

EXHIBIT 12



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HOUSTON, TX 77002

Date:

MAILED

MAY 22 2009

CENTRAL 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.

OFFICE ACTION IN INTER PARTES REEXAMINATION	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. --

Responsive to the communication(s) filed by:

Patent Owner on _____

Third Party(ies) on _____

RESPONSE TIMES ARE SET TO EXPIRE AS FOLLOWS:

For Patent Owner's Response:

2 MONTH(S) from the mailing date of this action. 37 CFR 1.945. EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.956.

For Third Party Requester's Comments on the Patent Owner Response:

30 DAYS from the date of service of any patent owner's response. 37 CFR 1.947. NO EXTENSIONS OF TIME ARE PERMITTED. 35 U.S.C. 314(b)(2).

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.

This action is not an Action Closing Prosecution under 37 CFR 1.949, nor is it a Right of Appeal Notice under 37 CFR 1.953.

PART I. THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892
2. Information Disclosure Citation, PTO/SB/08
3. _____

PART II. SUMMARY OF ACTION:

- 1a. Claims 1 are subject to reexamination.
- 1b. Claims _____ are not subject to reexamination.
2. Claims _____ have been canceled.
3. Claims _____ are confirmed. [Unamended patent claims]
4. Claims _____ are patentable. [Amended or new claims]
5. Claims 1 are rejected.
6. Claims _____ are objected to.
7. The drawings filed on _____ are acceptable are not acceptable.
8. The drawing correction request filed on _____ is: approved. disapproved.
9. Acknowledgment is made of the claim for priority under 35 U.S.C. 119 (a)-(d). The certified copy has:
 - been received. not been received. been filed in Application/Control No 95001171.
10. Other _____

DETAILED ACTION

Inter Partes Reexamination

1. This first Office Action on the merits is being mailed together with the order granting *Inter Partes* Reexamination of United States Patent Number US 6,768,999 B2, which issued to
5 Prager et al. [hereinafter '999 Patent]. Currently, the claim 1 is subject to reexamination in this *Inter Partes* Reexamination.

Reexamination Procedures

2. In order to ensure full consideration of any amendments, affidavits or declarations, or other documents as evidence of patentability, such documents must be submitted in response
10 to this Office Action. Submissions after the next Office Action, which is intended to be an Action Closing Prosecution (ACP), will be governed by 37 CFR 1.116(b) and (d), which will be strictly enforced.

Statutory Basis for Grounds of Rejections - 35 USC §102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form
15 the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
 - (e) the invention was described in (1) an application for patent, published under section 122(b), by another
20 filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 25

Third Party requester's Grounds of Rejections

Ground #1

- Claim 1 of the '999 Patent to be unpatentable over Freeman et al. [US 6,006,227 A;
30 hereinafter "Freeman"]

Ground #2

- Claim 1 of the '999 Patent to be unpatentable over Mander et al. [US 6,243,724 B1;
hereinafter "Mander"]

35 ***Analysis of Proposed Third Party Requester's Rejections***

Re. Ground #1: Freeman

4. Summary of Adoption of the proposed claim rejections in the request:

- Adopted - Claim 1
- Not Adopted - None

5. Claim 1 is rejected under 35 U.S.C. §102(e) as being anticipated by Freeman [US 6,006,227 A].

Freeman discloses a method of operating an enterprise information management system (i.e., a new model and system for managing personal electronic information which uses a time-ordered stream and utilizes a machine-independent, client/server open architecture; See col. 3, line 62 through col. 4, line 5), wherein creating document object model (See claim 25 at col. 17, line 24 through col. 18, line 15), displaying browse cards (i.e., Documents 100 in Fig. 1) related to respective ones of the information assets in a time-ordered stream (See Fig. 1 and col. 7, line 54 through col. 8, line 10), together with glance views (i.e., "glance" at each document on visual representation of the stream metaphor 5 in Fig. 1) related to the document object models of the respective displayed documents (See col. 6, lines 30-36), and said glance views being displayed essentially in real time in response to passing a cursor over respective ones of the browse cards (See col. 6, lines 32-36), recited in the claim 1 of the '999 Patent.

*This rejection was proposed by the Third Party requester in the request for reexamination at pages 15-19 and Exhibit Claim Chart CC-A, and it is being **adopted** essentially as proposed in the request.*

Re. Ground #2: Mander

6. Summary of Adoption of the proposed claim rejections in the request:

- Adopted - Claim 1
- Not Adopted - None

7. Claim 1 is rejected under 35 U.S.C. §102(e) as being anticipated by Mander [US 6,243,724 B1].

Mander discloses a method of operating an enterprise information management system (i.e., a method for organizing information in a computer system; See Abstract), wherein creating document object model (See Fig. 15 and col. 24, lines 8-16), displaying browse cards (i.e., displaying a graphical representation of a collection of documents; See col. 7, lines 1-12) related to respective ones of the information assets (See Fig. 1 and col. 7, line 54 through col. 8, line

10) in a time-ordered stream (See col. 33, lines 34-43), together with glance views (e.g., "proxy") related to the document object models of the respective displayed documents (See col. 10, lines 45-50), and said glance views being displayed essentially in real time in response to passing a cursor over respective ones of the browse cards (See col. 10, lines 17-23), recited in the claim 1 of the '999 Patent.

*This rejection was proposed by the Third Party requester in the request for reexamination at pages 19-23 and Exhibit Claim Chart CC-B, and it is being **adopted** essentially as proposed in the request.*

Conclusion

8. 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 that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 CFR 1.530(d)-(j). And, 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

5 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.

10 **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>

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

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

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

30 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.

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.

5

Signed:

/Christopher E. Lee/

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

10

Conferees:

Handwritten signatures of two individuals, likely the conferees. The first signature is a stylized 'Z' or 'J' followed by 'A'. The second signature is 'Man'.

Doc code: IDS

Doc description: Information Disclosure Statement (IDS) Filed

PTO/SB/08a (03-09)

Approved for use through 04/30/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99) Third Party	Application Number	09892258
	Filing Date	2001-06-26
	First Named Inventor	Randy Prager
	Art Unit	3992
	Examiner Name	Christopher E. Lee
	Attorney Docket Number	8157.012.RXUS00

U.S.PATENTS

Examiner Initial*	Cite No	Patent Number	Kind Code ¹	Issue Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
/CEL/	1	6006227		1996-06-28	Freeman et al.	
/CEL/	2	6243724	B1	2001-06-05	Mander et al.	

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 ¹	Publication Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear

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NON-PATENT LITERATURE DOCUMENTS

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Not for submission under 37 CFR 1.99)

Third Party

Application Number		09892258	
Filing Date		2001-06-26	
First Named Inventor	Randy Prager		
Art Unit	3992		
Examiner Name	Christopher E. Lee		
Attorney Docket Number	8157.012.RXUS00		

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 ⁵
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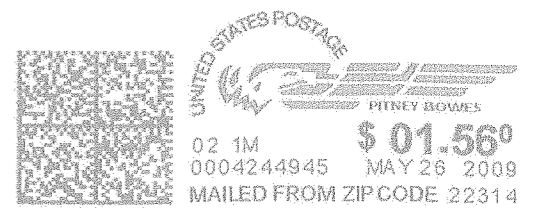
EXAMINER SIGNATURE

Examiner Signature	/Christopher E. Lee/	Date Considered	05/08/2009
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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.

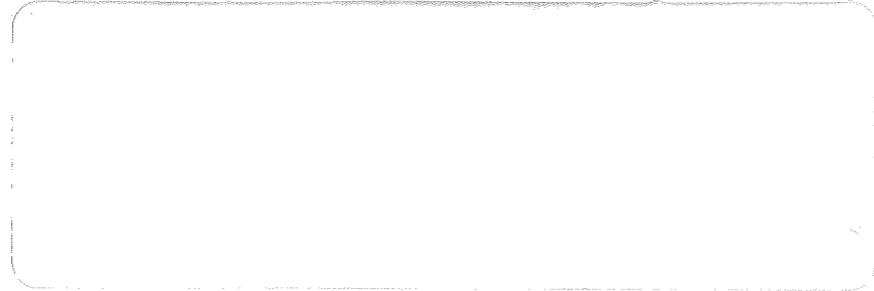
¹ See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. ² Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). ³ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁴ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁵ Applicant is to place a check mark here if English language translation is attached.

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