

# EXHIBIT 10



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HOUSTON, TX 77002

Date: FILED

222009

REEXAMINATION UNIT

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

REEXAMINATION CONTROL NO. : 95001171  
PATENT NO. : 6768999  
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.



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UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
95/001,171	04/23/2009	6,768,999	8157.012.999	9376
23432	7590	05/22/2009		
COOPER & DUNHAM, LLP 30 Rockefeller Plaza 20th Floor NEW YORK, NY 10112			EXAMINER LEE, CHRISTOPHER E	
			ART UNIT	PAPER NUMBER
			3992	
			MAIL DATE	DELIVERY MODE
			05/22/2009	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.



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MAY 22 2009

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<b>Transmittal of Communication to Third Party Requester Inter Partes Reexamination</b>	Control No.	Patent Under Reexamination	
	95/001,171	6,768,999	
	Examiner	Art Unit	
	Christopher E. Lee	3992	

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

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<b>INTER PARTES REEXAMINATION COMMUNICATION</b>	Control No.	Patent Under Reexamination	
	95/001,171	6,768,999	
	Examiner	Art Unit	
	Christopher E. Lee	3992	

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A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE  
 2 MONTH(S)  THIRTY DAYS FROM THE MAILING DATE OF THIS LETTER. EXTENSIONS  
OF TIME FOR PATENT OWNER ARE GOVERNED BY 37 CFR 1.956.

Each time the patent owner responds to this Office action, 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.

**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 Office action.

<b>ORDER GRANTING/DENYING REQUEST FOR INTER PARTES REEXAMINATION</b>	Control No.	Patent Under Reexamination	
	95/001,171	6,768,999	
	Examiner	Art Unit	
	Christopher E. Lee	3992	

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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 claim 1 of United States Patent Number US 6,768,999 B2, which issued to Prager et al. [hereinafter '999 Patent] is raised by the present request for *inter partes* reexamination filed on 23<sup>rd</sup> of April 2009.

***Patent Assignment***

2. The '999 Patent is currently assigned to: MIRROR WORLDS, LLC. of TYLER, TEXAS. The '999 Patent was issued from the Application 09/892,258 (hereinafter '258 Application) filed on 26<sup>th</sup> of June 2001, which is a continuation-in-part of 09/398,611 filed on 17<sup>th</sup> of September 1999, which is a continuation of 09/673,255 filed on 28<sup>th</sup> of June 1996, and said '258 Application claims benefit of 60/274,575 filed on 9<sup>th</sup> of March 2001 and 60/240,480 filed on 13<sup>th</sup> of October 2000.

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

3. In the request for reexamination, the Third Party requester alleges that '999 Patent claim 1 is unpatentable over the respective one of the following references alone:

- a) Freeman et al., US 6,006,227 A (hereinafter "Freeman'227")
- b) Mander et al., US 6,243,724 B1 (hereinafter "Mander")

Of the above references, the references are cited on the face of the '999 Patent, and of record in the file of '999 Patent. However, a review of the prosecution history of the '258 Application reveals that even though "Freeman" and "Mander" were considered by the Examiner of record, but were not relied upon to reject any claims during the prosecution of the '999 Patent.

According to the Office record, the '999 Patent is a continuation-in-part of the application 09/398,611 (ultimately issued as US 6,638,313 B1; hereinafter "Freeman'313"), which is a continuation of the application 09/673,255 (ultimately issued as Freeman'227).

The Freeman'227 to which the '999 Patent claims priority names Eric Freeman and David H. Gelernter as inventors. Likewise, the Freeman'313 names Eric Freeman and David H. Gelernter as inventors. However, the '999 Patent names only Randy Prager and Peter Sparago as inventors without sharing any common inventor between the Freeman'227 or the Freeman'313 and the '999 Patent. Accordingly, under 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(1), the claim 1 of the '999 Patent is not entitled to any benefit from any prior application's filing dates of the



Freeman'227 and Freeman'313. In other words, the requirement that a later-filed application shares at least one inventor with a previously filed application in order to claim priority back to that application is not met by the '999 Patent. Therefore, the cited reference Freeman'227 is proper as a prior art.

5

***Reexamination Requester's Position***

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

Ground #1 : Freeman'227

Claim 1 of the '999 Patent to be unpatentable over Freeman'227

10 Ground #2 : Mander

Claim 1 of the '999 Patent to be unpatentable over Mander

***Prosecution History of the '999 Patent***

5. The '999 Patent issued from the '258 Application (U.S. Patent Application No. 09/892,258) filed on 26<sup>th</sup> of June 2001. The '258 Application claimed a priority to a provisional application No. 60/274,575 filed on 9<sup>th</sup> of March 2001 and a provisional application No. 60/240,480 filed on 13<sup>th</sup> of October 2000.

20 The '999 Patent is generally directed to a computer system for managing information, wherein the system is stream-based in that it creates time-ordered streams of information items or assets, beginning with the oldest and continuing through current and on to future items.

The Examiner of record issued a notice of allowability on 8<sup>th</sup> of July 2004 indicating the prior art in the record did not teach or fairly suggest the particular combination of a document object model stream displayed in card format (browse cards) within pop-up windows (glance views) in response to the passing-over of a cursor in the claim 1.

25 The '258 Application ultimately issued as the '999 Patent on 27<sup>th</sup> of July 2004.

***Substantial New Question vel non***

6. 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.

30 In the present instance, there exists the SNQs based on Freeman'227 and Mander, which were not applied or discussed in rejecting any claim during the prosecution of the '999 Patent. A discussion of the specifics now follows:

1) *The Freeman'227 Reference*

It is **agreed** that the consideration of Freeman'227 raises a substantial new question of patentability as to claim 1 of the '999 Patent.

As pointed out on pages 15-19 of the request, Freeman'227 discloses a method of  
5 operating an enterprise information management system comprising at least one server and a  
number of personal computers selectively communicating with each other (See col. 3, line 62  
through col. 4, line 5 and col. 6, lines 8-13), wherein the particular combination of a document  
object model stream (i.e., documents stream in Fig. 1) displayed in card format (browse cards;  
i.e., document 100 of Fig. 1) within pop-up windows (glance views) in response to the passing-  
10 over of a cursor (i.e., mouse pointer 10 of Fig. 1; See col. 6, lines 30-36). The teaching as to  
the particular combination of a document object model stream displayed in card format (browse  
cards) within pop-up windows (glance views) in response to the passing-over of a cursor was  
not present in the prosecution of the '258 Application which became the '999 Patent.  
Further, there is a substantial likelihood that a reasonable Examiner would consider this  
15 teaching important in deciding whether or not the claim is patentable. Accordingly,  
Freeman'227 raises substantial new questions of patentability as to Claim 1, which questions  
have not been decided in a previously examination of the '999 Patent.

2) *The Mander Reference*

20 It is **agreed** that the consideration of Mander raises a substantial new question of  
patentability as to claim 1 of the '999 Patent.

As pointed out on pages 19-23 of the request, Mander discloses a method of operating  
an enterprise information management system comprising at least one server and a number of  
personal computers selectively communicating with each other (See col. 2, lines 63-66 and col.  
25 8, lines 14-28), wherein the particular combination of a document object model stream (i.e., pile,  
which is a collection of documents in Fig. 1) displayed in card format (browse cards; i.e.,  
displaying a graphical representation of said collection of documents) within pop-up windows  
(glance views; e.g., proxy) in response to the passing-over of a cursor (See col. 3, lines 20-25  
and col. 10, lines 15-20). The teaching as to the particular combination of a document object  
30 model stream displayed in card format (browse cards) within pop-up windows (glance views) in  
response to the passing-over of a cursor was not present in the prosecution of the '258  
Application which became the '999 Patent.

Further, 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 Claim 1, which questions have not been decided in a previously examination of the '999 Patent.

5

### **Conclusion**

7. 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  
10 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.

15 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  
20 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  
25 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.

30 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

Art Unit: 3992

*Inter Partes* REX Order/Non-ACP Office Action

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:

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

10 By Mail to: Mail Stop *Inter Partes* Reexam  
Central Reexamination Unit  
Commissioner for Patents  
United States Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

15 By FAX to: (571) 273-9900  
Central Reexamination Unit

20 By hand: Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

25 For EFS-Web transmissions, 37 CFR 1.8(a)(1)(i) (C) and (ii) states that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4), and (b) includes a certificate of transmission for each piece of correspondence stating the date of transmission, which is prior to the expiration of the set period of time in the Office action.

30 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/

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

Conferees:





UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER

LEE, CHRISTOPHER E

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MAIL DATE DELIVERY MODE

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PAPER

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