</i> Fig. 7-9 and corresponding discussion in the specification.</p>
4	A computer system in accordance with claim 2, wherein the first computer system is a mobile device, and the second computer system is a synchronization server.	<p>FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Col. 3:40-47.</p> <p>It would be obvious to one of skill in the art to use a synchronization server as the “well-known destination to which the subscriber unit 2 wishes to connect.” Such servers were well known in the art and using a synchronization server would have been obvious to try, a routine and simple design choice, and a matter of common sense, especially given that subscriber units like those disclosed in Burke ‘643 typically are connected to synchronization servers to ensure continuity between data on the subscriber unit and other systems on the network.</p>
5	A computer system in accordance with claim 4, wherein the act of the first computer system determining that a data item is to be synchronized comprises the	Burke ‘643 discloses that a subscriber unit will request communication with an end point 10 (<i>See</i> Fig. 8), such as an email system or a database. One of the primary reasons a subscriber would do this if it had a data item that needed to be synchronized with the end point. Thus, the system of Burke ‘643 contemplates

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
	<p>following: an act of the mobile device determining on its own that the data item is to be synchronized.</p>	<p>determining that a data item is to be synchronized before it requests communication with the end point. To the extent this claim element is not expressly disclosed, this would be obvious to one of skill in the art. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10.” Col. 3:40-54.</p> <p>“FIG. 8 is a flow chart diagram of the steps performed by processing unit 200 of FIG. 2 under directions from the control software depicted in FIG. 3 during data communications in accordance with the present invention. Commencing with begin block 100 when a subscriber unit 2 requests communications with an end point 10, flow proceeds to block 110 where the processing unit 200 creates a session 70.” Col. 7:40-47.</p> <p><i>See also</i> Figs 7 and 8 and discussion of these Figures in the Burke 643 patent.</p>
6	<p>A computer system in accordance with claim 4, wherein the act of the first computer system determining that a data item is to be synchronized comprises the following: an act of the mobile device receiving a user-issued instruction to synchronize the data item.</p>	<p>FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18. The CPU 16 with associated memory may be realized using a conventional microprocessor such as an MC68HC11 microprocessor which has in the past been from Motorola Inc. As will be appreciated, the CPU 16 operates under control of an supervisory control</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>program (Operating System) partially or wholly contained in ROM 14 and utilizing RAM 12, to control in bound and out bound data traffic on terminal 18 and to perform all tasks as initiated by the user, via data entry device 20. 3:55-4:4.</p> <p><i>See also, e.g., claim 1.</i></p> <p>To the extent this claim element is not expressly or inherently disclosed, this would be obvious to one of skill in the art. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p>
7	<p>A computer system in accordance with claim 4, wherein the act of the first computer system determining that a data item is to be synchronized comprises the following: an act of the mobile device receiving a signal from the synchronization server that represents to the mobile device that the data item is to be synchronized.</p>	<p>Burke ‘643 discloses that subscriber units communicate with endpoints via a session:</p> <p>“Commencing with begin block 100 when a subscriber unit 2 requests communications with an end point 10, flow proceeds to block 110 where the processing unit 200 creates a session 70. In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30. The creation of a new session is described in more detail below.” Col. 7:44-53.</p> <p>“When a session 70 has been successfully established, data communication can occur. Thus at block 120 a communications command is issued specifying the type of communication, i.e. send, receive, etc., communication parameters, i.e. data buffers, etc., and a session reference identifying a session 70 over which the communication is to occur.” Col. 7:54-60</p> <p>“At decision block 160 a test is performed to determine whether communications is complete. If software applications 30 is finished communicating, the session 70 is deleted 170. The session deletion process is described below in more detail. If software applications 30 is not finished communicating, then flow returns to block 120 to issue another communications command.” Col. 8:6-12.</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.
8	A computer system in accordance with claim 2, wherein the plurality or synchronization mechanisms comprises at least one mechanism.	“Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:50-54.
10	A computer system in accordance with claim 2, wherein the method further comprises the following: an act of receiving instructions to change the set of flexible selection rules; and an act of changing the set of selection rules in response to the instruction.	<p>“According to one aspect of the invention, the method for permitting a subscriber unit having memory and communication resources to select one of a plurality communications paths to a designated destination comprises the steps of: storing in memory a list of communication paths having associated attributes; receiving a connection command comprising destination and communications criteria; selecting from the list, at least one communications path, as a function of destination; and establishing a connection to the selected communications path.” Col. 2:29-39.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>“directionality” must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>“Packet server 34 requests from all device managers 36, 38 CPP records 50 (prototypes) with the designated value of END POINT NAME 51 corresponding to end point 10. Each device manager 36, 38 publishes only those prototypes having the specified value of END POINT NAME 51 and having the value AVAILABLE for STATUS FLAG 54. Packet server 34 examines at block 210, the resultant prototype list and selects at least one prototype at block 215 based upon the matched destination information and further in light of the communication criteria specified within the new session request.” Col. 8:26-37.</p> <p>“During operation, the software applications issues a request 440 to create a new session 433 in session list 430. The request contains a specified end point name to which a connection is desired, and communications related criteria, such as baud rate, max packet size, transfer cost, directionality etc. Packet server 34 issues a request 441 to device manager 36 via internal software interface 400, to examine all prototypes with the designated end point name.” Col. 9:42-50.</p> <p>“Packet server 34 examines available prototypes and selects prototype 413 as the prototype which has the proper end point name and best meets the criteria specified by the software applications to characterize the communication path.” Col. 9:51-55.</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>“Another advantage of the present invention is that it provides, in local memory, a list of possible communications paths for automatic selection by packet server 34 on behalf of a software application 30. The automatic selection is based in part upon destination and further in view of a match between communications criteria defined by the software application and attributes associated with each communications path.” Col. 11:10-17.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable by a user. To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 with either Hanmann ‘584, the RIM white papers or Lazaridis ‘694 renders this claim obvious. These references teach flexible rules that are changeable (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
11	A first computer system in a network that includes the first computer system	“This invention relates generally to data communication and, in particular, to a method for distinguishing between a plurality of communication paths and selecting

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	<p>having a first data store and second computer system having a second data store, the first computer system comprising one or more computer-readable media having computer-executable instructions for implementing a method for synchronizing the first and second data stores in a flexible manner considering the circumstances that exist at the time of synchronization, the computer program product comprising one or more computer-readable media having stored thereon the following:</p>	<p>from those a communications path for use.” 1:27-30.</p> <p>“Data and voice communications technologies have advanced rapidly in recent years, leading to the emergence of different and typically incompatible communication systems, such as paging, cellular, telephone data, and radio packet data. Initially, the users of such systems accepted their inherent incompatibility. The modern trend, however, is for system users to expect and demand higher levels of compatibility between and interconnection to the currently available communications platforms. Thus, a cellular radiotelephone communication system must interconnect with the land-line telephone system, and wireless LAN (local area network) systems must now operate as extensions of wired LANs in order to achieve and sustain commercial viability. In response to this pressure, manufacturers of communication-capable portable and fixed devices, such as personal organizers and laptop computers, are beginning to incorporate multiple communication technologies into their products. It is anticipated that the device user will learn to view the different technologies as merely alternatives for performing the same type of operation.” Col. 1:33-55.</p> <div data-bbox="1050 876 1680 1169" data-label="Diagram"> <p>The diagram, labeled FIG. 1, illustrates a communication system. On the left, a rectangular box labeled 'SUBSCRIBER UNIT' with the number '2' below it is connected to a cloud-shaped area on the right labeled 'ENDPOINT' with the number '10' below it. Three lines represent different communication paths: path '4' is the top line, path '6' is the middle line, and path '8' is the bottom line. The entire system is labeled '100' at the top center.</p> </div> <p>“FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Communication paths 4, 6, and 8 represent the set of available</p>

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		<p>communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:40-54.</p> <p>“FIG. 2 is a block diagram of a data processing unit employed by the subscriber unit of FIG. 1.” Col. 2:59-60.</p> <div data-bbox="1108 597 1633 954" data-label="Diagram"> <p style="text-align: center;">FIG. 2</p> <pre> graph LR subgraph 200 [200] RAM[12 RAM] --- CPU[16 CPU] ROM[14 ROM] --- CPU CPU --- DE1[20 DATA ENTRY] CPU --- DE2[22 DATA ENTRY] CPU --- IOT[18 I/O terminal] end </pre> </div> <p>“FIG. 2 depicts a block diagram of a data processing unit 200 employed by the subscriber of FIG. 1 in order to provide communications in accordance with the present invention. The data processing unit 200 comprises a central processing unit (CPU) 16, random access memory (RAM) 12, read only memory (ROM) 14, data entry device 20, display 22, and input/output (I/O) terminal 18.” Col. 3:55-62.</p>
11.1	an act of the first computer system determining whether to synchronize a data item by consulting a set of one or more flexible selection rules, the set of one or more flexible rules taking into	“Commencing with begin block 80, flow proceeds to block 82 where a list of communication paths are stored in memory. This step corresponds to storing and maintaining prototypes (CPP records 50) within device managers 36 and 38. From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command

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	<p>consideration value, from having access to synchronized data, relative to at least one of (i) an economic cost for synchronization using each available synchronization mechanism, (ii) network security for each available synchronization mechanism, (iii) security of the second computer system, or (iv) value of data being synchronized, and thereby also determining an available synchronization mechanism appropriate for the data item given the one or more flexible selection rules; and</p>	<p>contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way. Flow proceeds from block 84 to block 86 where packet server 34 selects from said list at least one available communications path based as a function of destination. In this effort, the packet server 34 requests from device managers 36 and 38 all prototypes which have an END POINT NAME field 51 comprising information which corresponds to the destination information found within the connection command at block 82. Based upon receipt these prototypes, packet server 34 may select a communication path. In accordance with another aspect of the present invention, packet server 34 can further delimit selection of a communications path based upon a comparison of the communications criteria in the communications command and the communication path attributes as maintained in CPP records 50.” Col. 7:5-19.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-69.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for</p>

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		<p>the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable as required by Motorola’s construction.</p> <p>To the extent Burke ‘643 is found not to disclose this claim element, it would have been obvious to one of skill in the art to modify Burke ‘643 to include this claim element. Burke ‘643 recognizes that selecting a communication path (and, thereby, determining whether to synchronize) can depend on many criteria, such as cost. It was well known in the art to consider criteria, such as security and value of the synced data in selecting a communication path.</p> <p>In addition, the combination of Burke ‘643 with either Hanmann ‘584, the RIM white papers or Lazaridis ‘694 renders this claim obvious. These references teach consulting the claimed flexible rules to determine whether to synchronize and to select a synchronization mechanism (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
11.2	an act of the first computer system synchronizing the data item with the second computer if the first computer system determines that the data item is	“At block 140 the appropriate device manager 36 issues the proper control sequence to the communications equipment in accordance with the DATA LINK RESOURCE LIST 63 of the specific data link 60 of FIG. 5, as identified by DATA LINK HANDLE 73, allowing the data transfer to occur over the pre-selected

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	to be synchronized based on the one or more flexible selection rules and each available synchronization mechanism, including one or more hardwired or wireless communication connections.	communications path.” Col. 7:65-8:3. “Communication paths 4, 6, and 8 represent the set of available communication paths from the subscriber unit 2 to the desired end point 10. Communications paths 4, 6, and 8 may consist of wireless or wireline communications media such as, but not limited to, telephone lines, twisted pair wire, fiber-optic links, infrared channels, and radio frequency channels.” Col. 3:47-54. <i>See also</i> Fig. 7-9 and corresponding discussion in the specification.
13	A computer system in accordance with claim 11, wherein the first computer system is a mobile device, and the second computer system is a synchronization server.	FIG. 1 depicts a subscriber unit 2 communicating with an end point 10 through one of a plurality of communications paths 4, 6, and 8. Subscriber unit 2 is a communicating computer as described in detail below. End point 10 is any well-known destination to which the subscriber unit 2 wishes to connect, such as an Electronic mail system, electronic database, communications network, or another subscriber unit. Col. 3:40-47. It would be obvious to one of skill in the art to use a synchronization server as the “well-known destination to which the subscriber unit 2 wishes to connect.” Such servers were well known in the art and using a synchronization server would have been obvious to try, a routine and simple design choice, and a matter of common sense, especially given that subscriber units like those disclosed in Burke ‘643 typically are connected to synchronization servers to ensure continuity between data on the subscriber unit and other systems on the network.
14	A computer system in accordance with claim 11, wherein the method further comprises the following: an act of receiving instructions to change the set of flexible selection rules; and an act of changing the set of selection rules in response to the instruction.	“According to one aspect of the invention, the method for permitting a subscriber unit having memory and communication resources to select one of a plurality communications paths to a designated destination comprises the steps of: storing in memory a list of communication paths having associated attributes; receiving a connection command comprising destination and communications criteria; selecting from the list, at least one communications path, as a function of destination; and establishing a connection to the selected communications path.” Col. 2:29-39.

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		<p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>“Packet server 34 requests from all device managers 36, 38 CPP records 50 (prototypes) with the designated value of END POINT NAME 51 corresponding to end point 10. Each device manager 36, 38 publishes only those prototypes having the specified value of END POINT NAME 51 and having the value AVAILABLE for STATUS FLAG 54. Packet server 34 examines at block 210, the resultant prototype list and selects at least one prototype at block 215 based upon the matched</p>

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		<p>destination information and further in light of the communication criteria specified within the new session request.” Col. 8:26-37.</p> <p>“During operation, the software applications issues a request 440 to create a new session 433 in session list 430. The request contains a specified end point name to which a connection is desired, and communications related criteria, such as baud rate, max packet size, transfer cost, directionality etc. Packet server 34 issues a request 441 to device manager 36 via internal software interface 400, to examine all prototypes with the designated end point name.” Col. 9:42-50.</p> <p>“Packet server 34 examines available prototypes and selects prototype 413 as the prototype which has the proper end point name and best meets the criteria specified by the software applications to characterize the communication path.” Col. 9:51-55.</p> <p>“Another advantage of the present invention is that it provides, in local memory, a list of possible communications paths for automatic selection by packet server 34 on behalf of a software application 30. The automatic selection is based in part upon destination and further in view of a match between communications criteria defined by the software application and attributes associated with each communications path.” Col. 11:10-17.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable by a user. To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 with either Hanmann ‘584, the RIM white papers or Lazaridis ‘694 renders this claim obvious. These references teach flexible rules that are changeable (see corresponding element in the corresponding</p>

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		invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.
15	A computer system in accordance with claim 14, wherein the act of receiving instructions to change the set of flexible selection rules comprises the following: an act of receiving instructions to change the set of flexible selection rules from a user of the first computer system.	<p>“According to one aspect of the invention, the method for permitting a subscriber unit having memory and communication resources to select one of a plurality communications paths to a designated destination comprises the steps of: storing in memory a list of communication paths having associated attributes; receiving a connection command comprising destination and communications criteria; selecting from the list, at least one communications path, as a function of destination; and establishing a connection to the selected communications path.” Col. 2:29-39.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes</p>

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		<p>such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID, directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>“Packet server 34 requests from all device managers 36, 38 CPP records 50 (prototypes) with the designated value of END POINT NAME 51 corresponding to end point 10. Each device manager 36, 38 publishes only those prototypes having the specified value of END POINT NAME 51 and having the value AVAILABLE for STATUS FLAG 54. Packet server 34 examines at block 210, the resultant prototype list and selects at least one prototype at block 215 based upon the matched destination information and further in light of the communication criteria specified within the new session request.” Col. 8:26-37.</p> <p>“During operation, the software applications issues a request 440 to create a new session 433 in session list 430. The request contains a specified end point name to which a connection is desired, and communications related criteria, such as baud rate, max packet size, transfer cost, directionality etc. Packet server 34 issues a request 441 to device manager 36 via internal software interface 400, to examine all prototypes with the designated end point name.” Col. 9:42-50.</p> <p>“Packet server 34 examines available prototypes and selects prototype 413 as the prototype which has the proper end point name and best meets the criteria specified by the software applications to characterize the communication path.” Col. 9:51-</p>

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		<p>55.</p> <p>“Another advantage of the present invention is that it provides, in local memory, a list of possible communications paths for automatic selection by packet server 34 on behalf of a software application 30. The automatic selection is based in part upon destination and further in view of a match between communications criteria defined by the software application and attributes associated with each communications path.” Col. 11:10-17.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable by a user. To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 with either Hanmann ‘584, the RIM white papers or Lazaridis ‘694 renders this claim obvious. These references teach flexible rules that are changeable (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>

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16	<p>A computer system in accordance with claim 14, wherein the act of receiving instructions to change the set of flexible selection rules comprises the following: an act of receiving instructions to change the set of flexible selection rules from an agent of the second computer system.</p>	<p>“According to one aspect of the invention, the method for permitting a subscriber unit having memory and communication resources to select one of a plurality communications paths to a designated destination comprises the steps of: storing in memory a list of communication paths having associated attributes; receiving a connection command comprising destination and communications criteria; selecting from the list, at least one communications path, as a function of destination; and establishing a connection to the selected communications path.” Col. 2:29-39.</p> <p>“ATTRIBUTE LIST 52 is a list of pairs in the form (name, information) that describes the characteristics of a single actual communications path. Examples of specific prototype attributes are (name=DIRECTIONALITY, information=TWO-WAY), or (name=BAUD, information=4800). The packet server 34 can select individual attributes from ATTRIBUTE LIST 52 by using the value of "name" as a selection criterion. This allows packet server 34 to compare the "information" field of a selected attribute against a value known to the packet server.” Col. 5:58-68.</p> <p>“From block 82, flow proceeds to block 84 where the packet server 34 of FIG. 3 receives a connection command from software application 30 via API 32. This command contains destination information, i.e., END POINT NAME, and various communication criteria as established and desired by software application 30. Such criteria specify acceptable ranges of values for various communication attributes such as, for example, "transfer cost" must be less than \$1.00 per kilobyte or "directionality" must be two-way.” Col. 7:9-19.</p> <p>“In accordance with a preferred embodiment of the present invention, at least one of the potential communications paths 4, 6, and 8, is selected as a function of destination. Such selection may further be qualified by criteria specified by software application 30.” Col. 7:47-52.</p> <p>“To create a new session, software applications 30 issues a request 205 to packet server 34 for a new session, specifying communication criteria and an end point name 10 with which the subscriber unit 2 wishes to communicate. The communication criteria are various attributes desired by software application 30 for the new session, such as baud rate, packet size, transit time, transfer cost, carrier ID,</p>

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		<p>directionality, end point name, channel ID, etc.” Col. 8:17-25.</p> <p>“Packet server 34 requests from all device managers 36, 38 CPP records 50 (prototypes) with the designated value of END POINT NAME 51 corresponding to end point 10. Each device manager 36, 38 publishes only those prototypes having the specified value of END POINT NAME 51 and having the value AVAILABLE for STATUS FLAG 54. Packet server 34 examines at block 210, the resultant prototype list and selects at least one prototype at block 215 based upon the matched destination information and further in light of the communication criteria specified within the new session request.” Col. 8:26-37.</p> <p>“During operation, the software applications issues a request 440 to create a new session 433 in session list 430. The request contains a specified end point name to which a connection is desired, and communications related criteria, such as baud rate, max packet size, transfer cost, directionality etc. Packet server 34 issues a request 441 to device manager 36 via internal software interface 400, to examine all prototypes with the designated end point name.” Col. 9:42-50.</p> <p>“Packet server 34 examines available prototypes and selects prototype 413 as the prototype which has the proper end point name and best meets the criteria specified by the software applications to characterize the communication path.” Col. 9:51-55.</p> <p>“Another advantage of the present invention is that it provides, in local memory, a list of possible communications paths for automatic selection by packet server 34 on behalf of a software application 30. The automatic selection is based in part upon destination and further in view of a match between communications criteria defined by the software application and attributes associated with each communications path.” Col. 11:10-17.</p> <p>Burke ‘643 discloses that the CPP (the flexible rules) includes an attribute list that specify certain criteria, like baud rate and transfer cost. One of skill in the art would understand that these are changeable by an agent of the end point. To the extent the above portions do not expressly or inherently disclose the claimed act, it is would be</p>

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
		<p>obvious to modify Burke ‘643 to include this act. Such an act is well known to those skilled in the art, is obvious to try, is a routine step, a simple design choice, a matter of common sense, and is typically included in many different types of systems, including synchronization systems.</p> <p>In addition, the combination of Burke ‘643 with either Hanmann ‘584, the RIM white papers or Lazaridis ‘694 renders this claim obvious. These references teach flexible rules that are changeable (see corresponding element in the corresponding invalidity charts) and it would be obvious to one of skill in the art to modify Burke ‘643 with these teachings. One of skill in the art would be motivated to combine these references because they are all in the same field and share common subject matter (transferring data from a mobile devices to a computer), address the same problem (improve efficiency of data transfer depending on factors such as cost), disclose the same or similar techniques for data transfer, and were developed during the same time period. Additionally, a person of ordinary skill in the art would have been motivated to combine the methods disclosed in these references because there was a design need and/or market pressure to synchronize data to and from mobile devices with many synchronization mechanisms, and there were a finite number of identified, predictable solutions.</p>
17	A computer system in accordance with claim 16, wherein the act of receiving instructions to change the set of flexible selection rules from an agent of the second computer system comprises the following: an act of receiving instructions to change the set of flexible selection rules from a network administrator of a network that includes the second computer system.	See Claim 16.
18	A computer system in accordance with claim 17, further comprising the	See Claim 16.

	U.S. Patent No. 7,493,130	U.S. Patent 5,406,643 (“Burke ‘643”) alone or in combination with other references
	following: an act of receiving instructions to change the set of flexible selection rules from a user.	
19	A computer system in accordance with claim 18, wherein the act of changing the set of selection rules in response to the instruction, comprises the following: an act of fulfilling the instructions received from the network administrator of the second computer system to the extent that there is a conflict between the instructions received from the network administrator of the second computer system and the instructions received from the user of the first computer system.	See Claim 16.