GOOGLE'S TOOLBAR INFRINGES

- If Google's argument is believed, the Court must at a minimum:

  - Ignore that the '172 specification describes and shows Feature 406 as the "window for viewing a file"

  - Ignore that the '172 Specification describes Feature 400 as the entire browser interface, something much different than Feature 406

GOOGLE'S TOOLBAR INFRINGES

● But That's Not All….

  ● Ignore the fact that Figures 4, 5A, 5B, and 5C all show Feature 406 as separate and distinct from Feature 400

  ● Ignore the fact that one of ordinary skill in the art knew that "search window" corresponds to the "window for viewing a file", or Feature 406 (Decl. of Bernard Galler. ¶ 13)

PROSECUTION HISTORY AGREES WITH NETJUMPER

- Yahoo Search Engine prior art identified by Examiner placed navigational controls **inside** "search window"

- CNN Interactive prior art identified by Examiner placed "jumper window" **inside** "search window"

PROSECUTION HISTORY AGREES WITH NETJUMPER

- In original rejection the Examiner showed he understood the distinction between display screen and browser frame:

- Examiner cited to "Yahoo search engine (in FIG. 5C, item 406)

PROSECUTION HISTORY AGREES WITH NETJUMPER

- Netjumper amended the claims to add the phrase " ...for searching on a local computer...." thereby introducing a concept of "search"

- Netjumper added the step of "constructing a search window on a display screen of the local computer," thereby clearly distinguishing "search window" from "browser window"

PROSECUTION HISTORY AGREES WITH NETJUMPER

- Netjumper distinguished the prior art: it does not have the same functionality as the Netjumper invention because it pertains only to a "transient phenomenon"

PROSECUTION HISTORY AGREES WITH NETJUMPER

- Netjumper's navigational tools are not "transient": they are separate from the display window, i.e., the "search window".

- As Google's own expert agrees, navigational controls placed within the browser frame are "separate" from the "search window"

PROSECUTION HISTORY AGREES WITH NETJUMPER

" ... the subsequent display of any of the data files stored on the network in the search window any files from any site, will not prevent the display of the first data file in the browser window responsive only to a selection from the list window.... "

(Exh 3, file history at G264)

GOOGLE PROVIDES NO ANSWER TO NETJUMPER'S EXPERT

- Prof. Galler : "One of ordinary skill in the art would understand that a 'search window' pertains to a particular class of Web-based activity different from just opening a browser window." (Decl. at Par. 34)

- Netjumper never "disavowed a claim based on separating navigational tools from browser." (Id.)

GOOGLE'S RELIANCE ON EXAMINER'S REASON FOR ALLOWANCE IS WRONG

- Examiner's statement was factually not wrong

- Netjumper had no obligation to respond to the Examiner's Statement

- The Statement does not necessarily limit the '172 Patent's claims. *See Eolas Tech. Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1338 (Fed. Cir. 2005)

CYBERPILOT PRO DOES NOT ANTICIPATE THE '172 PATENT

- Anticipation requires that the alleged reference disclose each and every limitation of each claim alleged to be invalid

- Burden is on Google to prove – by clear and convincing evidence – that CyberPilot Pro discloses each and every limitation of the subject claims

CYBERPILOT PRO DOES NOT ANTICIPATE THE '172 PATENT

- CyberPilot Pro Does Not "Construct A Search Window (Claims 1 and 5)

  - Independent of web browser

  - Forms new window each time user clicks on question mark

 - Displays new browser window each time user clicks on a hotlink

CYBERPILOT PRO DOES NOT ANTICIPATE THE '172 PATENT

CYBERPILOT PRO DOES NOT ANTICIPATE THE '172 PATENT

Original IE2.0 window

Clicking on "Finance" in CyberPilot screen creates new IE 2.0 window

CYBERPILOT PRO DOES NOT ANTICIPATE THE '172 PATENT

Clicking on other directory items in CyberPilot creates multiple new windows
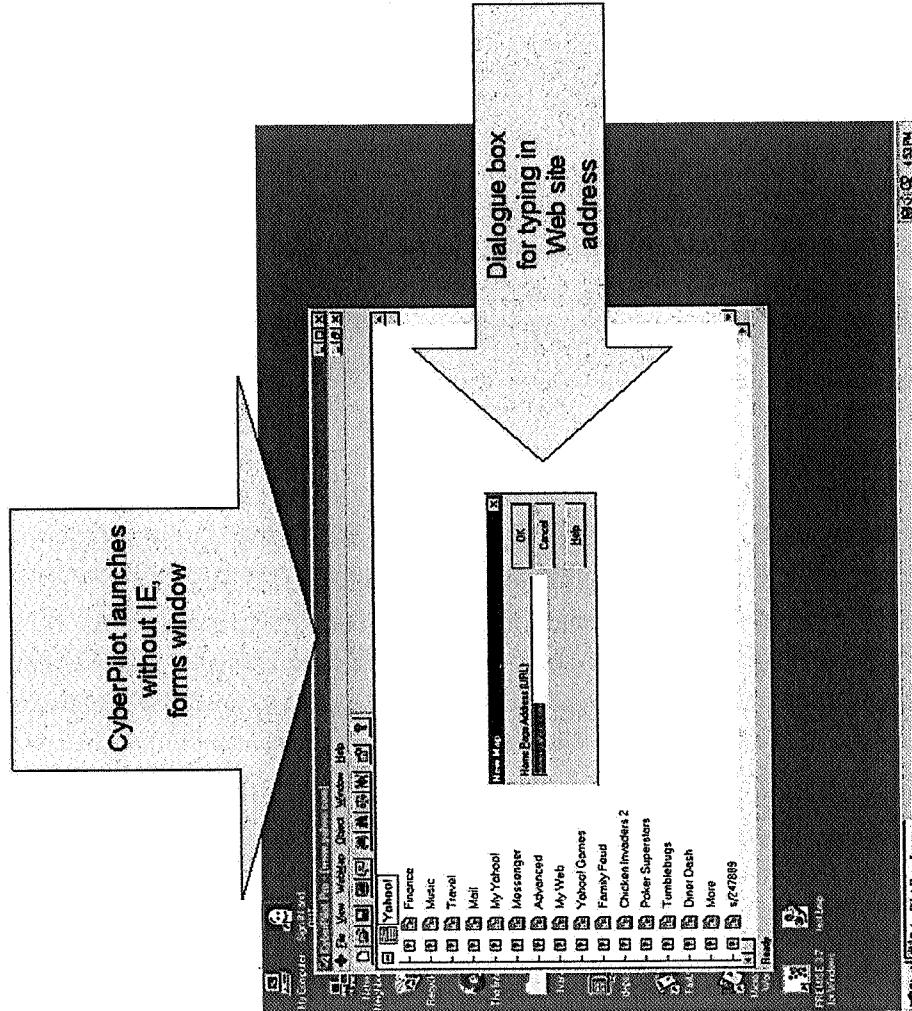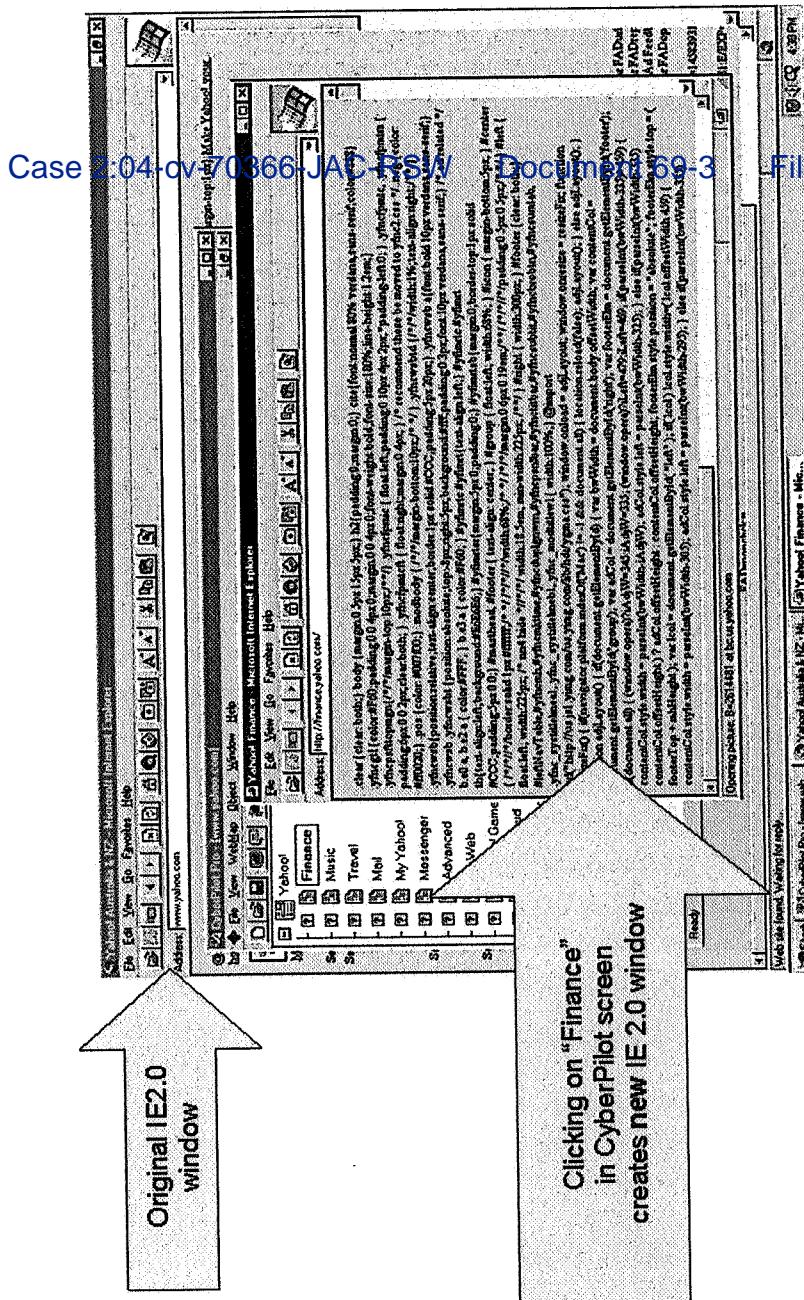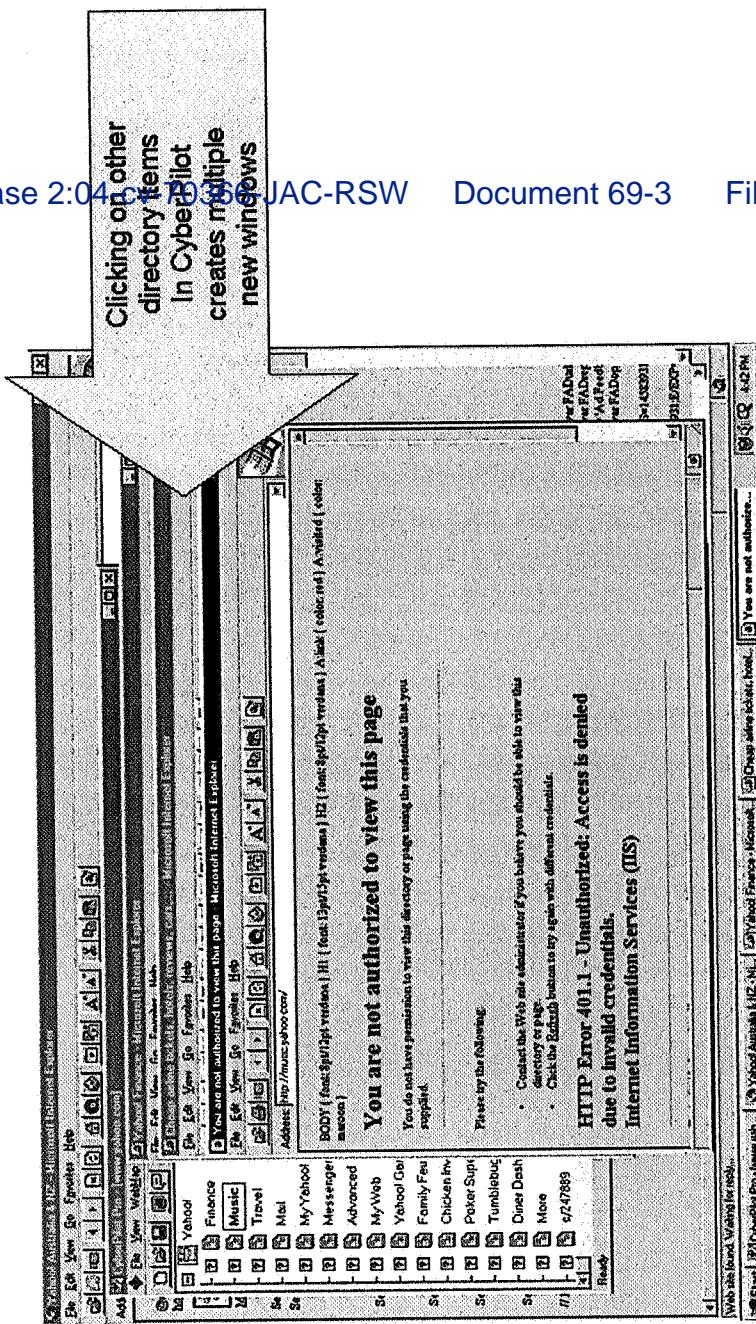
CYBERPILOT PRO DOES NOT ANTICIPATE THE '172 PATENT

- There Is At Least A Material Issue Of Fact That CyberPilot Pro Does NOT Disclose:

  - Search capability
  - Construction of a search window
  - First and second icon separate from a search window
  - Display of initial data file in search window
  - Forming an initial list responsive to selection of a first icon
  - Automated navigational icons
  - Initial data file comprising information in a markup language

DEMONSTRATION