

# EXHIBIT 9



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(NDQ REEXAMINATION GROUP)  
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HOUSTON, TX 77002

Date: **MAILED**  
**JUL 01 2009**

CENTRAL REEXAMINATION UNIT

**Transmittal of Communication to Third Party Requester  
Inter Partes Reexamination**

REEXAMINATION CONTROL NO. : 95001172  
PATENT NO. : 6725427  
TECHNOLOGY CENTER : 3999  
ART UNIT : 3992

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified Reexamination proceeding. 37 CFR 1.903.

Prior to the filing of a Notice of Appeal, each time the patent owner responds to this communication, the third party requester of the inter partes reexamination may once file written comments within a period of 30 days from the date of service of the patent owner's response. This 30-day time period is statutory (35 U.S.C. 314(b)(2)), and, as such, it cannot be extended. See also 37 CFR 1.947.

If an ex parte reexamination has been merged with the inter partes reexamination, no responsive submission by any ex parte third party requester is permitted.

All correspondence relating to this inter partes reexamination proceeding should be directed to the Central Reexamination Unit at the mail, FAX, or hand-carry addresses given at the end of the communication enclosed with this transmittal.

PTOL-2070(Rev.07-04)

**Novak Druce LLP**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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95/001,172	04/23/2009	6,725,427	8157.012.427	1247
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7590 07/01/2009  
IVAN S. KAVRUKOV  
COOPER & DUNHAM LLP  
1185 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036

EXAMINER
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LEE, CHRISTOPHER E

ART UNIT	PAPER NUMBER
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3992

MAIL DATE	DELIVERY MODE
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07/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Novak Druce LLP  
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**ORDER GRANTING/DENYING  
REQUEST FOR INTER PARTES  
REEXAMINATION**

Control No.	Patent Under Reexamination	
95/001,172	6,725,427	
Examiner	Art Unit	
Christopher E. Lee	3992	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address. --

The request for *inter partes* reexamination has been considered. Identification of the claims, the references relied on, and the rationale supporting the determination are attached.

Attachment(s):     PTO-892         PTO/SB/08         Other: \_\_\_\_\_

1.  The request for *inter partes* reexamination is GRANTED.

An Office action is attached with this order.

An Office action will follow in due course.

2.  The request for *inter partes* reexamination is DENIED.

This decision is not appealable. 35 U.S.C. 312(c). Requester may seek review of a denial by petition to the Director of the USPTO within ONE MONTH from the mailing date hereof. 37 CFR 1.927. EXTENSIONS OF TIME ONLY UNDER 37 CFR 1.183. In due course, a refund under 37 CFR 1.26(c) will be made to requester.

**All correspondence** relating to this *inter partes* reexamination proceeding should be directed to the **Central Reexamination Unit** at the mail, FAX, or hand-carry addresses given at the end of this Order.

**DECISION GRANTING INTER PARTES REEXAMINATION**

***Substantial New Question of Patentability***

1. A substantial new question of patentability affecting claims 1, 2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37, and 39 of United States Patent Number US 6,725,427 B2, which issued to Freeman et al. [hereinafter '427 Patent] is raised by the present request for *inter partes* reexamination filed on 23<sup>rd</sup> of April 2009.

***Patent Assignment***

2. The '427 Patent is currently assigned to: MIRROR WORLDS, LLC. of TYLER, TEXAS. The '427 Patent was issued from the Application 10/013,150 (hereinafter '150 Application) filed on 10<sup>th</sup> of December 2001, which is a division of 09/398,611 filed on 17<sup>th</sup> of September 1999, which is a continuation of 08/673,255 filed on 28<sup>th</sup> of June 1996.

***References Presenting Substantial New Question of Patentability***

3. In the request for reexamination, the Requester alleges that the '427 Patent claims 1, 2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37, and 39 are unpatentable over the following references, alone or in combination:

- a) Mander et al. [US 6,243,724 A] "Method and Apparatus for Organizing Information in a Computer System," issued on 5<sup>th</sup> of June 2001 (hereinafter "Mander").
- b) Lucas et al. [US 5,499,330 A] "Document Display System for Organizing and Displaying Documents as Screen Objects organized along Strand Paths," issued on 12<sup>th</sup> of March 1996 (hereinafter "Lucas").
- c) User's Guide, "Retrospect User's Guide," version 3 first edition, published by Dantz Development Corp., 1989-1995 (hereinafter "Retrospect").
- d) Tutorial Reference, "Magellan Explorer's Guide," published by Lotus Development Corp., 1989 (hereinafter "Magellan Explorer's Guide").
- e) David P. Gobel, "Using Lotus Magellan," published by QUE Corp., 1989 (hereinafter "Using Lotus Magellan").

Of the above references, except "Mander" which is cited on the face of the '427 Patent, the rest of the references are not of record in the file of '427 Patent, and are not cumulative to the art of record in the original file.

However, a review of the prosecution history of the '150 Application reveals that even though

"Mander" was considered by the Examiner, but was not relied upon to reject any claims during the prosecution of the '427 Patent.

### **Scope of Reexamination**

4. Since requester did not request reexamination of claims 3, 4, 6, 11, 12, 14, 20, 21, 23, 27, 28, 30, 35, 36, and 38, and did not assert the existence of a substantial new question of patentability (SNQ) for such claims (See 35 U.S.C. §311(b)(2); See also 37 CFR 1.915b and 1.923), such claims will not be reexamined. This matter was squarely addressed in *Sony Computer Entertainment America Inc., et al. v. Jon W. Dudas*, Civil Action No. 1:05CV1447 (E.D.Va. May 22, 2006), Slip Copy, 2006 WL 1472462. (Not Reported in F.Supp.2d.) The District Court upheld the Office's discretion to not reexamine claims in an *Inter Partes* Reexamination proceeding other than those claims for which reexamination had specifically been requested. The Court stated:

"To be sure, a party may seek, and the PTO may grant, *inter partes* review of each and every claim of a patent. Moreover, while the PTO in its discretion may review claims for which *inter partes* review was not requested, nothing in the statute compels it to do so. To ensure that the PTO considers a claim for *inter partes* review, 35 U.S.C. §311(b)(2) requires that the party seeking reexamination demonstrate why the PTO should reexamine each and every claim for which it seeks review. Here, it is undisputed that Sony did not seek review of every claim under the '213 and '333 patents. Accordingly, Sony cannot now claim that the PTO wrongly failed to reexamine claims for which Sony never requested review, and its argument that AIPA compels a contrary result is unpersuasive."

Therefore, claims 3, 4, 6, 11, 12, 14, 20, 21, 23, 27, 28, 30, 35, 36, and 38 will not be reexamined in this *Inter Partes* Reexamination proceeding.

### **Prosecution History of the '427 Patent**

5. The '427 Patent issued from the '150 Application (U.S. Patent Application No. 10/013,150) filed on 10<sup>th</sup> of December 2001, which is a divisional of application No. 09/398,611 filed on 17<sup>th</sup> of September 1999, now U.S. Patent 6,638,318, which is a continuation of application No. 08/673,255 filed on 28<sup>th</sup> of June 1996, now U.S. Patent 6,006,227.

The '427 Patent is generally directed to an operating system in which documents are stored in chronologically ordered "streams" instead of in the familiar hierarchical folder structure typical of many operating systems, wherein a computer storage system stores files in "a time-ordered sequence," or "stream." Every document created by or sent to a person or entity's

computer is stored in the "main stream," and the system also utilizes "substreams," which contain subsets of the documents found in the mainstream.

The Examiner of record issued a requirement of Restriction/Election Office action on 1<sup>st</sup> of May 2003 indicating the original '150 Application has multiple inventions.

In response to the Examiner's Restriction/Election Office action mailed on 2<sup>nd</sup> of May 2003, the Patentee filed a response to Restriction/Election Office action on 5<sup>th</sup> of June 2003 electing the original claims 13-51 and 57-62.

The Examiner of record briefly issued an *Ex Parte Quayle* Office action on 10<sup>th</sup> of August 2003 indicating the objections to the title and the specification, and further, a typographical error relating to the set of claims 57-62 subject to restriction in the Restriction/Election Office action, without any particular reason of allowability.

The Examiner of record issued a notice of allowability on 31<sup>st</sup> of October 2003, and the '150 Application ultimately issued as the '427 Patent on 20<sup>th</sup> of April 2004.

### ***Reexamination Requester's Position***

6. The Request indicates that the Third Party requester considers:

#### *Ground #1: Mander*

Claims 16-19, 22, 24-26, 29, 31-34, and 37 of the '427 Patent to be unpatentable over Mander

#### *Ground #2: Mander in combination with Retrospect*

Claims 1, 2, 5, 7-10, and 13 of the '427 Patent to be unpatentable over Mander taken with Retrospect

#### *Ground #3: Magellan Explorer's Guide in combination with Using Lotus Magellan and Lucas*

Claims 1, 2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37, and 39 of the '427 Patent to be unpatentable over Magellan Explorer's Guide taken with Using Lotus Magellan and Lucas

### ***Substantial New Question vel non***

7. The substantial new questions of patentability (SNQs) have been raised based on patents not considered in an earlier concluded examination of the patent being reexamined. In the present instance, there exists the SNQs based on Mander, Retrospect, Lucas, Magellan Explorer's Guide, and Using Lotus Magellan, alone or in combination, which were not applied or



discussed in rejecting any claim during the prosecution of the '427 Patent. A discussion of the specifics now follows:

Re. Ground #1: Mander

8. It is generally **agreed** that the consideration of Mander alone proposed by Requester raises a substantial new question of patentability as to Claims 16-19, 22, 24-26, 29, 31-34, and 37 of the '427 Patent.

As pointed out on pages 22-23 of the request, Mander discloses a system that indexes all files along with any metadata, and associates these files with folders called "piles" See Mander, Fig. 15), wherein said system organizes data units that are received by a computer system (e.g., electronic mail documents) or generated by a computer system (e.g., word processing documents; See Mander, Abstract, col. 2, lines 63-66, and col. 24, lines 8-18). Each data unit (e.g., document) is stored in said computer filing system which includes indexed data information, and the data units are placed into piles (i.e., main stream) that may be further organized into one or more subpiles (i.e., substream; See Mander, col. 5, line 42 through col. 6, line 4, and col. 25, lines 21-37). Further, each document is associated with a timestamp (i.e., date and time), which is either selected by the system or by the user, and recorded in a date line field of the document or is recorded by the file system (See Mander, col. 33, lines 34-43), and the documents may further be sorted into categories based on date (See Mander, col. 23, lines 39-5 and col. 33, lines 35-36). In other words, just as in the '427 Patent, Mander suggests glance views, such as once browsing has been invoked, the user may quickly scan through the pile by moving the cursor up and down the pile; in this manner, each time the cursor comes to a representation of a document in the pile, the system displays the proxy for that document within the view cone 162 in Fig. 4a (See Mander, col. 10, lines 17-23), which was not present in the prosecution of the '150 Application which became the '427 Patent. Furthermore, there is a substantial likelihood that a reasonable Examiner would consider this teaching important in deciding whether or not the claim is patentable. Accordingly, Mander raises substantial new questions of patentability as to Claims 16, 25, and 32, which questions have not been decided in a previously examination of the '427 Patent.

As shown above, Mander raises substantial new questions of patentability as to the respective claims 16, 25, and 32. Therefore, at least, since the claims 17-19, 22, and 24 are dependent claims of the claim 16, the claims 26, 29, and 31 are dependent claims of the claim

25, and the claims 33, 34, 37, and 39 are dependent claims of the claim 32, Mander raises substantial new questions of patentability as to the claims 17-19, 22, 24, 26, 29, 31, 33, 34, 37, and 39, as well.

Re. Ground #2: Mander in combination with Retrospect

9. It is generally **agreed** that the consideration of Mander taken with Retrospect proposed by Requester raises a substantial new question of patentability as to Claims 1, 2, 5, 7-10, and 13 of the '427 Patent.

As pointed out in the above, Mander discloses a system that indexes all files along with any metadata, and associates these files with folders called "piles" See Mander, Fig. 15), wherein said system organizes data units that are received by a computer system (e.g., electronic mail documents) or generated by a computer system (e.g., word processing documents; See Mander, Abstract, col. 2, lines 63-66, and col. 24, lines 8-18), but does not teach the method step of automatically archiving the documents and indicators in consistent format for selective retrieval. Retrospect is directed to a system and method for automatically archiving documents based on timelines. Both of Mander and Retrospect were designed to work with Macintosh computers. And, as is mentioned in the above, the teaching from Mander and Retrospect was not present in the prosecution of the '150 Application which became the '427 Patent.

Therefore, there is a substantial likelihood that a reasonable Examiner would consider this teaching important in deciding whether or not the claim is patentable. Accordingly, Mander taken with Retrospect raises substantial new questions of patentability as to Claims 1 and 8, which questions have not been decided in a previous examination of the '427 Patent. Furthermore, at least, since the claims 2, 5, and 7 are dependent claims of the claim 1, and the claims 9, 10, 13, and 15 are dependent claims of the claim 8, Mander taken with Retrospect raises substantial new questions of patentability as to the claims 2, 5, 7, 9, 10, 13, and 15, as well.

Re. Ground #3: Magellan Explorer's Guide in combination with Using Lotus Magellan and

10. It is generally **agreed** that the consideration of Magellan Explorer's Guide taken with Using Lotus Magellan and Lucas proposed by Requester raises a substantial new question of

patentability as to Claims 1, 2, 5, 7-10, 13, 15-19, 22, 24-26, 29, 31-34, 37, and 39 of the '427 Patent.

As pointed out on page 66, *Magellan Explorer's Guide* and *Using Lotus Magellan* respectively discloses a system for indexing the entire contents, including every word of every document, in a computer system and allowing the user to perform sophisticated searches to find documents satisfying user-defined search criteria (See *Magellan Explorer's Guide* at page 19 and *Using Lotus Magellan* at pages xi-xii and 1-2). The Third Party requester suggested the claim analysis as if the two separate references *Magellan Explorer's Guide* and *Using Lotus Magellan* are regarded as a single reference, i.e., *Magellan Explorer's Guide* and *Using Lotus Magellan* as collectively *Magellan*. This is not correct because the respective references *Magellan Explorer's Guide* and *Using Lotus Magellan* have different authors, publishers publishing dates, etc. Therefore, said references *Magellan Explorer's Guide* and *Using Lotus Magellan* cannot be handled as a single reference. However, *Using Lotus Magellan* teaches the details of said system for indexing the entire contents of *Magellan* software as well as *Magellan Explorer's Guide* does. Therefore, they both describe aspects of *Magellan* software, and in combination provide a fuller picture of the functionality of said *Magellan* software.

As is shown in the above, *Magellan Explorer's Guide* taken with *Using Lotus Magellan* discloses the similar features of the claimed invention, but does not teach a document displaying technique, such as glance view of said documents, stack of partly overlapping document representations, etc.

*Lucas* is directed to a system for displaying documents in three dimensions, particularly three-dimensional piles, and further, teaches the features of said document displaying technique, such as glance view of said documents, stack of partly overlapping document representations.

The teaching from *Magellan Explorer's Guide* taken with *Using Lotus Magellan* and *Lucas* was not present in the prosecution of the '150 Application which became the '427 Patent.

Therefore, there is a substantial likelihood that a reasonable Examiner would consider this teaching important in deciding whether or not the claim is patentable. Accordingly, *Magellan Explorer's Guide* taken with *Using Lotus Magellan* and *Lucas* raises substantial new questions of patentability as to Claims 1, 8, 16, 25, and 32, which questions have not been decided in a previous examination of the '427 Patent.

Furthermore, at least, since the claims 2, 5, and 7 are dependent claims of the claim 1, the

claims 9, 10, 13, and 15 are dependent claims of the claim 8, the claims 17-19, 22, and 24 are dependent claims of the claim 16, the claims 26, 29, and 31 are dependent claims of the claim 25, and the claims 33, 34, 37, and 39 are dependent claims of the claim 32, Magellan Explorer's Guide taken with Using Lotus Magellan and Lucas raises substantial new questions of patentability as to the claims 2, 5, 7, 9, 10, 13, 15, 17-19, 22, 24, 26, 29, 31, 33, 34, 37, and 39, as well.

#### ***Office Action on the Merits***

11. An Office action on the merits does not accompany this order for *inter partes* reexamination. An Office action on the merits will be provided in due course.

#### ***Conclusion***

12. Any paper filed with the USPTO, i.e., any submission made, by either the Patent Owner or the Third Party requester must be served on every other party in the reexamination proceeding, including any other third party requester that is part of the proceeding due to merger of the reexamination proceedings. As proof of service, the party submitting the paper to the Office must attach a Certificate of Service to the paper, which sets forth the name and address of the party served and the method of service. Papers filed without the required Certificate of Service may be denied consideration. 37 CFR 1.903; MPEP 2666.06.

Extensions of time under 37 CFR 1.136(a) will not be permitted in *inter partes* reexamination proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to the patent owner in a reexamination proceeding. Additionally, 35 U.S.C. 314(c) requires that *inter partes* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.937). Patent owner extensions of time in *inter partes* reexamination proceedings are provided for in 37 CFR 1.956. Extensions of time are not available for third party requester comments, because a comment period of 30 days from service of patent owner's response is set by statute. 35 U.S.C. 314(b)(3).

The Patent Owner is reminded that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 CFR 1.530(d)-(j), must be formally presented pursuant to 37 CFR 1.52(a) and (b), and must contain any fees required by 37 CFR 1.20(c).

Amendments in an *inter partes* reexamination proceeding are made in the same manner that amendments in an *ex parte* reexamination are made. MPEP 2666.01. See MPEP 2250 for guidance as to the manner of making amendments in a reexamination proceeding.

The Patent Owner is reminded of the continuing responsibility under 37 CFR 1.985(a), to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving the instant Patent Under Reexamination or any related patent throughout the course of this reexamination proceeding. The Third Party requester is also reminded of the ability to similarly inform the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2686 and 2286.04.

**All** correspondence relating to this *inter partes* reexamination proceeding should be directed:

By EFS: Registered users may submit via the electronic filing system EFS-Web, at <http://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

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By FAX to: (571) 273-9900  
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By hand: Customer Service Window  
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Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

Signed:

/Christopher E. Lee/

Primary Patent Examiner (Reexamination)  
Central Reexamination Unit / Art Unit 3992

Conferees:

ESK  
MA

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

<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> (Not for submission under 37 CFR 1.99) By Third Party requester	Application Number	95/001,172
	Filing Date	04/23/2009
	First Named Inventor	Eric Freeman
	Art Unit	3992
	Examiner Name	Christopher E. Lee
	Attorney Docket Number	8157.012.427

U.S.PATENTS						
Examiner Initial*	Cite No	Patent Number	Kind Code <sup>1</sup>	Issue Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
/CEL/	1	6243724		2001-06-05	Mander et al.	
/CEL/	2	5499330		1996-03-12	Lucas et al.	
	3					
	4					
	5					

If you wish to add additional U.S. Patent citation information please click the Add button.

## U.S.PATENT APPLICATION PUBLICATIONS

Examiner Initial*	Cite No	Publication Number	Kind Code <sup>1</sup>	Publication Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
	1					

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## FOREIGN PATENT DOCUMENTS

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**  
( Not for submission under 37 CFR 1.99)

By Third Party requester

Application Number	95/001,172
Filing Date	04/23/2009
First Named Inventor	Eric Freeman
Art Unit	3992
Examiner Name	Christopher E. Lee
Attorney Docket Number	8157.012.427

Examiner Initial*	Cite No	Foreign Document Number <sup>3</sup>	Country Code <sup>2i</sup>	Kind Code <sup>4</sup>	Publication Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear	T <sup>5</sup>
								<input type="checkbox"/>

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**NON-PATENT LITERATURE DOCUMENTS**

Examiner Initials*	Cite No	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, pages(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>5</sup>
/CEL/	1	Retrospect User's Guide, version 3 first edition, Dantz Development Corp., Orinda, CA, 1989-1995.	<input type="checkbox"/>
/CEL/	2	Lotus Magellan Explorer's Guide, Lotus Development Corporation, Cambridge, MA, 1989.	<input type="checkbox"/>
/CEL/	3	VID P. GOBEL, Using Lotus Magellan, Que Corporation, Carmel, IN, 1989.	<input type="checkbox"/>
	4		<input type="checkbox"/>
	5		<input type="checkbox"/>

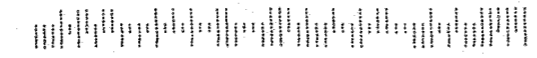
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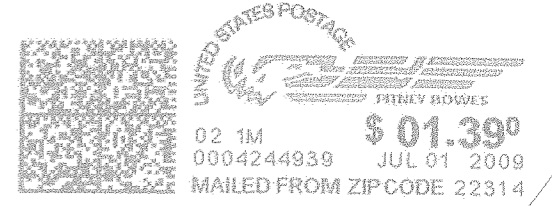
Examiner Signature	/Christopher E. Lee/	Date Considered	06/30/2009
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance ~~and not considered~~. Include copy of this form with next communication to applicant.



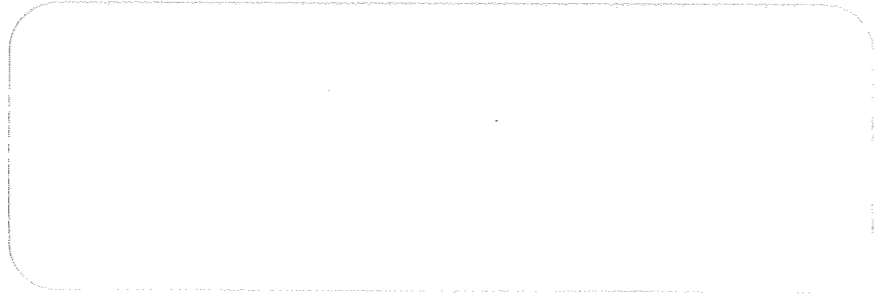


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